



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319002-24

<b>Development</b>	38kV electricity circuit between Kildare substation and Newbridge substation. A Natura Impact Statement accompanies the application.
<b>Location</b>	Townlands of Crockanure Glebe, Southgreen, Kildare, Bishopsland, Cloghgarrett Glebe, Crockanure, Blackmillers Hill, Dunmurry West, Curragh, Rathbride, Friarstown, Newtown, Milltown, Scarletstown and Roseberry in Co. Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	23/810
<b>Applicant(s)</b>	Electricity Supply Board (ESB)
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Mr. Dermot Weld
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	12/03/25
<b>Inspector</b>	Paula Hanlon

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Appendix 1 – Form 1: EIA Pre-Screening

Appendix 2 – Screening for AA Finding of likely significant effects

Appendix 3 – Appropriate Assessment

## 1.0 Site Location and Description

- 1.1. The site subject to this appeal (hereafter referred to as ‘the site’) refers to an approximate 8.5km linear site, within a predominantly rural area in Co. Kildare. It forms an arc shape and extends in a northeast direction from Kildare town substation, located in Southgreen Td., c.1km NW of the centre of Kildare town, to Newbridge substation, located in Rosberry Td., c.2km NW of the centre of Newbridge, in Co. Kildare.
- 1.2. The site includes a proposed undergrounded cable (UGC) between Kildare town substation and Kildare County Council’s (KCC) compound, located off the Dunmurry Road, c.220m NE of Kildare Town Community School. It crosses agricultural fields and 2(no) local roads, west of the built area of Kildare town and then follows the R401, up to KCC’s compound.
- 1.3. Thereafter, a proposed 7km OHL is sought between KCC’s compound and Newbridge substation, which is located off the R416, c.520m SW of Hawkfield GAA grounds. It crosses 5(no) local roads, a commercial forest area and the R415 to the south of Wheelam Cross Rds. It also crosses 2(no) watercourses, namely Cloncumber Stream, and the Grand Canal Supply (Milltown Feeder) pNHA. The site crosses lands which adjoin Pollardstown Fen SAC. It also crosses lands that lie within The Curragh, a designated pNHA and designated Area of High Amenity.
- 1.1. A portion (c310m) of the linear site with proposed OHL crosses a field which is in grass and contains a gallops within Rathbride Stud Farm (appellant’s landholding). The subject field is bound by Newtown Road (local road) to the north and is setback c.600m from the appellant’s stable yard & residence, which adjoin the R415 (to the east), c.2km NE of Kildare Town.
- 1.2. The overall site is located within the townlands of Crockanure Glebe, Southgreen, Kildare, Bishopsland, Cloghgarrett Glebe, Crockanure,

Blackmillers Hill, Dunmurry West, Curragh, Rathbride, Friarstown, Newtown, Milltown, Scarletstown and Roseberry in Co. Kildare.

## **2.0 Proposed Development**

2.1 A new 38kv electricity circuit of approx. 8.5km length between the existing Kildare town and Newbridge ESB substations, comprising underground cable (UGC) (c.1.5km) and overhead line (OHL) (c.7km).

- The proposed 1.5km stretch of UGC consists of electrical cables laid in underground ducts and buried in a trench [c.0.6m & c.0.9 (width) x c.1.2m (depth)] between Kildare town substation and KCC's compound.
- A cable interface mast/lattice tower is sought at KCC's compound, connecting the proposed UGL and OHL.
- The proposed OHL and structures (48 no.) between KCC compound and Newbridge substation include single & double wood pole sets which range between c.9.7m & c.18m in above ground height. The pole footing excavations [2m long x 0.5m wide x 2.3m deep (max)] would be immediately backfilled with trench spoil. No concrete foundations are sought for the poles. Stay wires are sought at specific locations.
- As part of the applicant's appeal submission (dated 30/05/2024), it was detailed that composite poles made of inert material are intended to be used in the area north of Pollardstown Fen SAC (Poles 39-44). The composite poles do not require preservative or treatment by creosote.
- A lattice steel tower is sought at Newbridge substation (end point).
- The applicant also seeks permission for associated works.
- Site access is sought by way of public roads and private tracks, where possible, and through considered local consultation to avoid impact on the surrounding area.
- Permission is sought for a period of 10 years.

2.2 The application was accompanied by the following documentation of note -.

- Planning and Environmental Considerations Report (PECR) which includes:
  - Route Options Report (Kildare - Newbridge 38kv project route)
  - Construction Methodology
  - Outline Construction Environmental Management Plan (CEMP)
  - Screening for Appropriate Assessment Report
  - Ecological Impact Assessment Report (EclA)
  - Landscape & Visual Impact Assessment (LVIA)
  - Cultural Heritage Assessment Report.
- A Natura Impact Statement (NIS) was received at further information stage.

### **3.0 Planning Authority Decision**

#### **3.1. Further Information**

The PA sought F.I. on 19 September 2023, which required that an NIS be submitted.

#### **3.2. Decision**

By Order dated 17 January 2024, KCC issued a Notification of decision to grant planning permission subject to 13(no) conditions. The conditions were mainly standard, within specific conditions of note referenced within Section 3.3.3 below.

#### **3.3. Planning Authority Reports**

##### **3.3.1 Planning Reports**

An initial Planning Report (14/09/23) sought that a NIS be submitted and a subsequent Planning Report (15/01/24) recommended a grant of permission.

### 3.3.2 Other Technical Reports

- Heritage Officer (15/01/24): No objection
- Transport, Mobility & Open Spaces Department (15/09/2023): No objection, conditions recommended
- Municipal District Engineer (31/08/23): No objection, conditions recommended
- Environment (25/08/23): Conditions recommended
- Water Services (15/05/23): Condition recommended
- Fire Service (29/08/23): No Objection.

### 3.3.3 Conditions

I am generally satisfied that all conditions attached by the PA in its decision to grant permission are standard conditions insofar as they relate to the proposed development. The following conditions are of note:

- Condition 2 (requirement to comply with all environment commitments within submitted application documentation).
- Condition 3 (Construction Management & Traffic Management Plan)
- Condition 4 (Undertake a structural assessment of haul routes)
- Conditions 11 &12 (Noise parameters and requirements).

Consideration will be given to the attachment of these conditions within my assessment below [Refer Section 7].

### 3.4 Prescribed Bodies

- Uisce Eireann (UE) (26/07/23): Protect UE infrastructure at construction stage.
- Health & Safety Authority (29/08/23): No observations.

### **3.5 Third Party Observations**

The PA received 4(no) third-party submissions during the course of its determination. 2(no) submissions were received within the initial 5-week public consultation period and 2(no) were received following receipt of significant further information (02/11/23).

The matters raised within the submission made by Mr. Dermot Weld (the appellant in this case) following the PA's receipt of significant further information are akin to matters raised within the appeal submission.

### **4.0 Planning History**

- No planning history specific to the proposed development.
- A synopsis on planning histories close to the site, which were taken into account in the evaluation of route corridor options is provided within the submitted PECR.

### **5.0 Policy Context**

#### **5.1 Development Plan**

5.1.1. The Kildare County Development Plan 2023-2029 (CDP) which came into effect 28 January 2023 is the operative Development Plan for the county. The site is predominantly within the rural area as provided in the CDP. A small portion of the southern end of the site lies within agricultural zoned lands located within the administrative boundary of the Kildare Town Local Area Plan 2023-2039 (LAP).

5.1.2. Relevant policies, objectives and standards within the CDP are set out under Chapter 7 Energy & Communications, Chapter 12 Biodiversity & Green Infrastructure, Landscape 13 Landscape, Recreation & Amenity and Chapter 15 Development Management Standards.

5.1.3. Policies, Objectives and Development Management Standards of particular relevance within the CDP include:

Electrical Infrastructure



Policy EC P19: Support the development, reinforcement, renewal and expansion of the electricity transmission and distribution grid to provide for the future physical and economic development of Kildare. Such projects shall be subject to AA.....

Objective EC O4: Support infrastructural renewal and development of electricity and gas networks in the county, subject to safety and amenity requirements, subject to AA screening and where applicable, Stage 2 AA so as to ensure and protect the favourable status of European sites and their hydrological connections. Such developments will have regard for protected species and provide mitigation and monitoring where applicable.

Objective EC O64: Support and safeguard the efficient and reliable supply of electricity to all homes and businesses in County Kildare.

#### Siting (Incl. Visual Impact)

Objective EC O67: Require that developments involving the siting of overhead cables shall minimise visual impact by avoiding areas of high landscape sensitivity, sites and areas important for biodiversity and/or archaeological, cultural or heritage interest.

Objective EC O68: Require that all electricity lines of 38kV and over, comply with all internationally recognised standards with regards to proximity to sensitive receptors including dwellings, nursing homes, hospitals, other inhabited structures and schools/crèches.

Objective LR O19: Restrict the over development of the edge of the Curragh Plains and development that obtrudes on the skyline as viewed from the Plains.

Objective LR O18: Facilitate appropriate development in areas of high amenity that can utilise existing structures, settlement areas and infrastructure, taking account of the visual absorption opportunities provided by existing topography and vegetation.

#### Support for Equine Industry

Policy RD P4: Support and encourage the continued development of a distinguished bloodstock and equine industry in the County, including breeding

and training, and seek to ensure appropriate environmental conditions for equine operations, insofar as is practicable.

Objective RD O15: Encourage the expansion of the bloodstock industry by appropriately protecting the environment and amenity value of rural areas from encroachment by urban sprawl and incompatible development.

Objective RD O19: To continue to promote Kildare's world-renowned reputation for breeding and racing (at The Curragh, Naas, and Punchestown) and to support the ongoing operation of training and educational facilities and other bodies and organisations established in County Kildare.

### Green Infrastructure

Policy BI P12: Recognise the importance of Green Infrastructure in Kildare and protect this valued biological resource, the ecosystem services it provides and the contribution to climate resilience.

Objective BI O64: Ensure the protection, enhancement and maintenance of Green Infrastructure in Kildare.

Objectives BI O70: Ensure that the Green Infrastructure Strategy and Network identified in this County Development Plan and Local Area Plans is used to inform the development management process to ensure that new residential areas, business/ industrial development tourism and other relevant projects contribute towards the conservation and protection of Kildare's habitats and species, and the protection, management and enhancement of the existing Green Infrastructure in terms of design, layout and landscaping.

### Ecology and Appropriate Assessment (AA)

Objective BI O10: (Requirement to undertake AA Screening).

Objective BI O11: Support the establishment of conservation measures and the preparation and implementation of management plans for the conservation of Natura 2000 sites by NPWS, as required by Article 6(1) of the Habitats Directive.

Objective BI O14: Conserve, preserve and protect the integrity of and maintain the favourable conservation value/status within or adjacent to Ramsar Sites, Statutory Nature Reserves, Biogenetic Reserves, Wildfowl Sanctuaries, all

existing and proposed NHAs. They should be designed and sited so as to minimise their impact on the ecological and landscape values of these sites under National and European legislation and International Agreements.

5.1.4. Relevant provisions within the LAP are set out within Chapter 8 Built Heritage & Archaeology, Chapter 9 Natural Heritage & Green Infrastructure and Chapter 10 Infrastructure & Environmental Services, including:

Objective IO 4.1: Support and facilitate the provision of telecommunications and the energy supply network infrastructure in Kildare Town, subject to safety and amenity requirements.

Objective NHO 2.1: Protect identified key green infrastructure (Map 9.1) and steppingstone habitats, enhance where possible and integrate existing and new green infrastructure as an essential component of new developments and prohibit development that would fragment the green infrastructure network. Site specific ecology surveys should be carried out in inform proposed development and assess and mitigate potential ecological impacts.

## **5.2 Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 (RSES)**

The following regional policy objectives are noted within the RSES:

RPO 10.20: Support and facilitate the development of enhanced electricity and gas supplies, and associated networks, to serve the existing and future needs of the Region...

RPO 10.22: Support the reinforcement and strengthening of the electricity transmission and distribution network to facilitate planned growth and transmission/ distribution of a renewable energy focused generation across the major demand centres to support an island population of 8 million people...

### **5.3 National Planning Framework**

The NPF establishes the fundamental national objective of achieving a transition to a competitive, low carbon, climate resilient and environmentally sustainable economy by 2050.

National Strategic Outcome 8 seeks a transition to a low carbon and climate resilient economy.

### **5.4 The Climate Action Plan 2024 (CAP24)**

The Climate Action Plan 2024 (CAP24) which was approved by Government in December 2023 sets out the roadmap to deliver on Ireland's climate ambition. It aligns with the legally binding economy-wide carbon budgets and sectoral ceilings that were agreed by Government in July 2022. It provides a roadmap of actions to halve Ireland's emissions by 2030 and reach net zero by no later than 2050, as committed to in the Climate Action & Low Carbon Act 2015 (as amended) (The Climate Act).

### **5.5 Climate Action & Low Carbon 2015 (as amended) (The Climate Act)**

The Climate Act commits Ireland to the objective of becoming a carbon-neutral economy by 2050, reducing emissions by 51% by the end of the decade.

Section 15 of the Climate Act sets out that;

(1) A relevant body shall, in so far as practicable, perform its functions in a manner consistent with—

- (a) the most recent approved climate action plan,
- (b) the most recent approved national long term climate action strategy,
- (c) the most recent approved national adaptation framework and approved sectoral adaptation plans,
- (d) the furtherance of the national climate objective, and
- (e) the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.

An Bord Pleanála is a relevant body for the purposes of the Climate Act. As a result, the obligation of the Board is to make all decisions in a manner that is **consistent with** the Climate Act.

#### **5.6 Energy Security in Ireland to 2030, Energy Security Package, Nov. 2023**

The document confirms that Irelands future energy will be secured by moving to an electricity-led system maximising our renewable energy potential.

#### **5.7 Policy Statement on Security of Electricity Supply, November 2021**

This statement provides that the Programme for Government requires a 51% reduction in greenhouse gas emissions by 2030 and that 80% of electricity consumption will come from renewable sources by 2030. Ensuring energy security is a national priority, as the electricity system decarbonises towards net zero emissions.

The challenges to ensuring security of electricity supply are stated to include:

- ensuring adequate electricity generation capacity, storage, grid infrastructure, interconnection and system services are put in place to meet demand – including at periods of peak demand; and
- developing grid infrastructure and operating the electricity system in a safe and reliable manner.

The Policy Statement states that the Government recognises that:

- ensuring security of electricity supply continues to be a national priority as the electricity system decarbonises towards net zero emissions;
- there is a need for very significant investment in additional flexible conventional electricity generation, electricity grid infrastructure, interconnection and storage in order to ensure security of electricity supply.

#### **5.8 National Biodiversity Action Plan 2023 – 2030 (NBAP)**

Ireland's 4th NBAP sets the biodiversity agenda for the period 2023 – 2030. The NBAP has a list of Objectives which promotes biodiversity as follows;

Objective 1: Adopt a whole of government, whole of society approach to biodiversity;

Objective 2: Meet urgent conservation and restoration needs;

Objective 3: Secure nature's contribution to people;

Objective 4: Enhance the evidence base for action on biodiversity;

Objective 5: Strengthen Ireland's contribution to international biodiversity initiatives.

The Wildlife (Amendment) Act 2023 provides that every public body, as listed in the Act, is obliged to have regard to the objectives and targets in the NBAP.

## **5.9 Natural Heritage Designations**

The proposed OHL and pole sets would cross:

- adjacent lands to Pollardstown Fen SAC 000396/ pNHA 000396
- the western edge of the northern portion The Curragh pNHA 000392
- the Milltown Feeder of The Grand Canal pNHA 002104.

## **5.10 EIA Screening**

See completed Form 1 appended to this report. Having regard to the nature and type of development proposed, it is not considered that the proposal falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended), and as such preliminary examination or an environmental impact assessment is not required.

## **6.0 The Appeal (Third Party)**

### **6.1. Grounds of Appeal**

- The location of the OHL which crosses Rathbride Stud Farm, in parallel to existing 110kv line is wholly inappropriate and does not accord with the CDP.
- The matter of undergrounding the line or rerouting away from the stud farm onto less sensitive lands, as requested by appellant, was not addressed by the PA.

- A number of other raised issues were not sufficiently addressed at application stage, including:
  - Non-compliance with CDP provisions on the protection of thoroughbred horses and the promoting & protecting of established equine operations.
  - The potential impact(s) on a key equine business on the edge of the Curragh and no expert analysis was submitted on the potential impact on equine animals within Rathbride Stud Farm.
  - Validation concerns raised (incl. sufficiency of public notices and application form details).
  - There are insufficiencies within the submitted application details in terms of examination of route alternatives, impacts on climate change and compliance with the Climate Action Plan (2023) and a number of anomalies are contained within the applicant's submitted documentation.
  - The need for EIA is raised as an issue in the context of landscape.
  - Concerns on the conditions attached by the PA. The PA's attachment of condition 2 is not appropriate. The studies sought under this condition should have been provided and made available to all parties at application stage.

## 6.2. **Applicant's Response**

A summary of the applicant's response (06/03/24) to the grounds of appeal is as follows:

- The applicant states that all raised matters were addressed at application stage.
- The development of lands used by the equine industry is not precluded by CDP policies & objectives.
- There is no evidence that OHLs can adversely impact thoroughbred horses.
- One poleset is proposed within the appellant's entire landholding (150 acres).
- A clear methodology (incl. subterranean construction details on project construction) is provided within the application.
- Alternative routes were comprehensively considered at application stage.

- A justification is given on the proposed OHL in technical, visual and cost effectiveness terms.

### **6.3. Planning Authority Response**

A response has been received from the Planning Authority dated 28/02/24. The PA confirmed its decision and requested that its decision to grant permission be upheld.

### **6.4. Further Responses**

#### **6.4.1. Department of Housing, Local Government and Heritage (DHLGH)**

A submission made by the Development Applications Unit, DHLGH (dated 24/04/24) was received following a referral request by An Bord Pleanála on this appeal. A summary of the matters raised is provided below.

- The matter of archaeology (incl. unknown sub-surface archaeology) can be appropriately addressed by condition.
- The potential for impact(s) on a number of qualifying interests (QI's) of Pollardstown Fen SAC is queried [incl. petrifying springs, Geyer's whorl snail & its habitat and any in-combination impacts (existing OHLs)]. Appropriate Assessment (AA) must be undertaken on best scientific knowledge.
- DHLGH recommended that the Board seek further hydrogeologist and ecologist inputs in informing its AA.
- It also recommended that further consideration be given to a number of ecological matters including: compliance with referenced policies and objectives on green infrastructure, ecology & AA; to a seepage zone (located between poles 39 & 40) and to a badger sett (located c.30m from the site).
- The potential for impacts on habitats and birds within The Curragh pNHA and on birds at the Milltown Feeder pNHA is queried.

#### **6.4.2. First Party Response (The Applicant)**

The DHLGH's appeal submission (dated 24/04/24) was circulated to the applicant on 16 May 2024. A subsequent written response from the applicant



was received on 30 May 2024 in response to matters raised within the DHLGH's submission.

The applicant confirmed that the potential impacts & effects on the QI's of Natura 2000 sites were fully assessed within the NIS and provides further clarity in this regard. Further clarity is also given in respect of the lack of impact pathways through hydrogeological effects and on other raised matters on biodiversity. The applicant suggested the inclusion of precautionary measures including flight diverters over the Milltown feeder of The Grand Canal & the undertaking of a Badger Survey prior to any commencement of works.

## **7.0 Assessment**

Having examined the application details and all other documentation on file, including the submission received in relation to this third-party appeal, the report of the local authority, the DHLGH appeal submission, having inspected the site and surrounding lands, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this third-party appeal to be considered are as follows:

- Principle of Development
- Appropriateness of Proposed Route
- Impact(s) on Equine & Equine Business
- Impact(s) on Ecology
- Other/Procedural Matters.

### **7.1. Principle of Development**

The site lies within lands which are recognised within the operative CDP as rural and on agricultural zoned lands within the LAP (Section 9.3 CDP; Map 11.1 LAP). The provision of utility structures is open for consideration on rural, agricultural lands. Furthermore, adopted local policy and objectives recognise and provide support towards the need to facilitate the provision of sufficient electricity to meet increasing demand, and to safeguard and support an efficient

and reliable supply to all customers (incl. its renewal & expansion) (Refer EC P19; EC O4, EC O64, CDP).

The applicant has provided a clear rationale on the technical need for the proposed 8.5km electrical circuit. I note that the proposal is sought so as to address the current overloading of Kildare substation, accommodate new demand customers in the area which necessitates an increase in capacity and to allow for the current substandard 28km copper line from Portlaoise substation to be retired, given the asset condition.

Whilst noting that the appellant contends that the impact of the proposed development on climate change in respect of net zero emissions was not addressed, I wish to refer to the PECR which accompanied the application. This document is clear in its reference to the Climate Action Plan 2023 (CAP23) which was enforce at the time of the making of the subject application. It refers to the purpose of the ESB Strategy Net Zero by 2040 which includes a significant increase in Ireland's commitment to achieve net zero green house gas emissions. It clearly outlines that this is placing a greater reliance on electricity and an associated need to ensure that zero carbon electricity is reliable and affordable. The applicant makes clear that the proposed development stems from the strategy and is necessary to facilitate a move to use of more renewable energy throughout society.

The Climate Action Plan 2024 (CAP24) has been enforce since the PA's making of a decision in this case. It details the significant changes to enhance the electricity grid's capacity and flexibility which will accommodate the upsurge in renewable energy while ensuring the system's reliability and efficiency. Its roadmap of actions in leading the country to meeting its national climate objective of pursuing and achieving its transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy, align with the legally binding economy-wide carbon budgets and sectoral emissions ceilings that were agreed by Government in July 2022. In noting the rationale for the proposed works and adopted policies, I am satisfied that the proposed development will ensure that energy security is addressed in this case, and as the electricity system decarbonises towards net zero emissions.

In this regard, I see no reason to dispute the applicant's findings or to seek the submission of a climate action impact assessment in terms of the proposed development's compliance with the CAP. I am therefore satisfied, in the event that the Board was minded to grant permission, that the proposed development would be consistent with CAP24 and would also be consistent with NSO 8 of the NPF which seeks a transition to a low carbon and climate resilient economy.

Overall, I am satisfied that the principle of the proposed 38kv electricity circuit has been sufficiently justified, subject to its compliance with other relevant planning considerations to this case, which I propose to consider under separate headings below.

## 7.2. Appropriateness of Proposed Route

### 7.2.1. Methodology employed in route corridor examination

The need for an electricity circuit between Kildare town substation and Newbridge substation is not disputed. The applicant is transparent in detailing the extent of analysis which was undertaken on 3(no) alternative route corridors at design stage, and which ultimately informed the proposed electricity circuit route (Section 2, PECR).

In noting that the appellant raised concern on the extent of analysis undertaken on established landuse(s) in informing the route sought, I submit that the majority of the proposed route crosses agricultural lands (OHL) or along an existing road corridor (UGC). In this context, given the small extent of other land uses (including equine/stud farms) outside of agricultural lands, I do not consider that this matter raises a significant issue for the adequacy of the assessment of routes undertaken in this case.

I am satisfied that the methodology employed in informing the route selected was based on the appropriate relevant criteria, notably technical, terrestrial, ecology, cultural heritage and landscape. The extent of analysis and examination undertaken is clearly outlined within the submitted PECR (Section 4, PECR).

It is my view that the submitted route option constitutes a reasonable option on which to undertake an assessment and evaluation so as to determine whether the proposed development can be considered to accord with the proper planning and sustainable development of the area. I propose to address the matter of potential for impacts on the appellant's stud farm under separate paragraph below (Section 7.3).

#### 7.2.2. Impacts on 'The Curragh'

As referenced within the CDP, The Curragh landscape encompasses over 2000 hectares and is a historic plain of high conservation value, which is of local and national importance. I note that the landscape sensitivity, archaeology, cultural heritage and ecological designations attached to The Curragh encompass the entire lands within the defined boundaries of The Curragh Plains. Its overall landscape is designated as an Area of High Amenity. It is also designated as a pNHA, and The Curragh Plains are defined by the Record of Monuments and Places as an Archaeological Complex, containing a number of individual and groups/clusters of monuments.

In this context, I am of the view that an appropriate balance is required in terms of meeting adopted local policy and objectives which support the renewal and expansion of the electricity grid, with the minimising of visual impact.

I have examined the visual, ecological and archaeological & cultural sensitivities of the proposed development on The Curragh in accordance with the provisions of the operative CDP and based on a site visit, along with consideration of the applicant's documentation, appeal submission and the DHLGH submission.

- Visual Impact

The CDP in referring to the Curragh as an Area of High Amenity, details that it *'constitutes a unique national asset from the point of view of landscape and geomorphology which extends over 2000 hectares and is a historic open plain of high conservation value'*. It also references that The Curragh is of conservation value for a number of reasons, including its extensive open plain

area of lowland acidic grassland, succeeding to dry heath in places, and its archaeological landscape.

The proposed route includes approximately 1 kilometre of OHL along with 3(no) double poles and 4(no) single poles [Pole set Nos. 9 -15] within the western perimeter of the northern portion of The Curragh AHA. Whilst I note that The Curragh is classified as a Class 5 – Landscape of Unique Sensitivity, I also note that the CDP makes clear that each site should be assessed on its individual merit as all developments are unique and landscapes vary in terms of their ability to absorb development at a local level.

The Landscape Visual Impact Assessment which accompanied the application has afforded due consideration to the magnitude of landscape effect in the case of the proposed works. It correctly details that the proposed OHL, which runs along the edge of the AHA, is at a location where the character of the landscape is transitioning from the sensitive core area of the AHA, to the less sensitive Central Undulating Lands Landscape Character Area which adjoins the proposed development.

In this context, I wish to highlight that the proposed OHL which crosses The Curragh AHA would be located in a transitional area which is surrounded by various built form. The principle of OHL is established in this general area, with an existing OHL running parallel to an adjoining local road (to the west). This local road is not designated as a scenic route within the CDP and there are no scenic/protected views emanating from the subject site at this location. The site is visually bisected from the wider expanse of lands within The Curragh which lie to the east, due to the R415 which crosses The Curragh and an established golf club is sited between the proposed works and the more open, wider expanse of lands within The Curragh. An existing mature, field boundary which extends east to west provides screening within the northern end of the site and I note that an existing standalone shed is also within the designated lands at this location.

Pockets of mature trees and planting are also located within the AHA, proximate to the proposed OHL, which in my view, would provide for screening of the OHL, albeit already less discernible from a distance on these lowlying lands. An

established linear settlement of development on single sites exists along the western side of the local road which runs along the Curragh lands (north), in which the development works are sought.

Given the above, I am of the view that the proposed development by virtue of its nature, extent and siting, would not have a disproportionate visual impact, if permitted and it would not result in overdevelopment of the edge of the Curragh Plains such that it would obtrude on the skyline as viewed from the Plains which extend predominantly to the east of the site. It therefore would be consistent with objective LR O18 which facilitates appropriate development in areas of high amenity and as the proposed OHL would visually absorb into the landscape at this location. For this reason, I am satisfied, and I concur with the conclusion reached by the PA that the visual impact of the proposed development would be minimal at this location, if permitted. I therefore see no reason to warrant modification (including undergrounding) or refusal of the proposed development on the grounds of visual impacts on The Curragh. For the purposes of clarity, I wish to note that whilst the ESB is required to provide electricity infrastructure in the Least Cost Technically Acceptable, the matter of cost is not a planning matter for consideration.

- Impact on Archaeology

The submitted documentation, including A Cultural Heritage Assessment Report prepared by Byrne, Mullins & Associates Archaeological & Historical Heritage Consultants (2023) and submitted archaeological inventory of all sites within the 3(no) route options within the PECR provides certainty that The Curragh Plains, which is defined by the Record of Monuments and Places as an Archaeological Complex, containing a number of individual and groups/clusters of monuments, was duly considered. The typographical error contained within question 17 of the application form is of no material significance, as it does not warrant grounds for invalidating or refusal of the proposed development on its own.

Given the nature and scale of the works sought, with excavation works [2m x 0.5m, depth 2.3m] and the findings of the Cultural Heritage Assessment Report which was prepared by suitably qualified consultants, I concur with the

recommendations of the DHLGH that any outstanding matters can be appropriately addressed by condition. For this reason, I am satisfied that the proposed development would not significantly impact on the archaeological sensitivities of this site. In the event that the Board is minded to grant permission, I recommend that the conditions on archaeology as outlined within the DHLGH's submission (dated 24/04/24), be attached.

- Ecology and Biodiversity

The proposed works are sought within an area on the edge of The Curragh which has been intensively grazed by sheep. So as to avoid repetition, I refer the Board to Section 7.4 below which provides a reasoned response that the proposal would not have a significant negative effect on ecology and biodiversity within The Curragh pNHA.

- Overall Impact on The Curragh

In light of the above considerations and whilst I recognised that the proposal is located within a Class 5 - Landscape of Unique Sensitivity, I am satisfied that the applicant has minimised visual impact by avoiding areas of high landscape sensitivity within the wider, open expanse of The Curragh Plains. The proposed development would not result in any substantive change to the visual amenity as it would visually absorb into the local landscape. Also, the proposed works would not have a significant negative impact on ecology, biodiversity, archaeology & cultural/heritage interest at this location. I am therefore of the view that the proposal would not materially contravene objective EC O67 of the CDP which seeks that the visual impact from the siting of overhead cables is minimised by avoiding areas of high landscape sensitivity, sites and areas important for biodiversity and/or archaeological, cultural or heritage interest, and I consider that the proposal and would be consistent with the principles of proper planning and sustainable development.

### 7.3. Impact(s) on Equine & Equine Business

#### 7.3.1. Context

The appellant raises several issues of concern in respect of the proposed crossing of OHL and the erection of an associated double wood poleset (No. 20) on lands within his stud farm.

In the outset, and for the purposes of assisting the Board, I wish to draw reference to the site context of the appellant's stud farm insofar as it is relevant to this case. The stud farm is of an irregular shape. The proposed OHL would be located within a field located within the northwest of the appellants landholding, a distance in excess of 600m from the stable yard and residence. The existing field boundary system, due to works undertaken along the subject field's eastern (lateral) boundary has resulted in the opening out and connecting of this field with the appellant's adjoining lands to the east.

In referring to the appeal submission and utilising available mapdata, I note that approximately 310m of OHL would cross the appellants lands on a predominantly north-south axis (Refer Fig 3, pg 7 appendix, appeal submission). On site visit, I noted that the subject lands were recently reseeded in grass and that an established linear gallops (approx. 870m in length) (fenced and surfaced) crosses these lands on a predominantly northeast-southwest axis, with its end point along the western field boundary. It connects with a looped gallops (approx. 1.35km in length) to the east. F

I acknowledge the appellant's viewpoint in regard to the extent of electrical infrastructure (existing and proposed) on the appellant's lands. I note that the proposed OHL would run generally parallel to the existing 110kv OHL, with a separation distance of c.140m (at its closest point – adjacent to Newtown Road) between the two electrical lines. Whilst there is no doubt that the proposed development would give rise to an impact, I consider that the magnitude of this impact is required to be carefully assessed so as to conclude on and provide a reasoned decision in this case, in the interest of proper planning and sustainable development.

### 7.3.2. Visual Impact

Having carried out a site visit, I understand the raised concerns in terms of the potential for visual impact, given the visual attractiveness and effective



management of the appellant's lands. I have examined the impact of the existing 110kv line that already crosses these lands on the visual amenities of the area, which I have deemed to be slight to imperceptible given the site's topography, mature screen planting along field boundaries and the setback of poleset within the lands. I further note that there is an additional 38kv OHL and single poles in-situ on the appellants lands, proximate to its northern most boundary, which also has a slight to imperceptible impact on the landscape.

Whilst I acknowledge that a comparative drawing delineating the 110kv and proposed 38kv is not provided by the applicant, I do not consider that such a drawing is required to inform the Board's decision in respect of the cumulative visual impact arising from the two OHLs which would cross the appellant's lands.

Ultimately, the provisions of the CDP are clear in identifying that these lands are outside of any scenic viewpoint and on lands which are classified as of low sensitivity (Map Ref: V1-13.2). CDP guidance sets out that the likely compatibility of major powerlines within a Class 1 landscape is high (Table 13.3). While a 38kv line is not considered to be a major powerline, the reference made to the compatibility of powerlines within a Class 1 landscape is of relevance to note in this case. A Landscape Visual Impact Assessment (LVIA) which accompanies the submitted application shows that the appellant's lands are not within any designated scenic viewpoint.

Furthermore, the topography of the appellant's lands is low lying, with gentle undulation, falling in a predominantly westerly direction. These lands are substantially screened, owing to its established mature field boundaries. Any views emanating into the site from an easterly direction would, in my view, be contained to within the appellant's landholding.

On balance, although the proposed development would be discernible at this location from within the appellant's lands, I am of the view that given the relatively small scale and familiar nature of a 38kv OHL with an associated poleset, the site's low lying topography, sited within a wider expanse of rural lands and substantially screened by mature native planting along its field boundaries, that the proposed development would result in no more than a

slight to imperceptible visual impact, be it on its own, or cumulatively with the 110kv OHL which runs parallel to the proposed OHL.

I am therefore satisfied that the proposed OHL would not constitute an incompatible development at this location and that it would satisfactorily absorb into the landscape at this location. Therefore, it would not be contrary to Objective RD O15 of the CDP insofar as it encourages the expansion of the bloodstock industry by protecting amenity value from incompatible development and the need to underground the proposed line is not, in my view warranted.

#### 7.3.3. Impact on the Environment

There are no ecological designations or watercourse(s) attached to the appellant's lands. I noted on site visit that the subject lands had been recently reseeded in grassland and are intensively managed. Given this, the nature and extent of works, including that the proposed development would result in very minor groundworks, which are attributed to the erection of one poleset [pole footing extraction would be 2m long x 0.5m wide x 2.3m deep (max)], which would be immediately backfilled with trench spoil, I am satisfied that there would be no likely significant effects on the environment.

#### 7.3.4. Impact on Equine Welfare and Equine Health

The appellant expressed concerns on horse welfare arising from a second electricity line running through his stud farm. Whilst the appellant contends that the proposal should be refused based on the lack of expert analysis or empirical evidence provided on its impact on equine animals, I would argue that similarly, there is no empirical evidence available to support the contention that a 38kv line either on its own or in-combination with an existing 110kv line would negatively impact on the health and welfare of equine animals, including thoroughbred horses.

The applicant's appeal response highlights that powerlines and studs for thoroughbred horses co-exist at multiple locations throughout the country. Furthermore, I am also cognisant that the use of this field and gallops by the appellant's thoroughbred horses and other equine animals already co-exists

with existing higher voltage OHL in-situ. There are no known cases or empirical evidence on equine health or welfare referenced by the appellant to substantiate the concerns raised, within the appeal submitted.

In this context, and by way of reference only, I refer to the north-south 400kv interconnection development case whereby the specialist findings in this case made reference to the fact that horses habituate to stimuli (aural and visual) quite quickly and once they realise there is no physical threat, they do not react (Case Reference VA0017), a finding which was accepted by the Board in informing its decision on the case.

In light of the above, and in particular, given that the appellant's established stud farm has continued to operate successfully in tandem with existing OHLs and that similar such cases exist throughout the country, I see no reason to warrant a refusal or to seek a modification by way of rerouting or undergrounding the proposed OHL on the grounds of equine welfare or equine health.

#### 7.3.5. Impact on Equine Business

The CDP provides supportive policy and objectives on the continued development of the equine industry (including breeding & training) within Co. Kildare and in seeking to ensure appropriate environmental conditions for equine operations, insofar as is practicable.

As previously stated, the proposed OHL which is on a northeast-southwest axis would predominantly cross over lands which are laid in grass and would also cross a gallops which is integral to the appellant's equine business, most notably in the training of thoroughbred horses. I note that the appellant made no reference to this gallops within its appeal submission. Reference is made to the use of the field on which the proposed OHL would cross for grazing by thoroughbred horses. I am unable to ascertain the length of time in which this gallops has been in-situ.

In reviewing the site's history as shown on available aerial photography, I note that the existing 110kv OHL was in-situ prior to the construction of the gallops in which the 110kv line now crosses. The established co-existence of this

infrastructure, in my view, demonstrates that the crossing of the gallops with an OHL is of no significant material bearing to its operational use. The proposed poleset footing (Pole set No. 20) would lie outside of the established gallops.

Given the site's configuration, the separation distance of the OHL from existing OHLs which cross the appellants lands and gallops, and the nature and extent of the works proposed, I consider that the siting of a proposed poleset (No. 20) and OHL within this portion of the appellant's landholding and its configuration would not have a significant negative impact on future breeding and training operations within the stud farm (150 acres).

In terms of impact at construction stage, I acknowledge that whilst the construction works may give rise to temporary disturbance impacts of short duration at construction stage, in terms of the use of the lands, I note that the ESB makes reference to its availability to meet with the landowner and agree a programme of work such that it would minimise the disruption to the landowner. I consider the applicant's approach to be reasonable and acceptable given the short duration of the construction phase of the proposed development.

In light of the above and given that the proposed development would not have a significant negative effect on the environment or have an adverse impact on the landscape, I am satisfied that the proposed development, if permitted would not significantly impact on the breeding and training of thoroughbred horses within the appellant's established equine business. Accordingly, I am of the view that the proposal would not therefore be contrary to the policy and objectives of the operative Development Plan, which provide protection and support for the equine industry, including Policy RD P4 and Objectives RD O15 & RD O19.

#### 7.3.6. Modification of proposed OHL across stud farm

I have examined the proposed development in the context of the provisions of the operative CDP. I see no reason for the proposal to warrant a refusal or to require any further modifications, in terms of the need to reroute or underground the proposed OHL that crosses lands within Rathbride Stud Farm. I am satisfied that the applicant has applied a reasoned approach to the identification of the proposed route corridor (A) and that sufficient justification has been

provided on visual impact and technical needs in terms of providing reliability, repairing faults and flexible technology. The portion of OHL which crosses the appellant's lands is integral to the overall strategic and technical requirements of the proposed 38kv development.

#### 7.4. Impact(s) on Ecology

The DHLGH's submission at appeal stage raised a number of matters on nature conservation and the submitted EclA. I have examined the matters raised in consultation with an Inspectorate Ecologist. So as to avoid duplication, I propose to address matters which relate to Appropriate Assessment separately (Refer Section 8 and Appendices 2 & 3 below).

##### 7.4.1. Degradation of Habitat within The Curragh (pNHA)

The Curragh pNHA comprises one of the largest tracts of semi-natural grasslands in Europe, providing key habitats for a variety of bird species. The proposed works include approximately 1 kilometre of OHL and erection of pole set Nos. 9 -15 within the western perimeter of the northern portion of The Curragh pNHA. The applicant proposes to carefully remove and reinstate existing surface turves as part of the required 2.5m<sup>2</sup> excavated areas for pole footings. The applicant confirms that there would be no importation of turves or reseeded of grass at this location.

Having undertaken a site visit, coupled with my consideration of the findings of the survey work undertaken on behalf of the applicant and in-consulting with an Inspectorate Ecologist, I am satisfied that the proposed works within the northern perimeter of The Curragh pNHA, are within an area which is subject to disturbance from sheep grazing, with very short sward. The most recent surveys undertaken on the applicant's behalf demonstrate that more suitable habitat for ground nesting passerines (skylark & meadow pipit), being less intensively grazed, dry-humid acid grassland with a taller sward and more cover, suited to ground nesting birds, is located to the east, and at a remove from likely disturbance effects from the installation of the proposed 38kv OHL and pole sets and from any potential significant increase in perching structures that could be used by predatory bird species.

I am satisfied that sufficient surveying was undertaken and that the conclusions reached are reasonable and acceptable. I therefore am of the view that the proposed development given the nature, siting and scale of works, would not be so significant as to result in habitat degradation or reduce breeding habitat availability for ground nesting birds, including skylark and meadow pipit. Furthermore, given that no additional potential perching structures within proximity to this habitat are sought, the development proposed is not likely to have any significant residual effects on ground nesting birds as raised by the DHLGH, such that a refusal or modification of the proposed development is warranted in this case.

#### 7.4.2. Bird Collision

The applicant's documentation is clear in detailing that required bird surveys were undertaken along the proposed route within the breeding season from 2019 to 2023. Additional dawn & dusk surveys were undertaken along the Milltown Feeder of the Grand Canal in 2021/2022 and a further survey in May 2024.

I note the survey findings to be that there were negligible levels of commuting birds, including along the Milltown Feeder and overall, that bird collision incidences are unlikely to increase because of the proposed OHL.

I consider that the applicant's suggested precautionary approach in incorporating flight diverters on the OHL crossing the Milltown Feeder is an appropriate mitigating factor which would provide further certainty in addressing the DHLGH's concerns on bird collision risk, noting that an existing OHL crosses the Milltown Feeder within proximity to the proposed OHL.

The inclusion of flight diverters at this location, can be suitably addressed by condition in the event that the Board is minded to grant permission.

#### 7.4.3. Seepage Zone

Having undertaken a site visit and in examining the documentation submitted, I am satisfied that there would be no works carried out within a seepage zone which lies between proposed pole 39 and pole 40. I submit that proposed Pole

No. 40 is sought within a separate field holding to proposed Pole No. 39 and would be erected on lands which are intensively managed for agricultural purposes (tillage). Given the proposed location of poleset 40 and in noting its remove from the seepage zone, I am satisfied that it would not have any negative effects on the seepage zone. I note that proposed pole 39 would be located along the western edge of a wet grassland area, which adjoins lands that are intensively managed for agriculture. I observed no surface water at the actual location in which the poleset is sought on my date of site visit. I noted that a seepage zone lies to the east of the proposed pole set. Given this, the nature of the works proposed, with minor excavation, notably pole footing excavations [0.5m wide x 2.3m deep (max)] which would be immediately backfilled with trench spoil and with no concrete foundation(s), I concur with the findings of the applicant's expert hydrogeologist insofar as the proposal will not have a negative impact on the natural hydrological regimes attached to these lands and those which are necessary to support the natural structure and functioning of the adjoining fen habitat.

In light of this, coupled with the expert views provided by the applicant's appointed senior ecologist who raised no issue in this regard and similar such conclusions given by the Inspectorate's Ecologist, I am satisfied that no further investigations are required. The seepage area is located outside of the zone of influence of the pole installation and therefore, any possible effects on the seepage area and connections to Fen habitat is avoided, and the proposed development is not likely to have significant effects on the environment.

I refer the Board to Appendix 3 of my report which is also relevant, in that it further considers the matter of hydrology and the potential for significant effects on the QI's of the adjoining SAC (Pollardstown Fen) under appropriate assessment.

#### 7.4.4. Badger Sett

The DHLGH raised concern in regard to a badger sett, located outside of the site, a distance of c.30m from the proposed development (northeast end) (April 2023). The badger and its breeding spaces are protected under Section 23 of The Wildlife Act 1976. The applicant confirms that standard measures will be

implemented to avoid potential effects where any badger sett is recorded. Given this, along with the dynamic nature of badger setts, in terms of abandoning setts and the establishing of new setts regularly, I am of the view that the applicant's suggested approach in undertaking a Badger Survey prior to the commencement of any works, which would be informed by the applicable standards, and the implementation of required measures so as to avoid potential effects where any badger sett is recorded, is reasonable and would satisfactorily address the raised matter.

I therefore suggest that should the Board be of a view to grant permission, that a suitably worded condition be attached requiring the submission of a Badger Survey Report for the written approval of the PA prior to the commencement of any works on site.

#### 7.4.5. Green Infrastructure

I have examined the referenced policy and objectives within the DHLGH's submission on green infrastructure (GI). I note in the outset that GI consists of an interconnected network of habitats which are natural, semi-natural and artificial, and comprises ecological assets that traverse both urban and rural areas.

Given the nature and scale of the proposed development, I am satisfied that the proposed development would not have any significant, adverse impacts on the environment in terms of habitat degradation. Furthermore, I concur with the findings of the submitted EclA which are clear in detailing that the proposal will not have any significant residual effects on biodiversity at any geographic scale.

In this context, I am satisfied that the proposal at both construction and operational stage would allow for the provision of required electrical infrastructure while retaining the intrinsic value of natural assets within and adjacent to the linear site, if permitted. For this reason, I am satisfied that the proposal would not be contrary to any policy or objective on GI, if permitted.

#### 7.5. Other/Procedural Matters

##### 7.5.1. Legal Interest



In regard to a raised issue on details provided within the application form in respect of ownership, I am satisfied that the consent of landowners upon which it is proposed to carry out the proposed electricity circuit is not required for the purposes of the making of a planning application. The ESB, being the applicant in this case are the legal owners of the electricity distribution network and derive sufficient legal interest from the Electricity Act 1927, as amended, to enter onto lands for the purpose of any works relating to electrical infrastructure. Furthermore, I refer the Board to relevant case law - North East Pylon Pressure Campaign Ltd v. ABP [2017] IEHC 338 whereby The High Court rejected an argument that a planning application could only lawfully be made with the written consent of the owners of all of the lands upon which it was proposed to carry out the development.

The applicant should also be advised of section 34(13) of the Planning and Development Act, 2000, as amended, that a person is not entitled solely by reason of a permission to carry out any development.

#### 7.5.2. Sufficiency of Public Notices

I refer the Board to Article 17(3) of the Planning and Development Regulations 2001 (as amended) which clearly prescribes that there is no legislative requirement to erect or fix a site notice in respect of a planning application for development consisting of the construction or erection by an electricity undertaking of overhead distribution lines for conducting electricity. Accordingly, and in further noting that the appellant made a submission at significant further information stage of the application process, and that no issue was raised by the PA on public notice(s), I am satisfied that adequate public notice was provided at application stage.

#### 7.5.3. Sufficiency of Submitted Details

I refer the Board to Article 25 of the Planning and Development Regulations which states that Article 23(1), other than paragraphs (g) and (h) thereof, shall not apply to a planning application for development consisting of the construction or erection by an electricity undertaking of overhead distribution lines for conducting electricity. The applicant has complied with the requirement

for a map or plan with north points based on an Ordnance Survey map, indicating the relevant Ordnance Survey sheet number.

It is my view that the required subterranean details, including those contained within the accompanying NIS which outlines that the poles will not require concrete foundation and that they will be set into extracted holes which are dug 0.5m wide x 2.3m deep (max) and backfilled with soil, are sufficient to allow a full assessment of the proposed development's potential impact(s), in accordance with legislative requirements and the proper planning and sustainable development of the area.

Whilst there is no disputing that anomalies are contained with the submitted application, I consider that these anomalies are not material to the overall assessment and that the required information has been provided and is sufficient in informing the Board in its making of a decision on this case.

Overall, I am satisfied that the submitted plans and particulars comply with the requirements of the Planning and Development Regulations 2001 (as amended) and that the application constitutes a valid planning application.

#### 7.5.4. EIA

In regard to a raised matter on requiring EIA, I refer the Board to Form 2, EIA Preliminary Examination appended to this report and the EIA Screening Determination within Section 5.10 above. I wish to also note that whilst a significant effect may arise for an individual environmental topic (in this case the appellant's raised concern on EIA relates to visual impact), this does not of itself trigger a requirement for EIA.

#### 7.5.5. PA's Attachment of Conditions

Given the nature and extent of the proposed works and that the proposal would not give rise to significant loading on associated haulage at construction stage, I am of the view that Condition 4 of the PA's decision, which requires the undertaking of a structural assessment of haul routes is not required.

Similarly, as the matter of noise is only relevant at construction stage, it is my view that Conditions 11 & 12 as attached within the PA's decision are not

required and that the matter of noise would be more suitably addressed within an updated CEMP.

In regard to the matter of further studies, raised as a concern by the appellant in terms of the PA's approach in the attachment of a condition (Condition 2), I note that no further studies are explicitly detailed or sought within any attached condition to the PA's decision, and there are no required mitigation measures to be incorporated into the NIS. It is therefore my view that this condition is not required, as Condition 1 already seeks that the proposal be carried out and completed in accordance with the plans and particulars submitted.

Furthermore, for the purposes of clarity, I am satisfied that the undertaking of a Badger Survey prior to the commencement of development, as put forward by the applicant in its appeal response is reasonable and acceptable, without necessitating any further engagement at this time.

Lastly, given that no new vehicular entrance is sought as part of the submitted application and that the proposed development would not give rise to an intensification of use of any access, it is my opinion that Condition 6 as attached by the PA in its decision should not be attached, if the Board were minded to grant permission.

## **8.0 Appropriate Assessment (AA)**

In the outset, I note that the DHLGH in its submission (dated 24/4/24) recommended that the Board considers the proposed development in relation to objective BI O10 which relates to AA screening and objective BI O11, which relates to the establishment of conservation measures and management plans for the conservation of Natura 2000 sites by NPWS. I refer the Board to Section 8.1 & 8.2 below and to Appendices 2&3 which address the matter of Appropriate Assessment in this case.

### **8.1 Appropriate Assessment Screening Determination (Stage 1)**

Significant effects cannot be excluded

A Stage 1 Screening for Appropriate Assessment which initially accompanied the application concluded that the proposed development was unlikely to have a significant effect on the qualifying interests of Pollardstown Fen SAC or Mauds Bog SAC, being the nearest European Sites to the proposed development and that Stage 2 Appropriate Assessment was not required as the proposal either alone or in-combination with other projects or plans, was unlikely to give rise to significant effects on any European site(s) in view of the site's conservation objectives.

I note that a Natura Impact Statement was submitted following a further information request which was sought by the PA.

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, including the Stage 1 AA screening report which accompanied the submitted application and the screening determination of the PA, I conclude that the potential for significant effects on European Site(s), most notably Pollardstown Fen SAC, cannot be excluded without further detailed assessment and therefore a Stage 2 Appropriate Assessment is required to be undertaken.

This determination is based on the site's location, a portion [notably pole numbers 38 to 44] of which lies on adjoining lands to Pollardstown Fen SAC and the potential for impacts on the qualifying interests of this SAC in terms of hydrology and water quality. [Refer Appendix 2 appended to this report].

## 8.2 Appropriate Assessment Determination (Stage 2)

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Pollardstown Fen SAC in view of the conservation objectives of this site and that Appropriate Assessment under the provisions of S177U was required.

Following an examination, analysis and evaluation of the NIS, all associated material submitted, and taking into account the observations of the DHLGH on nature conservation within its submission to the Board, I consider that adverse

effects on the site integrity of Pollardstown Fen can be excluded in view of this site's conservation objectives and that no reasonable scientific doubt remains as to the absence of such effects. [Refer Appendix 3 appended to this report].

## **9.0 Recommendation**

It is recommended that permission be granted subject to conditions.

## **10.0 Reasons and Considerations**

Having regard to:

- the nature, scale and extent of the proposed development,
- the characteristics of the entirety of the site and of the surrounding area,
- national, regional and local policy support, in particular:
  - National Planning Framework (2018),
  - Government Policy Statement on the Security of Electricity Supply (2021),
  - Regional Spatial and Economic Strategy for the Eastern & Midland Region 2019-2031,
  - Kildare County Development Plan 2023-2029,
  - Kildare Town Local Area Plan 2023-2029
- the likelihood for consequences on 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 European Sites

and given:

- that the Board has performed its functions in a manner consistent with The Climate Action and Low Carbon Development Act 2015 (as amended)

It is considered that the proposed development, subject to compliance with the conditions set out below, would be consistent with the provisions of the Kildare

County Development Plan 2023-2029 and the Kildare Town Local Area Plan 2023-2029, would not have an unacceptable impact on the landscape, would not have significant adverse impacts on the environment, would not significantly injure established equine business and would not seriously injure the residential amenities of property in the vicinity. The proposed development would not have any likely significant effects on Pollardstown Fen SAC or any other European Site. Accordingly, the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further particulars submitted on the 30 May 2024 with respect to the installation of composite poles [Pole Numbers 38-44], except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this Order.

**Reason:** Having regard to the nature of the development, the Board considers it appropriate to specify a period of validity of this permission in excess of five years.

3. Prior to the commencement of development, a badger survey shall be undertaken by a suitably qualified person for the written agreement of the Planning Authority. In the event of a badger sett(s) being identified, appropriate mitigation and avoidance shall be agreed in writing with the Planning Authority.

**Reason:** In the interest of clarity and the protection of the environment.

4. Prior to the commencement of development, an updated Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing

with the Planning Authority. The updated CEMP shall include but not be limited to construction phase controls for waste management, protection of soils, groundwaters and surface waters, site housekeeping, noise, emergency response planning, site environmental policy, and project roles and responsibilities.

It shall also include the location of any and all archaeological or cultural heritage constraints relevant to the proposed development as set out in the Archaeological Impact Assessment by Byrne, Mullins and Associates (dated May 2023) and by any subsequent archaeological investigations associated with the project. The CEMP shall clearly describe all identified likely archaeological impacts, both direct and indirect, and all mitigation measures to be employed to protect the archaeological or cultural heritage environment during all phases of site preparation and construction activity.

**Reason:** In the interest of clarity, public health & safety, archaeology and environmental protection.

5. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material.

**Reason:** In the interest of traffic safety and convenience.

6. The applicant shall include flight diverters on the overhead line crossing on the Milltown feeder of the Grand Canal pNHA. Details on the design of the flight diverters shall be submitted to and approved in writing with the Planning Authority prior to the commencement of development.

**Reason:** In the interest of biodiversity and to apply a precautionary approach in preventing bird collision incidences.

7. Archaeological Requirements

- i. All mitigation measures in relation to archaeology and cultural heritage as set out in the Archaeological Impact Assessment by Byrne, Mullins and Associates (dated May 2023) shall be implemented in full, except as may otherwise be required in order to comply with the conditions of this Order.

- ii. A Project Archaeologist shall be appointed to oversee and advise on all aspects of the scheme from design, through inception to completion.
- iii. The developer shall engage a suitably qualified archaeologist to carry out an updated Archaeological Impact Assessment (AIA), including Archaeological Test Excavation. This shall be completed and an Impact Assessment Report submitted for the written agreement of the Planning Authority, following consultation with the Department of Housing, Local Government and Heritage in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance and/or construction works.
  - a.) The Updated AIA shall address all proposed temporary construction works required to facilitate the development including (but not limited to) the location of any temporary access routes and construction compounds.
  - b.) The archaeologist shall liaise with the Department to establish the appropriate scope of the Archaeological Test Excavation to adequately characterise the character and extent of any potential sub-surface archaeological material that may be impacted by proposed groundworks in particular in the environs of Recorded Monument KD022-071 --/ KD023-076 --/ KD028-067—(Archaeological Complex).
  - c.) The report shall include an Archaeological Impact Statement and Mitigation Strategy. Where archaeological material is shown to be present, avoidance, preservation, in situ, preservation by record (archaeological excavation) and/or monitoring may be required.
  - d.) Any further archaeological mitigation requirements specified by the Planning Authority, following consultation with the Department of Housing, Local Government and Heritage shall be complied with by the developer,
  - e.) No site preparation and/or construction work shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the Planning Authority.
- iv. A Suitably qualified archaeologist shall be retained to advise on, and establish appropriate Exclusion Zones around the external-most elements of vulnerable Heritage Assets, in particular within Recorded Monument KD022-071 --/ KD 023-076- -/KD028-067—(Archaeological Complex).



- a.) Exclusion Zones shall be fenced off or appropriately demarcated for the duration of construction works in the vicinity of the monuments. The location and extent of each Exclusion Zone and the appropriate methodology for fencing off or demarcating at each location shall be agreed in advance with the Department and the Planning Authority.
  - b.) No groundworks of any kind (including but not limited to advance geotechnical site investigations) and no machinery, storage of materials or any other activity related to construction will be permitted within the Exclusion Zones.
  - v. The developer shall engage a suitably qualified archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks and the implementation of agreed preservation in-situ measures associated with the development.
    - a.) The use of appropriate machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary.
    - b.) Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the Planning Authority, in consultation with the Department, regarding appropriate mitigation, which may include preservation in-situ or full archaeological excavation.
    - c.) The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the Planning Authority, following consultation with the Department, shall be complied with by the developer.
  - vi. The Planning Authority and the Department shall be furnished with a final archaeological report describing the results of all archaeological monitoring and any archaeological investigative work/excavation required, following the completion of all archaeological work on site and any necessary post- excavation specialist analysts. All resulting and associated archaeological cost shall be borne by the developer.
- Reason:** To ensure the continued preservation (either in-situ or by record) of places, caves, sites, features or other objects of archaeological interest.

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.

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Paula Hanlon  
Planning Inspector

14 April 2025

## Form 1

## EIA Pre-Screening

<b>An Bord Pleanála</b> <b>Case Reference</b>	319002-24		
<b>Proposed Development</b> <b>Summary</b>	38kV electricity circuit between Kildare substation and Newbridge substation. A Natura Impact Statement accompanies the application.		
<b>Development Address</b>	Townlands of Crockanure Glebe, Southgreen, Kildare, Bishopsland, Cloghgarrett Glebe, Crockanure, Blackmillers Hill, Dunmurry West, Curragh, Rathbride, Friarstown, Newtown, Milltown, Scarletstown and Roseberry in Co. Kildare		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>No</b>	X	<u>Part 1 of Schedule 5</u> (Class 20) <i>- Construction of overhead electrical power lines with a voltage of 220 kilovolts or more and a length of more than 15 kilometres.</i> The above class does not apply as the proposed development relates to the construction of a 38kV electricity circuit (8.5km length). <u>Part 2 of Schedule 5</u>	No further action required

		<p>(Class 3 Energy Industry)</p> <p><i>(b) ... transmission of electrical energy by overhead cables not included in Part 1 of this Schedule, where the voltage would be 200 kilovolts or more.</i></p> <p>The above class does not apply as the proposed development relates to the construction of a 38kV distribution line.</p>	
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**3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?**

Yes			
No	X		

**4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?**

Yes	X		
No			

**5. Has Schedule 7A information been submitted?**

No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)

## Screening for AA

### Finding of likely significant effects

#### Screening for Appropriate Assessment Test for likely significant effects

#### 1: Description of the project and local site characteristics

##### Case file: ABP 319002-24

<b>Brief description of project</b>	<p>38kv electricity circuit [8.5km in length] Third party appeal</p> <p>Permission is sought for the development of a 38 KV electricity circuit connecting Kildare town substation (southwest) and Newbridge substation (northeast). Proposed UGC works sought comprise the laying of cables within an underground duct and buried in a trench [c 0.6m and c.0.9 (width), c.1.2m (depth)] over a distance of 1.5km (approx.). These works are located outside of any European site, a distance in excess of 3.6km southwest of the nearest SAC, being Pollardstown Fen SAC.</p> <p>Proposed OHL works and associated structures [48(no)] including single &amp; double wood pole sets is sought over a distance of 7km (approx.). The OHL would connect to the UGC via a proposed cable interface mast/lattice tower at KCC's compound, which is also located in excess of 3.6km southwest of the nearest SAC (Pollardstown Fen). The proposed OHL and pole sets, notated as Pole Nos. 38 to 44 on the submitted drawings adjoin Pollardstown Fen SAC. The proposed pole footing excavations on the lands that adjoin the SAC would be 0.5m wide and maximum 2.3m deep and would be immediately backfilled with trench spoil. No concrete base foundation(s) is sought for these pole sets.</p> <p>A lattice steel tower is sought at Newbridge substation (end point), c.370m east of the SAC.</p> <p>Proposed associated works include temporary access provision at construction stage. Site access would be undertaken by way of using the local public road network, and utilising private tracks or roads wherever possible on private lands. It is stated that access to structure locations will be carefully selected and with considered local consultation to avoid impact to the surrounding area.</p>
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	<p>The estimated duration for the erection of a pole or set of poles is 1 day and the overall project works is estimated as being less than 1 year.</p> <p>A detailed description of the proposed development is provided in Section 2.1 of the Inspector's report and detailed specifications of the proposal are provided in the AA screening report/ NIS and other planning documents provided by the applicant.</p>
<b>Brief description of development site characteristics and potential impact mechanisms</b>	<p>A portion of the site runs along the R415 regional road, on the western side of Kildare town. An established built, urban area adjoins its eastern side, and rural lands adjoin its western side at this point of the linear site.</p> <p>The remainder of the site is located within a <b>rural location</b> on predominantly low lying, greenfield lands with gentle undulations. The landuse associated with these lands is predominantly agricultural/equine use.</p> <p>While the appeal site is not located within any designated Natura 2000 site(s), a portion of the development works are sought on lands which adjoin Pollardstown Fen (SAC). These lands are on slightly higher elevated ground to Pollardstown Fen and have been <b>intensively managed for agricultural purposes</b> (grassland and tillage). A pocket of wet grassland and a <b>seepage zone</b> exists on lands which adjoin proposed poles 39 &amp; 40, and which is between the works and the adjoining SAC. An established mature hedge and trees provide a physical barrier between the proposed pole sets and the adjoining SAC. An OHL crossing is sought over the Milltown Feeder of the Grand Canal pNHA and Cloncumber Stream. There are no other water courses within the site. The overall site area is not subject to an identified flood risk.</p>
<b>Screening report</b>	Yes (Prepared by Geoff Hamilton, Senior Ecologist, ESB Engineering & Major Projects consultants)
<b>Natura Impact Statement</b>	Yes
<b>Relevant submissions</b>	<p>The Development Applications Unit submitted an observation on behalf of the DHLGH at appeal stage. Issues raised include the following related to the appropriate assessment process:</p> <p>Impacts on Petrifying Springs, a qualifying interest of Pollardstown Fen SAC and Annex I priority habitat</p> <p>Impacts on Vertigo Geyerii (Geyer's whorl snail) a qualifying interest of Pollardstown Fen SAC</p> <p>Cumulative Effects with two existing OHLs [one runs directly across Pollardstown Fen, and one crosses the Milltown Feeder].</p>





Mouds Bog SAC (002331)	<p><i>Active raised bogs [7110]</i></p> <p><i>Degraded raised bogs still capable of natural regeneration [7120]</i></p> <p><i>Depressions on peat substrates of the Rhynchosporion [7150]</i></p> <p><a href="https://www.npws.ie/protected-sites/sac/002331">https://www.npws.ie/protected-sites/sac/002331</a></p>	In excess of 1 kilometre north of site	No, No feasible impact pathways	N
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I have attached link to site details which outlines the Conservation Objectives and qualifying interests of the above two listed European sites of relevance in this case, as provided by NPWS.

Ecological surveys undertaken by the applicant are detailed within the submitted EcIA. Using best practice survey methods, the survey findings detail that there were no qualifying interest Annex I habitat or habitat(s) that may support qualifying interest Annex II species within the proposed site [most notably, including the subject lands where proposed pole sets Nos. 38 to 44 and OHL are sought].

### **3. Describe the likely effects of the of the project (if any, alone or in combination) on European Sites**

#### Mouds Bog SAC

Given the nature and extent of works sought and the spatial separation distance, in excess of 1 kilometre south of Mouds Bog SAC, with no feasible hydrological or ecological connection, I conclude that the proposed development will not result in any direct or indirect effects on Mouds Bog SAC, in view of its conservation objective - to restore the favourable conservation condition of Active raised bogs and its qualifying interests (referenced in above table, within Section 2 above). Therefore, there is no likelihood of effects occurring on Mouds Bog SAC, either alone or in-combination with other projects.

#### Pollardstown Fen SAC

There is no direct or in-direct hydrological or ecological pathway between the UGC sought and the SAC, given that the works are spatially restricted, a distance in excess of 3.6km southwest of the SAC and contained within existing tracks and public roads, without any requisite watercourse crossings.

However, in terms of the proposed OHL, given the nature and extent of works sought and the proximity of pole sets Nos. 38 to 44 to Pollardstown Fen SAC and the potential for localised change in groundwater flow, indirect impacts generated by the construction and operation of the proposed 38kv electricity circuit requires further consideration.

For the purposes of clarity, I submit that all other works sought at construction and operation stage due to their nature and extent, coupled with their spatial separation distance to the nearest SAC, with no direct or indirect hydrological or ecological pathway(s), would not have any significant effect (alone or in-combination) with other plans or projects.

Sources of impact and likely significant effects are detailed in the Table below.

## Screening matrix

Site name	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
<b>Pollardstown Fen SAC (000396)</b>  <i>Calcareous fens with Cladium mariscus and species of the Caricion davallianae</i> [7210]  <i>Petrifying springs with tufa formation (Cratoneurion)</i> [7220]  <i>Alkaline fens</i> [7230]  <i>Vertigo geyeri (Geyer's Whorl Snail)</i> [1013]  <i>Vertigo angustior (Narrow-mouthed Whorl Snail)</i> [1014]  <i>Vertigo moulinsiana (Desmoulin's Whorl Snail)</i> [1016]	Localised changes in groundwater flow entering the SAC and on lands adjoining the SAC, with potential impact on Qualifying Interests (QIs) and supporting habitat.  Water Quality (use of creosote)	Negative event on appropriate natural hydrological regimes necessary to support the natural structure and functioning of the fen habitat and QIs of the SAC.  Negative impact on water quality.
	Likelihood of significant effects from proposed development (alone): <b>Yes</b>	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? N/A	
	<b>Impacts</b>	<b>Effects</b>
<b>Mouds Bog SAC (002331)</b>	None	None as there are no feasible hydrological or ecological pathways
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	

### 4: Conclude if the proposed development could result in likely significant effects on a European site

Based on the information provided within the applicant's Stage 1 Screening Report, in undertaking a site visit and in reviewing the conservation objectives and supporting documents of the relevant European Sites, I consider that the proposed development has the potential to result in significant effects on the conservation objectives of Pollardstown Fen SAC.

This determination is based on the site's location, a portion [notably proposed pole numbers 38 to 44] of which lies parallel and in proximity to Pollardstown Fen SAC and the potential for impacts on the qualifying interests of this SAC in terms of hydrology and water quality.

I therefore do not fully concur with the applicant's findings that such impacts could be ruled out at Stage 1 Screening for Appropriate Assessment Stage, given the stated conservation objectives of the SAC and when considered as a project on its own and in-combination with other projects and plans.

**Screening Determination****Finding of likely significant effects**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on Pollardstown Fen SAC in view of its conservation objectives on a number of qualifying interest features of this site.

It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] of the proposed development is required.

### Appropriate Assessment

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V [or S 177AE] of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceding screening determination, the following is an Appropriate Assessment of the implications of the proposed 38kv electricity circuit in view of the relevant conservation objectives of **Pollardstown Fen SAC**, based on scientific information provided by the applicant and considering expert opinion through observations on nature conservation.

The information relied upon includes the following:

Stage 1 Screening for Appropriate Assessment report prepared by Geoff Hamilton, Senior Ecologist, ESB Engineering & Major Projects

Natura Impact Statement prepared by Mr. Owen Twomey, Senior Ecologist, ESB Engineering & Major Projects submitted at further information stage

Further details contained within an appeal submission made by the Development Applications Unit, DHLGH

Inspectorate Ecologist Report (dated 31/03/25)

I am satisfied that the information provided is adequate to allow for Appropriate Assessment. All aspects of the project which could result in significant effects are considered and assessed in the NIS and further addressed within the applicant's appeal response (30/05/24) to the matters raised within the DHLGH's submission. There is no mitigation measures designed to avoid or reduce any adverse effects on site integrity included within the NIS, as part of the submitted application.

#### Submissions/observations

DHLGH

Impact(s) on Petrifying Springs, a qualifying interest of Pollardstown Fen SAC and granted strict protection as a priority habitat in Annex I of the European Union Habitats Directive

Impacts on Vertigo Geyerii (Geyer's whorl snail)

Cumulative Effects with two existing OHLs [An existing OHL runs directly across Pollardstown Fen, and one crosses the Milltown Feeder within the SAC].

Public observation(s) [At Application Stage by a Third Party]

Proposal is within the zone of influence of Pollardstown Fen SAC

AA must contain complete, precise and definite findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the proposed works on any European Site.

The matter of AA was not raised within the appellant's appeal submission.

European site: Pollardstown Fen SAC

Qualifying Interest features likely to be affected	Conservation Objectives Targets and attributes (as relevant-summary)	Potential adverse effects	Mitigation measures NIS DETAILS THAT NO MITIGATION ARE MEASURES REQUIRED

<p><i>Calcareous fens with Cladium mariscus and species of the Caricion davallianae</i> [7210]</p>	<p>Restore favourable conservation condition</p> <ul style="list-style-type: none"> <li>- No decline in habitat distribution</li> <li>- Maintain soil pH &amp; nutrient status within natural ranges</li> <li>- Maintain, or where necessary restore, appropriate natural hydrological regimes necessary to support the natural structure and functioning of the habitat</li> <li>- Maintain, or where necessary restore, as close as possible to natural or semi-natural, drainage conditions</li> <li>- Maintain, or where necessary restore, appropriate water quality, particularly pH and nutrient levels, to support the natural structure and functioning of the habitat</li> <li>- Vegetation Cover: Cover of <i>Cladium mariscus</i> at least 25%</li> <li>- Vegetation composition: Maintain adequate cover of typical vascular plant species</li> <li>Cover of native negative indicator species at insignificant levels</li> <li>Cover of non-native species less than 1%</li> <li>Cover of scattered native trees and shrubs less than 10%</li> </ul>	<p>Localised changes in groundwater flow entering the SAC, with potential impact on calcareous fens habitat</p>	<p>None Required.</p> <p>The NIS details that the closest area of the calcareous fen as mapped within the SAC boundary (NPWS) is c.70m south of the proposed OHL.</p> <p>The proposed works are sought on managed agricultural lands and 1 pole (No.39) is located on a pocket of wet grassland, outside of seepage zone and SAC.</p> <p>The proposed works will not encroach on calcareous fen habitat. An established mature hedge and tree line physically separates the proposed OHL from the QI fen habitat.</p>
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	<p>Cover of algae less than 2%</p> <p>At least 10% of live shoots more than 1m high</p> <p>Physical structure: disturbed bare ground</p> <p>Cover of disturbed bare ground not more than 10%</p> <p>- Physical structure: tufa formations:</p> <p>Disturbed proportion of vegetation cover where tufa is present is less than 1%.</p> <p>Indicators of local distinctiveness:</p> <p>- No decline in distribution or population sizes of rare, threatened or scarce species associated with the habitat; maintain features of local distinctiveness, subject to natural processes.</p> <p>Transitional areas between fen and adjacent habitats:</p> <p>- Maintain/restore adequate transitional areas to support/protect the Cladium fen habitat and the services it provides.</p>		
<p><i>Petrifying springs with tufa formation (Cratoneurion) [7220]</i></p>	<p>Restore favourable conservation condition</p> <p>- No decline in habitat distribution, subject to natural processes</p> <p>Hydrological regime:</p> <p>Maintain appropriate hydrological regimes</p> <p>Physical structure: tufa formations</p>	<p>Recorded in adjacent SAC.</p> <p>Localised changes in groundwater flow reaching petrifying springs with tufa formation arising within and adjoining the SAC/Alteration of</p>	<p>None Required</p> <p>The works sought are deemed to be minor in scale.</p> <p>There would be no significant impact on soil hydrology given the spatial separation of the proposed poles from the fen and comparatively minor scale of excavations, with</p>

	<p>Maintain appropriate levels of tufa formation (Seepage rate to the spring and groundwater quality (saturated calcium carbonate, pH, temperature and alkalinity conditions))</p> <p>Ecosystem function: water quality - nitrate level</p> <p>Maintain/restore nitrate levels to less than 10mg/l</p> <p>Ecosystem function: water quality - phosphate level</p> <p>Maintain/restore phosphate levels to less than 15µg/l</p> <p>Vegetation composition: community diversity</p> <p>Maintain/restore variety of vegetation communities, subject to natural processes</p> <p>Vegetation composition: positive indicator species</p> <p>At least three positive/high quality indicator species as listed in Lyons and Kelly (2016) and no loss from baseline number</p> <p>Vegetation composition: negative indicator species</p> <p>Potentially negative indicator species should not be Dominant or Abundant; woody species should be absent in unwooded springs; invasive species should be absent.</p> <p>Vegetation composition: algal cover</p> <p>Cover of algae less than 2%</p>	<p>habitat quality would undermine the SAC's conservation objective.</p>	<p>proposed pole footing excavations stated as 0.5m wide and maximum 2.3m deep, which would be immediately backfilled with trench spoil.</p> <p>The works which adjoin the SAC are on lands used for intensive agriculture, (improved grassland for grazing and tillage) which is of low ecological value. One pole (No. 39) is on a pocket of wet grassland. It lies outside of seepage zone and SAC lands.</p>
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	<p>Vegetation structure: sward height</p> <p>Field layer height between 10cm and 50cm (except for bryophyte-dominated ground &lt;10cm)</p> <p>Physical structure: trampling/dung</p> <p>Cover should not be Dominant or Abundant</p> <p>Indicators of local distinctiveness</p> <p>No decline in distribution or population sizes of rare, threatened or scarce species associated with the habitat; maintain features of local distinctiveness, subject to natural processes</p>		
<i>Alkaline fens</i> [7230]	<p>Restore favourable conservation condition</p> <p>No decline in extent and distribution of spawning beds</p>	<p>Localised changes in groundwater flow entering the SAC with alkaline fen habitat</p>	<p>Given that the alkaline fen habitat is spatially separated, approx. 50m south of the proposed OHL and the minor extent of works sought, with minimal below surface works, the proposal would not undermine the site conservation objectives for the SAC.</p>
<i>Vertigo geyeri</i> (Geyer's Whorl Snail) [1013]	<p>Maintain favourable conservation condition of Geyer's Whorl Snail (<i>Vertigo geyeri</i>) in Pollardstown Fen SAC</p> <p>No decline, subject to natural processes.</p>	<p>Localised changes in soil wetness in areas of supporting habitat for Geyer's whorl snail/ alteration of habitat quality would undermine conservation objective of SAC.</p>	<p>There is one known site for the Geyer's Whorl Snail species, reported following spot sampling in this habitat block (2011).</p> <p>Feasible (sub-optimal) habitat is located along Pollardstown Fen's northern periphery and runs parallel to the proposed OHL.</p>



	<p>Occurrence in suitable habitat:</p> <p>No decline, subject to natural processes. A baseline figure of 50% positive samples is set.</p> <p>Area of suitable habitat stable or increasing, subject to natural processes; no less than 2ha of at least suboptimal habitat, with at least 50% in optimal condition.</p> <p>Habitat quality:</p> <p>No decline, subject to natural processes</p> <p>Habitat quality: Soil wetness</p> <p>No decline, subject to natural processes.</p>		<p>The closest area of such habitat is located over 50 (c. 60m) metres from pole Nos. 42 &amp; 43, with No. 42 being the closest proposed pole to this habitat.</p> <p>There would be no significant impact on soil hydrology given the spatial separation of the proposed poles from this habitat, with minor scale excavations on lands used for intensive agriculture, improved grassland for grazing and tillage which is of low ecological value, and which would be immediately backfilled with trench spoil. One pole (No. 39) is on a pocket of wet grassland which lies outside of seepage zone and SAC.</p> <p>The would be no feasible surface water impact pathways for polluting materials. Works adjacent to Milltown Feeder canal &amp; Cloncumber Stream are downstream of the fen. Furthermore, the applicant confirmed within its appeal response (dated 30/05/2024) to the DHLGH's submission that composite poles made of inert material which do not require preservative or treatment by creosote will be erected in the area north of Pollardstown Fen SAC. No pollutants would</p>
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			therefore arise from these structures.
<i>Vertigo angustior</i> (Narrow-mouthed Whorl Snail) [1014]	<p>Restore favourable conservation condition</p> <p>No decline in distribution &amp; suitable habitat, subject to natural processes</p> <p>Area of suitable habitat stable or increasing, subject to natural processes; no less than 2ha of optimal habitat</p> <p>Habitat quality: soil wetness. No decline, subject to natural processes.</p>	<p>Potential for localised changes in soil wetness in areas of supporting Narrow-mouthed Whorl Snail habitat would undermine conservation objectives.</p>	<p>The closest area of feasible habitat of the Narrow-mouthed Whorl Snail with positive records is located c.1.25km south of the proposed OHL.</p> <p>Given the spatial separation of the proposed poles from this habitat, with minor scale excavations on lands used for intensive agriculture, improved grassland for grazing and tillage which is of low ecological value, and which would be immediately backfilled with trench spoil, there would be no significant impact on soil hydrology. There would be no feasible surface water impact pathways for polluting materials. Works adjacent to Milltown Feeder canal &amp; Cloncumber Stream are downstream of the fen. Furthermore, the applicant confirms that composite poles made of inert material which does not require preservative or treatment by creosote will be erected in the area north of Pollardstown Fen SAC.</p>

<p><i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016]</p>	<p>Maintain favourable conservation condition</p> <p>No decline in habitat distribution, suitable habitat, density, quality and soil wetness subject to natural processes.</p> <p>Note: Desmoulin's whorl snail (<i>Vertigo moulinsiana</i>) should be present in at least 75% of samples taken across the site in suitable habitat.</p> <p>Area of suitable habitat stable or increasing, subject to natural processes; no less than 10ha of at least suboptimal habitat. [Optimal and suboptimal habitat is defined in Moorkens and Killeen (2011), Brophy and Long (2019) and Long and Brophy (2019)].</p>	<p>Evidence of Desmoulin's Whorl Snail located over 50m from the proposed OHL. Potential for localised changes in soil wetness in areas of supporting habitat for Desmoulin's Whorl Snail would undermine conservation objectives.</p>	<p>There is one known site for this species in the SAC within the 1km grid squares N7615, N7616, N7715 and N7716.</p> <p>This species based on records is located over 50m from the proposed OHL.</p> <p>Given the spatial separation of the proposed poles from this habitat, with minor scale excavations on lands used for intensive agriculture, improved grassland for grazing and tillage which is of low ecological value, and which would be immediately backfilled with trench spoil, there would be no significant impact on soil hydrology. There would be no feasible surface water impact pathways for polluting materials. Works adjacent to Milltown Feeder canal &amp; Cloncumber Stream are downstream of the fen. Furthermore, the applicant confirms that composite poles made of inert material which does not require preservative or treatment by creosote will be erected in the area north of Pollardstown Fen SAC.</p>
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## Assessment

I have undertaken a site visit and examined the documentation received, including NIS and submissions received in respect of the proposed project works. I note in the outset that no construction works, or operation activity will be undertaken on lands located within the boundary of Pollardstown Fen SAC.

### Potential for Hydrological Impact(s)

The proposed development includes the erection of pole sets which are required to accommodate the 38kv OHL sought in this case. The proposal was informed by the applicant's in-house hydrogeology specialist (Mr. Colm Driver, BSc, MSc, P.Geo, EurGeol). The determination of the applicant's hydrogeology specialist was that based on conceptual modelling, there would be no likely hydrogeological impact to Pollardstown Fen SAC as a result of the proposed development.

As previously stated, the siting of the proposed poles lie outside of the designated lands of Pollardstown Fen SAC. A conservation objective of this SAC is to restore favourable conservation condition of its Calcareous fens with *Cladium mariscus* and species of the Caricion davallianae. The submitted documentation confirms that the closest area of the calcareous fen as mapped within the SAC boundary (NPWS) is approximately 70m south of the proposed OHL and poles (at its closest point). Alkaline fens are also a QI of Pollardstown Fen SAC, with its conservation objective to restore favourable conservation condition, with a target that there would be no decline in extent and distribution of spawning beds.

The proposed development works would not in any way encroach upon these habitats (Calcareous fens and Alkaline fens) as no construction works or activity is sought to be undertaken within the SAC boundary. Furthermore, an established mature hedge and treeline forms a physical barrier between the proposed development (at its closest point) and the SAC.

Details provided confirm that local groundwater flow will not be impeded given the nature, siting and scale of the works sought at both construction and operation stage. The lands in which the development works are sought is on lands used for intensive agriculture with improved grassland for grazing and tillage. 1 (no) pole (pole 39) is sought on wet grassland within an existing managed agricultural field. There are no concrete foundations sought. The required excavations are deemed to be minor in scale, with proposed pole footing excavations stated as 0.5m wide and maximum 2.3m deep, which would be immediately backfilled with trench spoil. Furthermore, the proposed poles are circular in shape, which also allows for water to flow around the structure which is surrounded by natural soils.

Machinery & vehicle entry is not required to traverse SAC lands. Construction works and access routes would be completed within very restricted works areas on improved agricultural habitats which are screened from the SAC by existing mature treelines. The submitted construction methodology outlines that wide tracked low ground pressure vehicles would be utilised and or combined with bog mats in sensitive areas, where poor ground or peat is

encountered, so as to minimise damage to ground. The duration for completion of construction works is temporary in duration for each location/pole (1 day in total).

A matter was raised by the DHLGH on *vertigo geyerii* (Geyer's whorl snail) due to the proximity of proposed pole sets excavation sites which are sited immediately north & within 50m of the delineated boundary of Pollardstown Fen SAC and the known sensitivities of *vertigo geyerii* to changes in hydrology. Reference is made within the submitted documentation that the closest area of such habitat is located over 50 (c. 60m) metres from pole Nos. 42 & 43, with No. 42 being the closest pole to this habitat. The proposal will not significantly reduce soil wetness as no concrete foundation/base works are sought and the applicant proposes to backfill the 2.5m<sup>2</sup> excavated areas for the poles with trench spoil. Furthermore, the proposed development will not give rise to a decline in suitable habitat distribution for the geyer's whorl snail, with the proposed erection of pole sets on more elevated and intensively managed agricultural lands that are physically separated from the adjoining fen.

Given this, along with the spatial separation of the site, in noting the findings of the Inspectorate Ecology Report in this case and given the findings and conclusions reached on hydrogeology as previously discussed, I am satisfied that the proposal, based on best scientific knowledge is not likely to have significant effects on *vertigo geyerii* (Geyer's whorl snail) being a qualifying interest of Pollardstown Fen SAC and that further input from a hydrogeologist is not required. I am satisfied and therefore conclude that the proposal would be consistent with the SAC site's conservation objective which seeks to maintain the favourable conservation condition of Geyer's Whorl Snail (*Vertigo geyeri*) in Pollardstown Fen SAC.

Similarly, I am satisfied that the proposal will not give rise to significant likely effects on *Vertigo moulinsiana* (Desmoulin's Whorl Snail) [1016] or the *Vertigo angustior* (Narrow-mouthed Whorl Snail) [1014] at construction or operational stage.

The site's conservation objective for *Vertigo moulinsiana* is to maintain favourable conservation condition of this species. I refer to the above conclusions on hydrogeological matters, the spatial separation between the proposed development and the known location of this species, with records detailing its location approximately 1.25km south of the OHL proposed and that there would be no decline in habitat distribution or suitability in terms of density, quality and soil wetness given the siting and scale of excavation works on lands outside of the fen, which are intensively managed for agricultural purposes. I further note that the site's conservation objective for *Vertigo angustior* (Narrow-mouthed Whorl Snail) [1014] is to restore favourable conservation condition, and I reiterate again that there would be no decline in distribution & suitable habitat, including soil wetness arising from the proposed development arising at both construction and operational stage.

*Mitigation measures and conditions*

There are no mitigation measures or specific conditions required beyond best practice construction methods.

#### Potentials for Impact(s) on Petrifying Springs

Petrifying Springs are a qualifying interest of Pollardstown Fen SAC and granted strict protection as a priority habitat in Annex I of the EU Habitats Directive. The DHLGH details that petrifying springs by their nature, may be found in areas which lie closer to the proposed development than the known petrifying springs referenced within the applicant's NIS. The proposed development includes the proposed inclusion of a number of poles which would be constructed up-gradient of Pollardstown Fen, on intensively managed agricultural lands which lies outside of the designated SAC, with an established mature hedge and treeline providing a physical barrier between the proposed development (at its closest point) and the SAC. The required excavations are deemed to be of minor scale, with proposed pole footing excavations stated as 0.5m wide and maximum 2.3m deep, with a total construction area of 2.5m<sup>2</sup> which would be immediately backfilled with trench spoil and no concrete foundation base required. This would allow for water to flow around the pole structures sought and through the natural soils.

As detailed within the applicant's EclA, the applicant's appointed ecologist undertook a number of targeted surveys in August 2019, February 2023 and May 2023 which informed the likely habitats and species within and adjacent to the subject site. Having undertaken a site visit, I note and concur with the applicant's findings that the proposed poles and OHLs closest to Pollardstown Fen are within intensively managed agricultural fields which are at a higher elevation to the adjoining fen, and I acknowledge that all works lie outside of an existing seepage zone which adjoins the works sought and the SAC. I further note that the findings of the ecological survey indicate that the subject lands do not contain petrifying springs. A hydrogeological response from the applicant's in-house hydrogeology specialist, Mr. Colm Driver, BSc, MSc, P.Geo, EurGeol informed the proposed development and determined, based on its undertaking of a conceptual model estimating the hydrological and hydrogeological conditions of the site as a result of the proposed development, that there would be no likely hydrogeological impact to Pollardstown Fen SAC.

Subsequently, the submitted NIS is clear in outlining that effects to groundwater and surface water as a result of the proposed development are not considered likely. In noting the findings of the Inspectorate Ecology Report (dated 31/03/25) in this case and given the above, I am satisfied that the proposal, based on best scientific knowledge is not likely to have significant effects on petrifying springs, being a QI of Pollardstown Fen SAC and I am satisfied that further input from a hydrogeologist is not required. I therefore conclude that the proposal would not result in significant effects on the SAC in view of the site's conservation objective which seeks to maintain appropriate hydrological regimes and that it would not give rise to a decline in habitat distribution in respect of petrifying springs with tufa formation, being a QI of Pollardstown Fen SAC subject to natural processes, if permitted.

#### *Mitigation measures and conditions*

There are no mitigation measures or specific conditions required beyond best practice construction methods.

#### Potential for Water Quality Impact(s) on Pollardstown Fen

There would be no feasible surface water impact pathways for polluting materials. Works adjacent to Milltown Feeder canal & Cloncumber Stream are downstream of the fen. The feeder canal forms the main outlet of Pollardstown Fen and flows north, to join the Barrow line of the Grand canal, c. 10km downstream. Furthermore, there would be no ground or surface water pollutant impact as the applicant confirms that composite poles made of inert material which does not require preservative or treatment by creosote will be erected in the site area, which is on improved agricultural grasslands, upslope and north of SAC. The extracted pole set areas will be backfilled with trench spoil with no concrete base foundation sought.

#### *Mitigation measures and conditions*

There are no mitigation measures or specific conditions required beyond best practice construction methods.

#### Potential for Disturbance

Ecological surveys recorded no QI species within the application site. Given the spatial separation distance between known QI species within the SAC and the subject site's context, coupled with the duration of construction works, there would be no likely significant effects on QI species due to disturbance at construction or operation stage.

#### *Mitigation measures and conditions*

There are no mitigation measures or specific conditions required beyond best practice construction methods.

#### Potential for In-combination effects

The applicant considered the CDP and projects that are currently permitted, under consideration or planned within the surrounding area within the preceding 5 years of undertaking the preparation of the submitted NIS, in informing its assessment of cumulative effects in this case. In this regard, reference is made to small scale residential and equine facility applications along the R415 and R416 and to larger developments associated with new residential construction projects to the north of Kildare town. The applicant concluded that no proposed, permitted or operational projects have the potential to interact to a sufficient degree

with the proposed 38kv development given that there are no impact pathways within the Zone of Influence.

The DHLGH in its appeal submission makes reference to the need to consider whether any in-combination impacts with the current proposed project will occur with 2(no) existing OHLs in the site's immediate vicinity. The DHLGH references that the existing OHLs include one which runs directly across Pollardstown Fen SAC from Newbridge substation with poles buried in the peatland in areas where qualifying interest habitat *alkaline fens* (7230) and *cladium fens* (7210) occur and where 5(no) sets of creosote treated poles are located within the statutory boundary of the SAC. The second existing OHL referenced by the DHLGH runs from Newbridge substation to the north of the SAC, near the proposed development route and crosses the Milltown Feeder within the SAC. I note that the existing OHLs were not considered within the submitted NIS, however the applicant has provided an informed response to the matter within a further submission (dated 30/05/2024) in response to the DHLGH's submission.

The applicant in its appeal response (30/05/24) confirms that both referenced existing OHLs have been in-situ for in excess of 30 years. Given the nature and extent of the development works proposed, I concur with the applicant's response which outlines that there would be no alterations in groundwater flow arising from the proposed development or effects to other hydrological impact pathways that could potentially affect the qualifying interests of the fen habitats attached to Pollardstown Fen SAC, alone or in-combination with the existing 2(no) OHLs.

Overall, I am satisfied that in-combination effects have been assessed adequately in the NIS (Refer Section 6.1.1.4, applicant's NIS) and further clarity given within the applicant's appeal response (30/05/24) in respect of the potential for in-combination effects arising from the proposal in conjunction with existing OHLs.

The applicant has demonstrated that no significant residual effects will remain due to the construction and operation of the proposed OHL that could act in-combination with other plans and projects to generate significant effects on Pollardstown Fen SAC in view of its conservation objectives. The proposed development is deemed to have no impact pathways within the Zone of influence.

#### Findings and Conclusions

The applicant determined that the construction and operation of the proposed development alone, or in combination with other plans and projects, would not adversely affect the integrity of the Pollardstown Fen SAC in view of its conservation objectives.

Based on the information provided, I am satisfied that adverse effects arising from the proposed development can be excluded. No direct impact(s) or indirect impact(s) are predicted. I am satisfied that no mitigation measures are required beyond best practice construction methods



to prevent any effects in the event that the proposed development is implemented. No significant in combination effects are predicated.

Reasonable scientific doubt

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

Site Integrity

The proposed development will not affect the attainment of the Conservation Objectives of the Pollardstown Fen SAC. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

#### Appropriate Assessment Conclusion: Integrity Test

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Pollardstown Fen SAC in view of the conservation objectives of this site and that Appropriate Assessment under the provisions of S177U was required.

Following an examination, analysis and evaluation of the NIS, all associated material submitted, and taking into account the observations of the DAU on nature conservation within its submission to the Board and the findings of the Inspectorate's Ecologist, I consider that adverse effects on the site integrity of Pollardstown Fen can be excluded in view of its conservation objectives of this site and that no reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

Detailed assessment of construction and operational impacts arising from the proposed 38kv electricity circuit

Nature and Scale of the works proposed and spatial separation from the qualifying interests of Pollardstown Fen.

The proposed development will not affect the attainment of conservation objectives for Pollardstown Fen SAC which seeks to restore favourable conservation condition of:

Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae*

*Petrifying springs with tufa formation (Cratoneurion)* [7220]

Alkaline fens [7230]

*Vertigo angustior* (Narrow-mouthed Whorl Snail) [1014]

*Vertigo moulinsiana* (Desmoulin's Whorl Snail) [1016]

And

To maintain favourable conservation condition in Pollardstown Fen SAC of

Geyer's Whorl Snail (*Vertigo geyeri*) [1013]