



An  
Coimisiún  
Pleanála

## Technical Note:

## Ecology

R319134A-24\_TN1

**To** Phillippa Joyce

**From** Dr Maeve Flynn BSc. PhD, MCIEEM,  
Inspectorate Ecologist

**Development** Construction of 36 residential units, pumping  
station and all associated site works. Creighan,  
Cavan, Co. Cavan (Planning Appeal)

**Topic** Adequateness of information supplied as part of  
Further Information:  
Ecological Impact Assessment and Appropriate  
Assessment

**Date** 18.12.2025

## **1.0 Introduction**

### **1.1. Background**

- 1.1.1. Case reference 319134 relates a Planning Appeal for a proposed development comprising of 36 houses, a pumping station and associated works at Creighan, Cavan. On 14<sup>th</sup> November 2024, the Board sought further information (FI) from the applicant under section 132 of the Planning and Development Act 2000, as amended, requiring a range of planning, architectural and environmental information.
- 1.1.2. The applicant submitted their response in February 2025 which included an Ecological impact assessment, Appropriate Assessment (AA) Screening report, Natura Impact Statement (NIS), Construction and environmental management plan (CEMP), and Flood risk assessment among other reports. The applicants response was circulated and further submissions and observations received.
- 1.1.3. In reviewing the further information and submissions received, the Planning Inspector sought input from the Environment team in a memo dated 24<sup>th</sup> October 2025. Guidance was requested as to whether the reports are sufficient to inform Appropriate Assessment and also refers to appeal grounds related to ecology/biodiversity.
- 1.1.4. This technical note has been prepared in response to this request. I consider the issues raised and provide a professional opinion on the adequateness of information to inform AA and the overall approach in determining potential impacts on biodiversity including legally protected species.

### **1.2. Ecological context of the site**

- 1.2.1. An Ecological Impact Assessment Report (EclA), AA Screening report and NIS were prepared by Flynn Furney environmental consultants. One site visit was carried out in January 2025 which is acknowledged in the EclA as being outside of the optimal time for botanical, breeding bird and bat activity assessments however, general habitat classifications can be made during this period as well as terrestrial mammals surveys (for badger and otter).
- 1.2.2. The site is characterised as dominated by improved agricultural grassland with patches of blackthorn scrub and field boundaries comprised of hedgerows and treelines. The most significant ecological feature is the Green Lough Stream, a

tributary of the Cavan River which runs along the western boundary of the site and is bound by a strip of riparian /mixed woodland. The site is not located within or immediately adjacent to any site protected for nature conservation. Lough Oughter and associated loughs SAC, pNHA and Lough Oughter SPA are located within 5km of the proposed development site, some 6.5 km downstream via the Green Lough Stream and Cavan River.

## **2.0 Information provided to inform screening for AA and AA**

### **Adequacy of information and specific questions raised**

#### **2.1. Appropriate Assessment Screening Report**

- 2.1.1. The screening report identifies European sites within a *likely zone of impact* of the proposed development based on the Source- Pathway- Receptor Model. Source impacts from the construction and operation of the housing development are characterised (Table 8) and possible ecological connections to European sites considered (Table 9). The likelihood of significant effects could not be ruled out for Lough Oughter and associated loughs SAC and Lough Oughter SPA as these sites are hydrologically connected to the development site via the Green Lough stream. The screening report considered the implications of degradation of water quality in particular as a result of the construction phase (silt/ oil/ cement/ and hydraulic fluid) and operational phase (sediment, hydrocarbons and other pollutants), in view of the qualifying interest of these sites. While not made explicit in terms of soils movements (Cut and Fill), the risks from the proposed development to water quality are identified in the AA Screening report.
- 2.1.2. I am satisfied that the screening report has been prepared in line with good practice and standard guidance and that the findings of the screening test are accurate.
- 2.1.3. A query was raised in the appeal grounds regarding lamprey and if the NIS is deficient due to failure to consider this species. Appropriate Assessment Screening (stage1) and AA (stage 2 as informed by a NIS) are very specific assessments that are focused on the species and habitats for which a site is designated only. No other protected species should be considered under Article 6(3) assessments, rather they should be considered as part of an EclA outside of the AA process if they occur, or could be affected.

2.1.4. No lamprey species or other fish species are listed as a qualifying interest for Lough Oughter SAC and therefore there is no omission in this respect. This site is designated for:

- Natural eutrophic lakes with *Magnopotamion* or *Hydrocharition* - type vegetation [3150]
- Bog woodland [91D0]
- *Lutra lutra* (Otter) [1355]

## **2.2. Natura Impact Statement**

2.2.1. Following on from the identification of likely significant effects from stage 1 Screening, the applicant has submitted a Natura Impact Statement prepared by Flynn Furney to inform Stage 2 AA. The NIS considers the potential impacts in more detail in view of the conservation objectives set for both Lough Oughter SAC and SPA (NIS Table 1). Given the distance to the SAC and SPA, the potential for impacts are indirect and a deterioration in water quality in the Green Lough stream due to contamination of local water courses due to silt, hydrocarbon or aggregate run off is cited as the primary risk.

2.2.2. No direct impacts on Otter are predicted with any risks to the species linked to decrease in fish biomass due to water pollution/ contamination that could emanate from the proposed development and affect Otter connected to the SAC. While table 1 of the screening report identifies that the species is likely to be present along the Green Lough stream (based on known records) given the distance of the proposed development site to the SAC (at over 6km) disturbance of otter couching holts within the SAC can be excluded.

2.2.3. Possible impacts are further considered in the NIS (section 3.1). No specific analysis is undertaken of the proposed groundworks in terms of volumes/ cut and fill requirements however, the impact mechanisms and likely effects of siltation arising are considered.

2.2.4. Mitigation measures are proposed which comprise a combination of adherence to standard industry best practice, control of pollutants during construction, control of pollutants post construction and employment of an ecological clerk of works to monitor measures.

- 2.2.5. Silt prevention is a key mitigation measures and a silt fence extending the width of the site to protect the Green Lough stream is proposed. I note that the CEMP includes a figure identifying the specification and location. The silt fence should be not located - along edge of stream, rather set back from the riparian area along a suitable gradient. Figure 8.1 of the CEMP appears to address this. Management and inspection of the silt fence is included in the NIS and CEMP.
- 2.2.6. The NIS recommends that a baseline water quality sampling be undertaken to establish suspended solids levels in particular in the Green Lough stream and (unspecified) monitoring be carried out during the construction phase. I note that the CEMP only includes for visual monitoring and therefore An Coimisiún Pleanála should ensure that a condition is included to better reflect the monitoring set out in the NIS. In addition, the CEMP refers to an environmental manager only where the NIS recommends an Ecological Clerk of Works (ECOW). This would be additional personnel with ecological experience.
- 2.2.7. I note that a number of the measures in the NIS are conditional using the term 'should'. Mitigation measures for preventing impacts on European sites should be more definitive, however given the distance to downstream European sites, the mitigation measures proposed to prevent and reduce source impacts combined with monitoring I am satisfied that adverse effects on the integrity of those sites can be excluded.

### **2.3. Recommendation**

- 2.3.1. Based on my review of the AA Screening report and Natura Impact Statement I am satisfied that adverse effects on Lough Oughter SAC and Associated loughs and Lough Oughter SPA can be excluded in view of the conservation objectives of those sites.

## **3.0 Adequacy of information provided in EclA**

- 3.1. Ecological Survey and assessment
- 3.1.1. As outlined in section 1.2, ecological survey was undertaken in January which is sub optimal for determining breeding birds and bats in particular, a fact acknowledged by the consultants. Mammal trails are reported to have been observed but no other evidence of mammals was documented. Based on the habitats present, a bat

suitability index of 25.33 is provided but not put into context. The index ranges from 0 to 100 with 0 being least favourable and 100 most favourable for bats. Therefore, the site is of low to moderate suitability for bats based on this index. Trees with some potential to act as roost sites were noted with locations provided in ITM only (Table 6). A map would be more helpful. No indication is provided as to whether these trees are proposed for removal as part of site clearance for the proposed development.

- 3.1.2. Potential impacts on ecological features are not accurately identified. Reference is made to unquantified levels of habitat loss 'some' scrub, woodland, treelines and hedgerows 'might' be removed.
- 3.1.3. There is no reference to the freshwater ecology importance of the Green Lough stream in terms of fisheries value. It is unclear the level of habitat clearance that will be undertaken in the riparian zone and an assessment of the surface water drainage connection and headwall into the stream is not provided. I note that there is more detail provided in the CEMP related to this aspect of work including mitigation measures.

### **3.2. Mitigation measures**

- 3.2.1. Mitigation measures related to scrub, hedgerow, treeline and woodland habitat impacts are primarily focused on timing of works to avoid impacts on breeding birds. Pre-construction surveys for bats, otter and badger are included in the suite of mitigation measures to 'determine the level of activity on site, identify any active badger setts and the presence of otter'. The inclusion of these pre-construction surveys calls into question the adequacy of the survey undertaken in January and imply that these surveys did not establish the level of mammal activity on the site.
- 3.2.2. The use of pre-construction surveys is routinely prescribed where the timeframe between initial survey and site works could be prolonged to ensure that ecological baseline hasn't changed and if it has, measures put in place to ensure protection of species.
- 3.2.3. However, it is not best practice or appropriate to rely on post consent surveys to determine mammal activity on the site or determine impacts on protected species as proposed in this case. In relation to bats and otter which are listed as strictly protected species on Annex IV of the Habitats Directive this approach not adequate

as it fails to provide the necessary baseline data for impact assessment (CIEEM, 2018, Section 7.6)<sup>1</sup> and risks failure of legal compliance with Section 51 of the European Communities (Birds and Natural Habitats) Regulations 2011-2021 which applies to these species. In addition, where a derogation under Section 54 is required in order to accommodate certain aspects of a development such as the removal or disturbance of a bat roost or Otter holt, that derogation should accompany the planning application (DHLGH2025<sup>2</sup>). Therefore, I recommend that the Planning inspector and An Coimisiún Pleanála cannot rely on these post consent measures and that there is a lack of reliable information regarding mammal activity on this site.

- 3.2.4. The extent of ground works is significant on this site and the lack of detail regarding badgers on site or adjacent is of particular concern as setts can be damaged or destroyed directly through excavations or collapse due to ground works and inappropriate soil storage.

### **3.3. Ecological enhancement and biodiversity net gain**

- 3.3.1. The opportunities for ecological enhancement and biodiversity net gain are outlined in section 9, however these are identified as possible solutions and aspirational only with no guarantee of implementation.

### **3.4. Recommendation**

- 3.4.1. Based my review of the EclA, I am not satisfied the ecological baseline at the proposed development site has been accurately or adequately established. Reliance is place on pre-construction survey for establishing presence of badger and otter and bat activity which is not an acceptable approach.

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<sup>1</sup> CIEEM (2018) Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine version 1.3. Chartered Institute of Ecology and Environmental Management, Winchester

<sup>2</sup> Applications for Regulation 54 Derogations for Annex IV species, guidance for applications, (July 2025) Department of Housing, Local Government and Heritage