



# Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

The Secretary,  
An Bord Pleanála,  
64 Marlborough Street,  
Dublin 1, D01V902

**AN BORD PLEANÁLA**

LDG- 058322 - 22

ABP- \_\_\_\_\_

17 OCT 2022 OK

Fee: € 110 Type: cheque

Time: \_\_\_\_\_ By: post

13/10/2022

**RE: Section 5 Declaration R737/22 Mount Desert, Lee Road, Cork**

Dear Sir/Madam,

Please find enclosed a referral under Section 5 (4) of the Development & Planning Act 2000 with a cheque for the referral fee of €110.00. The reference number is R737/22.

### Question Referred

Is the raising of a section of land by the entrance to Agricultural lands by less than 1m with native soil and subsoil from existing lands of the applicant considered to be exempted development?

### Applicant Details

Kevin Fitzgerald,  
Mount Desert,  
Lee Road  
Cork

### Person/Agent acting on behalf of the Applicant

Ross O'Donovan,  
Clyde House,  
Brian Boru Street,  
Cork T23 FR90

Copies of the following documents are included in the appendices of this referral:

- Section 5 Declaration, R737/22
- Previous Section 5 Declaration, R711/22
- Previous Section 5 Declaration, R665/21
- Planning Permission, 18/5297, associated with the referral site
- Planning Permission, 16/7114, associated with the referral site

Should additional information be required, please contact me directly on 021 492 4029 or [kate\\_magner@corkcity.ie](mailto:kate_magner@corkcity.ie)



We are Cork.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Kate Magner', written in a cursive style.

---

**Kate Magner**  
**Development Management Section**  
**Community, Culture and Placemaking Directorate**  
**Cork City Council**

The Secretary  
An Bord Pleanála  
64 Marlborough Street  
DUBLIN 1  
D01 V902

28 September 2022

**Referral under Section 5(4) of the Planning and Development Act 2000**

**Mount Desert, Lee Road, Cork City**

This referral is made under section 5(4) of the Planning and Development Act 2000 (as amended).

This referral is structured as follows:

**REMITTANCE ADVICE**

**Cork City Council  
City Hall  
Cork**



AN BORD PLEANALA  
64 MARLBOROUGH STREET  
DUBLIN 1

Date:	07/10/22
Supplier No.:	996881
Paying Order No.:	739518
Page No.:	1 of 1
Route No.:	91

Your Reference	Our Reference	Amount €
SECT 5 R737/22 MT DESERT	PV1259021	110.00
		<b>Total €</b>

## **1.4 The Referral Site**

For ease of reference, the lands which are the subject of this referral are referred to as 'the referral site' in this referral.

The site in question forms part of an agricultural field located on the southern side of the Lee Road and adjoining the northern bank of the River Lee. The land falls southwards from the Lee Road (part of Scenic Route) to the River Lee with trees and hedge along all four boundaries of the site. There is a low stone boundary along sections of the road adjoining the site. There are drains running north to south into the Lee River across the site. The site covers an area of 0.31 Acres and is immediately adjoining the vehicular access to the field. A land ownership map and site layout map are attached as **Appendix 2** along with determination form and cover letter.

The site is zoned as **ZO20 City Hinterland** in the Cork City Development Plan 2022-2028. Zoning Objective 20 is: 'To protect and improve rural amenity and provide for the development of agriculture.'

The majority of the field as outlined by red boundary line within the land ownership map falls within **Zone A Flooding**. The existing site layout plan showing red hatched area where infill is proposed (adjacent to public road and field access) adjoins **Zone A Flooding**.

Site falls within **Lee Catchment Flood Risk Assessment and Management Study area**.

The majority of the field and all of the infill site falls within land designated as **Lee Valley proposed Natural Heritage Area**.

The adjoining section of River Lee is a protected area under **Salmonid River Regs (S.I. 293 only)**.

The adjoining public road forms part of the **Cork City Scenic Route Ref. HVP1** Road between Leemount and Macroom via Coachford

Site due 150m northwest of a Seveso Notification Zone.

## **2. Background**

### **2.1 General Background**

The proposed works were subject to two separate Section 5 Declarations R711/22 and R665/21 (**Appendix 3**).

The subject referral to the Board is subsequent to a request for a Planning Authority declaration on the question as set out in Section 1.3 above. The request for declaration is recorded under Cork City Council Ref: R737/22.

The application and cover letter, submitted to Cork City Council on 2 September 2022 by Ross O'Donovan, JHK Consultants Limited on behalf of Kevin Fitzgerald, are attached hereto as **Appendix 2**.

## 2.2 Site Planning History

There are two planning permissions associated with the subject site as follows -

There are no planning applications associated with the agricultural field. The Section 5 Application Form indicates that there are two permissions associated with lands in the same ownership on the opposite side of the Lee Road. These are as follows:

<b>18/5297</b>	Demolition of an existing single storey detached dwellinghouse and the construction of a new single storey detached dwellinghouse including a new wastewater treatment unit, percolation area and all associated site works
Outcome	Granted 27/09/2018 (Within landownership)
<b>16/7114</b>	The construction of a two-storey detached dwelling with split level upper floor including a new site entrance, a wastewater treatment unit, percolation area and all associated site works
Outcome	Granted 16/05/2017 (Outside landownership)

**Note:** Neither of the site location maps submitted with these planning applications, showed the land that is the subject of this Section 5 application as being within the same ownership / control of the applicants.

Copies of both grants are attached thereto as **Appendix 4**.

## 2.3 Development Plan Objectives

### Cork City Development Plan 2022-2028

The Cork City Development Plan 2022-2028 (CCDP) was made by the elected members of Cork City Council on 10 June 2022 and came into effect on 8 August 2022.

**Zoning Objective 20 City Hinterland:** To protect and improve rural amenity and provide for the development of agriculture.

### Objective 12.1 Land Uses and Flooding

### Section 6.37 Scenic Routes

Cork City Scenic Route Ref. HVP1 Road between Leemount and Macroom via Coachford

### Table 6.14: EU and National Designated Sites

Strategic Biodiversity Goals

M. Lee Valley pNHA – (Site Code: 000094)

**Figure 6.9** Map of Designated Nature Conservation Sites, from Cork City Green and Blue Infrastructure Study, LUC

**Objective 6.15** Development on Scenic Routes

**Objective 6.22** Natural Heritage and Biodiversity

**Objective 6.23** Designated Sites and Protected Species

**Objective 9.10** Development in Flood Risk Areas

**Section 10.351** Protection of Natural Landscape

### **3. Grounds of Referral**

The planning authority contends that:

- (1) Similar Section 5 applications (Our Ref. R711/22 and R665/21 **Appendix 3**), relating to drainage and / or reclamation, have been requested by this applicant previously on the same land. Both determined that the proposals were development and were not exempted development,
- (2) The proposed development does not relate to drainage or reclamation of wetlands and so, does not accord with the definition of land reclamation as set out in Schedule 2, Part 3, Article 6, Exempted Development – Rural, Class 11 of Planning and Development Regulations 2001-2022, and
- (3) It has not been established to the satisfaction of the Planning Authority that the proposed works are exempted development.

### **4. Screening for Appropriate Assessment**

The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel SAC (site code 001058).

The subject site is approximately 10.25km west of Cork Harbour SPA. There appears to be a field drain adjoining the eastern boundary of the site connecting into the River Lee. The subject site is located approximately 70m due north of the River Lee which hydraulically links to both the Cork Harbour SPA and the Great Island Channel SAC further downstream.

As the current proposal is largely similar to that previously assessed, that the previous screening report (please see R711/22) still applies, which concluded that it is not possible, based on the information provided, to ascertain whether the proposed development would have a significant effect on European sites downstream of the site.

### **5. Conclusion**

The planning authority contends that it is unclear as to whether the matter to which this referral relates, whether the infilling of 0.31 Acres (approx. 0.125 Ha) of land at Lee Road, Cork City is or is not exempted development.

The planning authority looks forward to the Board's consideration and determination of this referral.

Please do not hesitate to contact this office should any further information be required.

encl.

**Appendix 1** Legislative Provisions

**Appendix 2** Section 5 Determination Application to the Planning Authority and cover letter, land ownership map and site layout map (including cross sections)

**Appendix 3** Copy of Section 5 Determination Applications (R711/22 and R665/21) by Cork City Council

**Appendix 4** Copies of Planning Permissions associated with the Referral Site

Fee € 110

## **Appendix 1 – Legislative Provisions**

### **Planning and Development Act, 2000 (As Amended)**

#### **Section 3(1) Development**

3.—(1) In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

#### **4.— Section 4(1a), Exempted Development**

(1) The following shall be exempted developments for the purposes of this Act—

(a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;

#### **Section 4(2),**

(2) (a) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or

(ii) the development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).

(b) Regulations under *paragraph (a)* may be subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.

(c) Regulations under this subsection may, in particular and without prejudice to the generality of *paragraph (a)*, provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purpose being exempted development for the purposes of this Act.

#### **Section 4(4)**

Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

#### **Section 5(1)**

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.



**Section 5(4),**

- (4) Notwithstanding *subsection (1)*, a planning authority may, on payment to the Board of such fee as may be prescribed, refer any question as to what, in any particular case, is or is not development or is or is not exempted development to be decided by the Board.

**Planning and Development Regulations 2001 (As Amended)**

**Schedule 2, Part 3 – Exempted Development - Rural**

**Class 11** Development consisting of the carrying out of drainage and/or reclamation of wetlands.

1. The area to be affected shall not exceed 0.1 hectares.
2. Where development has been carried out within a farm holding under this class, the total area of any such development taken together with the area of any previous such development within the farm holding shall not exceed the limits set out in 1. above.



**Appendix 2 – Section 5 Determination Application and cover letter, land ownership map and site layout map (including cross sections)**



02 SEP 2022

Community, Culture  
and Placemaking

**COMHAIRLE CATHRACH CHORCAÍ  
CORK CITY COUNCIL**

Community, Culture & Placemaking Directorate,  
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail [planning@corkcity.ie](mailto:planning@corkcity.ie)

Fón/Tel: 021-4924709

Líonra/Web: [www.corkcity.ie](http://www.corkcity.ie)

**SECTION 5 DECLARATION APPLICATION FORM**  
under Section 5 of the Planning & Development Acts 2000 (as amended)

**1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT**

Mount Desert Lee Road, Cork T23,XVF2

**2. QUESTION/ DECLARATION DETAILS**

**PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:**

Sample Question: *Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?*

*Note: only works listed and described under this section will be assessed under the section 5 declaration.*

Is the raising of a section of land by the entrance to Agricultural lands by less than 1 m with native soil and subsoil from existing lands of the applicant considered to be exempted development

**ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:**

*(Use additional sheets if required).*

The existing agricultural entrance to the lands to the south of Lee Road has a very steep gradient on accessing the lands from the gate. Agricultural machinery operating on the site is not able to access the site safely and needs a level access at the gate and a gradual gradient to access the field. Our proposal is to fill the lands by the entrance inside the site so turning manoeuvres can be carried out safely at the entrance, and to create a more gradual gradient within the site, so Agricultural Machinery can operate safely, eliminating the risk of machinery overturning

3. Are you aware of any enforcement proceedings connected to this site?  
 If so please supply details: No

4. Is this a Protected Structure or within the curtilage of a Protected Structure?  No

If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority?

5. Was there previous relevant planning application/s on this site?   
 If so please supply details:

No

**6. APPLICATION DETAILS**

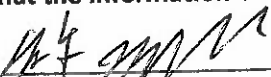
Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	N/A
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including those for which planning permission has been obtained)?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide floor areas. (sq m)
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle)	Proposed/existing use (please circle)
-----	-----
-----	-----
-----	-----

**7. LEGAL INTEREST**

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question		
If you are not the legal owner, please state the name and address of the owner if available		

8. I / We confirm that the information contained in the application is true and accurate:

Signature: 


Date: 01/09/2022

## CONTACT DETAILS

### 9. Applicant:

<b>Name(s)</b>	Kevin Fitzgerald
<b>Address</b>	Mount Desert ----- Lee Road ----- Cork -----

### 10. Person/Agent acting on behalf of the Applicant (if any):

<b>Name(s):</b>	Ross O'Donovan
<b>Address:</b>	Clyde House, ----- Brian Boru Street, ----- Cork, T23FR90 -----
<b>Telephone:</b>	
<b>E-mail address:</b>	info@jhk.ie
<b>Should all correspondence be sent to the above address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

### 11. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

Tel. No. 

Mobile No. 

Email Address: 

For Office Use Only:

File Ref. No. R737/02

### **ADVISORY NOTES:**

The application must be accompanied by the required fee of €80

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

*The application should be sent to the following address:*

**The Development Management Section, Community, Culture & Placemaking  
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.**

- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

*The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.*

### **DATA PROTECTION**

*"Cork City Council is committed to fulfilling its obligations imposed by the Data Protection Acts 1988 to 2018 and the GDPR. Our privacy statement and data protection policy is available at <https://www.corkcity.ie/en/council-services/public-info/gdpr>.*

*We request that you read these as they contain important information about how we process personal data.*



Our Ref: KM/168.  
Your Ref:

30<sup>th</sup> August 2022.

**PLANNING DEPARTMENT,**  
Cork City Council,  
City Hall,  
Anglesea Street,  
**CORK**

Dear Sir/Madam,

**RE: KEVIN FITZGERALD – SECTION 5 DECLARATION FOR FILLING OF LANDS  
AT MOUNT DESERT, LEE ROAD, CORK**

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## 1.0 INTRODUCTION

Our client, Mr. Kevin Fitzgerald, Mount Desert, Lee Road, Cork, T23XVF2 has requested that we apply for a Section 5 Declaration for Exempted Development with respect to proposed land reclamation at an existing agricultural entrance on his lands. Mr Fitzgerald's land holding is on the north and south of the Lee Road and the area to be filled is to the south of the Lee Road, and will be filled with excavated soils from and subsoil from the construction of his dwelling, currently under construction, Register Reference 18/5297.

The existing agricultural entrance to the lands to the south of the Lee Road is unsafe due to the steep topography at the inside of the entrance. Agricultural Machinery operating on these lands are having extreme difficulty accessing and exiting the site and requires a level area at the entrance gate and a more gradual gradient from the gate to the field.

The proposed filling will be carried out in an area outside the existing flood plain and as such will not have any impact on these lands and the flood storage capacity.

A Natura Screening Assessment was carried out for a previous Section 5 Declaration for filling a larger area on the site, and this assessment determined that the works would not have a significant impact on the Natura 2000 site and would not require an Appropriate Assessment.

## Engineering & Project Management Consultants

## 2.0 SITE DESCRIPTION & PROPOSED DEVELOPMENT

The subject lands (4.8 hectares / 11.8 acres) are located to the south of the Lee Road of which 0.3 Acres will be filled. The subject lands are being used for agricultural purposes currently and will continue to be used as such after the proposed land reclamation that is the subject of this Section 5 application. The only materials to be used to make up the fill will be excavated soils and sub-soils which have been excavated from our clients site on the north side of the of the Lee Road, where he is building a residential dwelling at present. All rubble and waste has been segregated on site and disposed of off-site by a suitably licensed contractor off site; in compliance with the grant of planning permission under Reg. Ref. 18/5297. Please see attached certification from the Licensed contractor. The recovery of soils and sub-soils will involve only limited traffic movements on the public roadways, as the agricultural site subject to the land reclamation is located directly across the road from the site where the native soil is being excavated.

## 3.0 PLANNING CONTEXT SECTION 5 DECLARATION

The site lies within agriculturally zoned lands as per Cork City Development Plan 2022-2028, south west of lands zoned for Z0-20 on Map 9 of the Development Plan .

The subject proposal aims to use excavated native subsoil from their lands (Reg. Ref. 18/5297, which requires removal of native soils to facilitate the construction of a dwelling house), to improve the gradient of the site at the entrance gate of the agricultural lands and to facilitate agricultural improvement. The close proximity of the subject agricultural site to the dwelling site will allow for the soil to be transferred via a short section of the public road, with minimum traffic movements onto the public road.

According to Schedule 2, Part 3, Class 11 of the Planning and Development Regulations 2001 'Development consisting of the carrying out, on land which is used only for the purpose of agriculture or forestry, of any of the following works is considered exempted development.

- (a) *Field drainage,*
- (b) *Land reclamation,*
- (c) *The removal of fences,*
- (d) *The improvement of existing fences,*
- (e) *The improvement of hill grazing, or*
- (f) *The reclamation of estuarine marshland or of callows, where the preservation of such land or callows is not an objective of a development plan for the area.'*

## Engineering & Project Management Consultants

In order to be exempt from planning permission, the lands must be used for agricultural purposes prior to the work being carried out. This is the case in relation to the subject site.

The construction of the dwelling house will generate a significant amount of soil / sub soil excavation which will require removal from the site. The removal of these soils to a facility off site would undoubtedly have an impact on the local road infrastructure in the area arising from the increase in traffic volumes and the continuous travelling of Heavy Good Vehicles to and from the site. However, this proposal will allow for the soil / sub-soil to be removed from its current location and to improve the usability of agricultural land to the south of the Lee Road with minimal traffic impact on the surrounding area.

The area of the site to be filled is **0.31 Acres** and the volume of soil to be recovered will comprise of c. **1,500 cubic meters** which equates to **2,550 Tonnes** or **130 loads**. The time scale for the transport of soils will be approximately 1 week depending on weather conditions. Soils will be transported internally by 2 no. 9 Tonne Dumpers transporting 40-50 loads a day during the chosen periods. Mr. Fitzgerald owns the lands on both sides of the roadway and each Folio extends to the center of the public road. As such no legal agreements are required for the transportation of the soils and as all transportation and filling activities will be carried out on lands Mr. Fitzgerald has title to. All materials to be transported will be soils and sub-soils excavated from the development site only and consist generally of dense boulder clays and medium gravelly clays with stones. Ground levels will be not be raised by more than 1m above existing ground levels.

#### 4.0 PLANNING HISTORY IN THE VICINITY

##### Reg. Ref. 18/5297

Kevin & Patricia Fitzgerald were was granted conditional planning permission on the 21/05/2018 for the demolition of an existing single storey detached dwelling house and the construction of a new single-storey detached dwelling house including a new waste water treatment unit, percolation area and all associated site works..

## 5.0 ENCLOSURES

The following items are enclosed as part of this application: -

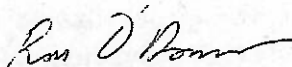
1. Two copies of Completed Section 5 Declaration Form
2. The sum of €80 in respect of the application fee
3. Original Natura Site Screening Report and letter from Ecologist Jim Minogue.
4. Two sets of the following drawings:-

### Drawing Schedule

Drawing Number	Drawing Title	Scale
600-686	Existing Level Survey	1:500
1430-CNLF-P01A	Proposed Site Sections	1:500
1430-CNLF-P02	Site location Map (showing land ownership Site Outlined)	1:2500

Should you have any queries, or should you require any further information, please do not hesitate to contact this office.

Yours sincerely,



**ROSS O'DONOVAN. BE M. I.E.I**

Jim Minogue BSc MA

andoire@gmail.com

An Doire,

Tuamgraney,

Co Clare.

**I Jim Minogue have undertaken a screening assessment for a private client Mr Kevin Fitzgerald, Cork, during late 2021 and early 2022. Based upon the assessment criteria it has been concluded that the proposed works will not result in likely significant effects to the conservation objectives of the Natura 2000 Sites occurring within the sphere of influence of this project. It is considered that the proposed work when undertaken as outlined above does not require a stage two appropriate assessment, as it will not have negative ecological impacts on the Great Island Channel SAC and Cork Harbour SPA.**

**JM 26/7/22**



# Lee Fields, Cork, Proposed Fill Natura Site Screening Report



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## 1. Introduction

### Background and Requirement for Habitats Directive Assessment

I Jim Minogue have been commissioned by Mr Kevin Fitzgerald to prepare a Natura Impact Statement, under Article 6 of the EU Habitats Directive, for a proposal to deposit soil on fields adjoining the River Lee. The aim of this assessment is to screen for likely or potential or significant impacts on the Designated European Sites, under the EU Habitats Directive.

The EU Water Framework Directive is an important and ambitious piece of EU environmental legislation which aims at improving our water environment. It requires governments to take a new holistic approach to managing their waters. It applies to rivers, lakes, groundwater, estuaries and coastal waters. River Catchment Plans are an important element in managing our waterways, for the entire watershed.

Traditional methods of managing water flows are not suitable for ecological objectives being met. Modern thinking sometimes is in direct opposition to these traditional methods. Our waterways have multi-purpose utilities, rather than single objective drainage purposes. Changing climatic and land use conditions have also influenced river processes. Management techniques are governed by EU legislation and this has prime consideration in conducting the proposed works.



Photo 1. Site area, north of the River Lee and south of the Lee Road.



## 1.2 A note on surface water condition in Ireland

Any assessment taking in account designated habitats, has to consider the base levels of river conditions at the time that works are being planned, for the last number of years on a number of metrics Irish rivers have been deteriorating. The EPA is responsible for monitoring, assessing and reporting on the quality of rivers and lakes, it found in a 2020 publication that 43% of our rivers are in unsatisfactory condition, with 38% of sites having rising concentrations of nutrients. There has been a decline of water quality in 230 rivers. River Basin Plans are due to be updated from next year. Draft plans are available this year for the Lee Catchment. There is an urgency to reduce high nitrate levels in surface waters and this will be the focus of the next Nitrates Action Plan. Nitrate levels are too high in 47% of Irish Rivers, the Lee and many of the rivers in the south and south east of Ireland have high concentrations of both nitrates and phosphates.

The reformed Common Agricultural Policy will include measures to manage Riparian zones along river banks, it will also through encouragement by agricultural schemes and by limitations on total phosphate and nitrate levels used on farms attempt to reduce agricultural nutrient loads to rivers. The Irish Government has published a Ag-Climatise roadmap for the sector which includes reduction in fertiliser, increases in organic farming and increased afforestation among other measures. The Paris accord and EU commitments to mitigate climate change effects also will focus attention on Irelands land use practices, as agriculture is responsible for 35% of Irelands greenhouse emissions.

Fifteen of the hottest years recorded have occurred in the last twenty years in Ireland with rain-fall 6 % higher in the period 1989 – 2018 than in the proceeding thirty years. Sea levels around the island are increasing by 2-3mm a year and there has been an increase in river flows across Ireland since the 1990 s. As the above illustrates land-use, legislative and environmental systems are in a state of change, while the baseline for Irish Rivers is deteriorating. With such an evolving environment, practises that were once practiced routinely cannot not be applied today.

The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. These habitats and species are listed in the Habitats and Birds Directives and Special Areas of Conservation and Special Protection Areas are designated to afford protection to the most vulnerable of them. These two designations are collectively known as the Natura 2000 network.

European and national legislation places a collective obligation on Ireland and its citizens to maintain habitats and species in the Natura 2000 network at favourable conservation condition. The Government and its agencies are responsible for the implementation and enforcement of regulations that will ensure the ecological integrity of these sites.

### 1.3 Requirement for Screening Assessment

The transposition of the EU Habitats Directive Assessment by the European Communities (Natural Habitats) Regulations 1997 – 2011 (referred to as the Habitat Regulations) provide the legal basis for the protection of habitats and species of European importance in Ireland.

The legislative protection of habitats and species provided by the Habitats Directive has been implemented in Ireland and throughout Europe through the establishment of a network of designated conservation areas known as the Natura 2000 (N2K) network.

The N2K network includes sites designated as Special Areas of Conservation (SACs), under the EU Habitats Directive and Special Protection Areas (SPAs) designated under the EU Birds Directive. SACs are designated in areas that support habitats listed on Annex I and/or species listed on Annex II of the Habitats Directive. SPAs are designated in areas that support: 1% or more of the all-Ireland population of bird species listed on Annex I of the EU Birds Directive; 1% or more of the population of a migratory species; and more than 20,000 waterfowl. Under the Habitat Regulations all designated sites are referred to as European Sites. It is noted that, under the Habitats Regulations, the term European Site includes cSACs as well as SACs.

Articles 6(1) & (2) of the Habitats Directive set out provisions for the conservation management of European Sites. Articles 6(3) and 6(4) of this Directive set out a series of procedural steps that test whether or not a plan or project is likely to affect a European Site. Article 6(3) also establishes the requirement for a HDA:

*“any plan or project not directly connected with or necessary to the management of the (Natura 2000) site but likely to have a significant effect thereon, either individually or in combination with other plans and projects, shall be subjected to appropriate assessment of its implications for the site in view of the site’s conservation objectives. In light of the conclusions of the assessment of the implication for the site and subject to the provisions of paragraph 4 (i.e Article 6(4)), the competent national authorities shall agree to the plan or project only after having ascertained that it will not affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public”.*

As such any project with the potential to result in likely significant effects, either individually or in combination with other plans or projects, upon the conservation objectives of a Natura 2000 site must undergo an assessment of its implications on relevant Natura 2000 sites. In order to establish whether or not a likely significant effects will arise as a result of the implementation of a project a Screening Assessment should be undertaken.

The proposed project is located adjacent to the River Lee, it is located upstream from the Great Island Channel SAC; it is further connected to the Cork Harbour SPA, these are the two designated sites that shall be considered for this screening.

The site is within 14km of the Ballymacoda SAC, Sovereign Islands SPA, Old Head of Kinsale SPA and Ballycotton Bay SPA. For the purpose of this screening report it is considered that only sites that are hydrologically connected to the rivers and waterways should be considered. The Gearagh SAC is located upstream of the site, so is not considered for this assessment.

It has been deemed necessary to screen this project for its potential to result in likely significant effects to the conservation objectives of these two Natura 2000 sites. The prime concern of this screening is on the water quality in the River Lee and any possible effects on conservation interests associated with it.

According to the EPA a waterbody is Not at Risk when it is achieving its environmental objective of either High or Good Status and that there is no evidence indicating that there is a trend towards status decline.

A waterbody can be considered as Review for the following three reasons:

- The waterbody does not have status assigned to it yet, it is referred to as an unassigned waterbody, and therefore there is not enough evidence to determine if it is At Risk or Not At Risk.
- The waterbody has shown some slight evidence or improvement, but more evidence is needed before it can be considered as Not At Risk.
- Measures are planned or have already been implemented for the waterbody and no further measures should be applied until there is enough time to assess if these measures are working.

A waterbody that is at Risk means that either the waterbody is currently not achieving its Water Framework Directive (WFD) environmental objective of Good or High Ecological Status or that there is an upward trend in nutrients or ammonia and if this trend continues the waterbody Status will decline by the end of Cycle 3 and will fail to meet its environmental objective.

The Lee, Cork Harbour and Youghal Bay Catchment Report (DRAFT) (HA 19), released in August 2021, explains the state of waters in the catchment.

In total there are 136 waterbodies in the Lee, Cork Harbour and Youghal Bay Catchment and 49(36%) are At Risk, 34 (25%) in Review and 53 (39%) are Not At Risk

Of concern to this study are the surface waters;

For the 92 river waterbodies, 32 (35%) are At Risk, 22 (24%) are in Review and 38 (41%) are Not At Risk.

- ◆ All three (100%) lake waterbodies in the catchment are At Risk.
- ◆ For the 13 transitional waterbodies, eight (62%) are At Risk and five (38%) are in Review.
- ◆ For the six coastal waterbodies in the catchment, two (33%) are At Risk, one (17%) is in Review and three (50%) are Not At Risk. Cork Harbour and Youghal Bay are the coastal waterbodies at Risk
- ◆ The largest proportion of At Risk waterbodies are found in rivers, accounting for 32 (65%) of 49 At Risk waterbodies.
- ◆ Overall there is an increase in 13 At Risk waterbodies reflected by reductions of nine Review and four Not At Risk waterbodies between Cycle 2 and Cycle 3.

For rivers, the main significant issues are morphological issues (17), nutrient pollution (16), organic pollution (8), hydrological issues (8) and sediment (3).

The site is located in the Lee[Cork]\_SC\_060, 050 sub-catchment of the Lee, Cork Harbour and Youghal Bay Catchment, as classified under the WFD.

In the Summary information on all waterbodies in the Lee, Cork Harbour and Youghal Bay Catchment the following assessment is as follows;

Recommended Areas for Action Name; Carrigdrohid

LEE (CORK)\_050 River which is the section adjacent to the field, to the east of the site, is classified as being not at risk while its water status has not been assigned. It does not have high ecological status.

LEE (CORK)\_060 River, which is the section adjacent to the field to the west, is classified as being not at risk. This areas water status is unassigned and it also does not have high ecological status.

Recommended Areas for Action, Expand PAA (Priority Action Areas) to include inputting waterbodies. It is presumed that this means that drainage functions through land is included in this action.



Photo 2. Showing the field looking south towards the River Lee



Map 1. Showing sectional form of the land.

## 2. Site description

The fields located between the river Lee and Lee road are undulating pasture, with two gentle indentations running roughly parallel to the river Lee, with a rise towards the river channel, which may be the spoil from earlier river dredging (see photo two below). The fields are part of what was previously a large alluvial plain, it is likely that this was before human settlement a flood plain, where the river channel would meander over time, depositing sediments and elevating the adjoining land over the channel.

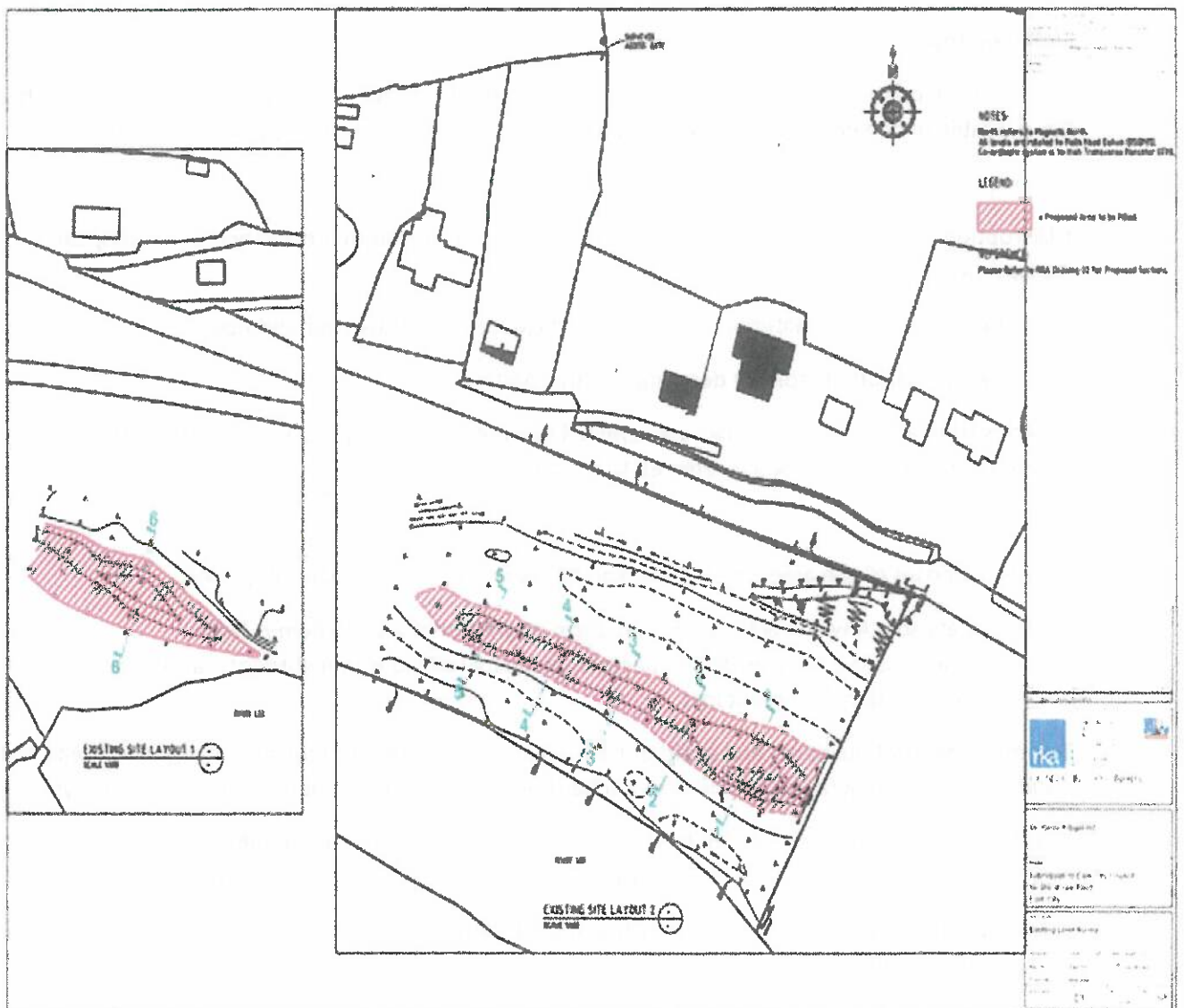


Photo 3. View of field showing indentations.

The vegetation communities found within the site are classified according to Fossit (2000). The grassland sward is not intensively farmed or fertilised the species composition fluctuates between Dry meadows/grassy verges and (GS2) and Wet grassland (GS4). The adjoining River Lee can be classified as a depositing lowland river (FW2) which is bordered by riparian woodland (WN5). These habitats are locally abundant and do not represent any ecological interest for conservation objectives. There is also a drainage ditch (FW4) present in the field.

**2.1 The Project**, following construction activity on land adjacent to the site, the owner of these lands Mr Kevin Fitzgerald, wished to deposit and spread about 755m<sup>3</sup> of subsoil and covering topsoil onto the field. Map 1 and 2 above illustrate where this material will be spread. A covering note from the engineer will include description of methods. It will infill the indentations and level the surface of the field. As illustrated in the photos above the land does not slope directly to the river and is retained by higher ground adjoining the channel. The material contains subsoil and topsoil and will be mechanically graded by excavator. The topsoil is to be removed and the imported material will be graded and the topsoil will be reinstated. This will ensure a uniformity of soil type across the fields and merge with adjoining lands. This material does not include any construction or demolition waste (C&D Waste) from the site works north of the Lee Road as this was deposited through a licenced waste management contractor. It includes soil and subsoil. It will not be within 25 metres of the river Lee on the western side of the fields and will not be within 12 metres of the river at its nearest in the east side of the field. The material will be spread in the areas outlined in the above maps. It will not be near any field drains and there will be no disturbance to vegetation adjoining the river.

As mentioned above, the risk of increasing sedimentation and nutrient loads to the River Lee would represent the greatest potential impact from this proposed development on the designated sites. The site is not in a designated area, if it was, it would be subject to a provision to inform the National Parks and Wildlife as an Activities Requiring Consent (ARC), as reclamation including infill (ARC-1). The fact that it is upstream from two designated sites does mean that consideration has to be given to any possible impact on these sites. The present topsoil will be removed prior to infilling the imported material. The topsoil will then be returned and graded and reseeded. The material to be deposited on the field has been stored across the Lee Road and has no sign of invasive species being present. The material is to be spread about 8 m from the eastern drain in the field, this area will be a buffer area. This eastern drain carries water from the public road and further up slope. The drain is mechanically cleaned annually.



Map 2 showing plan of field

## **Sedimentation**

Sediment can carry nutrients either absorbed or chemically bound to fine particles; some of which is bio-available or can become available depending on changes in the chemical environment.

The main sources of sediment are as follows:

- Disruption of the soil surface, causing the subsoil to be exposed to erosion and eventually the transportation of the finer particles by overland flow.
- Weathering of parent material resulting in particle movement by overland flow.
- The transportation of loose or decaying organic particles.

Particles from any of these sources are referred to as sediment while in suspension and their accumulation on a streambed is referred to as sedimentation.

## **Soils**

For the purposes of the assessment, soils can be divided into two broad categories:

- Peaty soil: Any soil with a depth of 30cm or greater of a peat/humus layer.
- Mineral soils have a greater capacity than peaty soils to retain nutrients, and generally pose a lower risk of sediment loss.

The main losses of nutrients and sediment are associated with water moving through the site to the aquatic zone. Rainfall falling on the site reaches the aquatic zone through three main pathways:

- Over surface: Surface run-off tends to occur more frequently on impermeable soils such as peat or heavy clays or on very thin soils over bedrock or iron pans. It is most evident during heavy rainfall.
- Through the soil/subsoil: This pathway is associated with highly permeable soils, e.g. brown earths and brown podsols.
- Through drains/channels flowing directly from the site to the aquatic zone: This pathway also includes temporary drains (in which water may not be permanently present) that may only operate during and immediately after rainfall.



The speed of water flow in drains will determine whether the drains can reduce the amount of sediment and/or nutrients being lost to the aquatic zone. If a drain (either permanent or temporary) is devoid of vegetation, water velocity is generally higher.

Where a drain (whether permanent or temporary) is covered with vegetation and the water flows slowly or ponds, sediment may settle out and phosphorus may be taken up in plant growth. However, such drains are unlikely to operate as effective sediment traps or nutrient sinks during heavy rainfall.

Steeper slopes lead to greater soil erosion and more rapid nutrient loss. Surface runoff is faster on a steep slope, resulting in less contact between water and the soil and vegetation, and less time for sediment to settle out or nutrients to be taken up. Slope categories are as follows:

Even to 1-in-7 (<15%) Moderate

1-in-7 to 1-in-3 (15–30%) Steep

1-in-3 or greater (>30%) Very steep

### **Nutrient transportation**

Phosphorus loss is generally considered more significant than nitrogen loss, as this is typically the limiting nutrient in Irish aquatic zones. Phosphorus will behave differently in different soil types. Mineral soils will bind phosphorus, particularly if they are strongly acid or if they have a high clay content (sticky soils).

Peaty soils have very little capacity to bind phosphorus.

Nutrients in both dissolved and particulate forms move with the water leaving the site, either across the surface, through the soil or through drains. The greatest amount of nutrients is lost during or immediately after heavy rainfall. The ability of a site to retain nutrients is influenced by soil type. Research has shown that, because peaty soils have little or no ability to bind phosphorus, this nutrient can be released from un-vegetated sites with a deep peat/humus layer and washed into nearby watercourses. On soils with a shallow peat/humus layer, there is often enough contact with mineral soils to bind the phosphorus, thereby reducing the risk of its release into watercourses. Drained peat is also highly erodible and can give rise to sedimentation. If there is peat adjacent to the aquatic zone, any brash/roots allowed to break down in this area will release phosphorus directly to the water. Where peat is adjacent to the aquatic zone, the buffer zone will be ineffective.

Buffer zones in such situations will only operate through uptake by vegetation. The soils on the site are mineral in nature with no peat soils encountered.

There are two main mechanisms by which the amount of nutrients reaching the aquatic zone can be reduced, providing that the water velocity can be slowed:

- Adsorption: If the water is brought in contact with mineral soil, phosphorus may bind to the clay and mineral particles. This requires sufficient contact between the water and the mineral soil. Consequently, binding is most effective if water percolates into mineral soil. Once water begins to flow over the surface, the binding potential is greatly reduced.
- Uptake: If the water flows slowly through vegetation plants may take up phosphorus and nitrogen for growth. This occurs most effectively where water

runs slowly and percolates into the litter layer or soil of a well-vegetated buffer zone.

### Sediment transportation

Best practice aims at minimising sediment mobilisation. Where soil is disturbed or exposed (i.e. little or no vegetation), there is a risk of soil erosion. Where certain soil types (e.g. peaty soils, sandstone derived soils) and steep slopes occur together, there is a greater risk of soil erosion and subsequent sedimentation. It should also be noted that subsoils may be more prone to erosion than the associated top soil. The erodability of a site may be assessed based on relevant factors such as;

- Parent material: Parent material comprising non-consolidated material represents a high risk.
- Soil type: Soil type is linked to geology. Soils with a high clay content (sticky soils, e.g. gleys) are less likely to erode than those that are friable in nature (e.g. soils derived from Old Red Sandstone).
- Slope: Generally the steeper the slope, the greater the likelihood of soil erosion.
- Climate: Erosion is linked to climatic severity, which varies with altitude and exposure.

Soil particles move during and immediately after heavy rainfall, with heavier rainfall resulting in the movement of larger soil particles. If rainfall runs off the soil surface or through drains, there is a risk of sedimentation. If the water percolates into the soil, the risk of sedimentation is low. Steep slopes lead to rapid surface run-off and fast flow in drains, and represent the highest risk of sedimentation. Rivers and streams transport sediments downstream as either suspended solids or as part of the bed load.

There are four main mechanisms by which the amount of sediment reaching the aquatic zone can be reduced:

- Minimisation of soil disturbance: Reduction of soil disturbance minimises the generation of sediment.
- Settlement: where the water ponds or flows slowly, with particles subsequently settling out of suspension.
- Filtration: where the water flows slowly through the vegetation and litter layer, e.g. in buffer zones/strips, both act as sieves to filter out particles.
- Brash mats: Soil can be protected by the use of brash mats along routes where machinery is obliged to travel.

Soil erosion can continue to occur as long as there is exposed soil on site. In practice, this means that erosion can occur until the soil has been stabilised by vegetation cover.

Tree canopy and ground vegetation cover can influence the ability of the site to retain sediment and nutrients. The canopy intercepts a significant proportion of incoming rainfall, which, consequently, never reaches the ground. Ground vegetation can help retain phosphorus on site by taking it up for growth as it is released from the decaying brash and roots. Ground vegetation can also help to remove sediment, by filtering it out of the water and/or by aiding infiltration into the ground. The ability of a site to retain nutrients and sediment can be referred to as the 'site retention capacity' or 'internal buffering'. Vegetated riparian zones and natural depressions within the site can be particularly effective in retaining nutrients and sediment. The effectiveness of such features depends

on the amount of run-off intercepted before it reaches the aquatic zone. For example, a vegetated zone that runs parallel to the aquatic zone will generally intercept a much greater volume of water than one running at a right angle.

As the above discussion illustrates the presence of material not anchored by vegetation presents a potential risk in terms of sedimentation and nutrient enrichment of the River Lee. It is envisaged that the main material will be deposited within the old channel undulations on site. There will be no drainage directly of this material to the river. There will be buffers exceeding 12-25 metres from the river bank and 35 metres from the field drain, within these buffer zones there will be no disturbance of existing vegetation or deposition of soil material. As the land is undulating and not sloping towards the river it is deemed unlikely that overland flow will transport sediments or nutrients to the River Lee. The mineral nature of the soils on site also aid the retention of nutrients.

### **3. Screening Methodology**

#### **Introduction**

The function of the Screening Assessment is to identify whether or not the proposal will have a likely significant effect on European Sites. In this context "likely" refers to the presence of doubt with regard to the absence of significant effects (ECJ case C-127/02) and "significant" means not trivial or inconsequential but an effect that has the potential to undermine the site's conservation objectives (English Nature, 1999; ECJ case C-127/02). In other words, any effect which would compromise the functioning and viability of a site and interfere with achieving the conservation objectives of the site would constitute a significant effect.

The nature of the likely interactions between the proposal and the integrity of the Site will depend upon the sensitivity of the Site's qualifying features to potential impacts arising from the proposal; the current conservation status of the site; and the likely changes to water quality that will result from activities associated with the proposal, in combination with other plans and projects.

The APP Guidelines (2001) outline the stages involved in undertaking a Screening Assessment of a project that has the potential to have likely significant effects on European Sites. The methodology adopted for this Screening Assessment is informed by these guidelines and was undertaken in the following stages:

1. Define the project and determine whether it is necessary for the conservation management of European Sites;
2. Identify European Sites likely to be influenced by the project;
3. Review the project to determine if it has the potential to affect European Sites and determine whether the European Sites are vulnerable to the effects; and
4. Identify other plans or projects that, in combination with the project, have the potential to affect European Sites.

### 3.1 The Project and Natura 2000 Baseline

The River Lee system flows through County Cork. The Natura sites that may be directly affected are the **Great Island Channel SAC** and **Cork Harbour SPA**

#### **CORK HARBOUR SPA**

SITE CODE: 004030

Cork Harbour is a large, sheltered bay system, with several river estuaries - principally those of the Rivers Lee, Douglas, Owenboy and Owennacurra. The SPA site comprises most of the main intertidal areas of Cork Harbour, including all of the North Channel, the Douglas River Estuary, inner Lough Mahon, Monkstown Creek, Lough Beg, the Owenboy River Estuary, Whitegate Bay, Ringabella Creek and the Rostellan and Poul nabibe inlets.

Owing to the sheltered conditions, the intertidal flats are often muddy in character. These muds support a range of macro-invertebrates, notably *Macoma balthica*, *Scrobicularia plana*, *Hydrobia ulvae*, *Nephtys hombergi*, *Nereis diversicolor* and *Corophium volutator*. Green algae species occur on the flats, especially *Ulva* spp. Cordgrass (*Spartina* spp.) has colonised the intertidal flats in places, especially where good shelter exists, such as at Rossleague and Belvelly in the North Channel. Salt marshes are scattered through the site and these provide high tide roosts for the birds.

Some shallow bay water is included in the site. Rostellan Lake is a small brackish lake that is used by swans throughout the winter. The site also includes some marginal wet grassland areas used by feeding and roosting birds.

The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Little Grebe, Great Crested Grebe, Cormorant, Grey Heron, Shelduck, Wigeon, Teal, Mallard, Pintail, Shoveler, Red-breasted Merganser, Oystercatcher, Golden Plover, Grey Plover, Lapwing, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Greenshank, Black-headed Gull, Common Gull, Lesser Black-backed Gull and Common Tern.

The site is also of special conservation interest for holding an assemblage of over 20,000 wintering waterbirds. The E.U. Birds Directive pays particular attention to wetlands and, as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds.

Cork Harbour is an internationally important wetland site, regularly supporting in excess of 20,000 wintering waterfowl. Of particular note is that the site supports internationally important populations of Black-tailed Godwit (1,896) and Redshank (2,149) - all figures given are five year mean peaks for the period 1995/96 to 1999/2000. Nationally important populations of the following 19 species occur:

Little Grebe (57), Great Crested Grebe (253), Cormorant (521), Grey Heron (80), Shelduck (2,009), Wigeon (1,791), Teal (1,065), Mallard (513), Pintail (57), Shoveler (103), Red-breasted Merganser (121), Oystercatcher (1,809), Golden Plover (3,342), Grey Plover (95), Lapwing (7,569), Dunlin

(9,621), Bar-tailed Godwit (233), Curlew (2,237) and Greenshank (46). The Shelduck population is the largest in the country (over 10% of national total). Other species using the site include Mute Swan (38), Whooper Swan (5), Pochard (72), Gadwall (6), Tufted Duck (64), Goldeneye (21), Coot (53), Ringed Plover (73), Knot (26) and Turnstone (113). Cork Harbour is an important site for gulls in winter and autumn, especially Black-headed Gull (3,640), Common Gull (1,562) and Lesser Black-backed Gull (783), all of which occur in numbers of national importance. Little Egret and Mediterranean Gull, two species which have recently colonised Ireland, also occur at this site.

A range of passage waders occurs regularly in autumn, including such species as Ruff (5-10), Spotted Redshank (1-5) and Green Sandpiper (1-5). Numbers vary between years and usually a few of each of these species over-winter.

Cork Harbour has a nationally important breeding colony of Common Tern (102 pairs in 1995). The birds have nested in Cork Harbour since about 1970, and since 1983 on various artificial structures, notably derelict steel barges and the roof of a Martello Tower. The birds are monitored annually and the chicks are ringed.

Cork Harbour is of major ornithological significance, being of international importance both for the total numbers of wintering birds (i.e. > 20,000) and also for its populations of Black-tailed Godwit and Redshank. In addition, it supports nationally important wintering populations of 22 species, as well as a nationally important breeding colony of Common Tern. Several of the species which occur regularly are listed on Annex I of the E.U. Birds Directive, i.e. Whooper Swan, Little Egret, Golden Plover, Bar-tailed Godwit, Ruff, Mediterranean Gull and Common Tern. The site provides both feeding and roosting sites for the various bird species that use it. Cork Harbour is also a Ramsar Convention site and part of Cork Harbour SPA is a Wildfowl Sanctuary.

**Great Island Channel SAC** (this SPA overlaps with Cork Harbour SPA),

**Site Code: 001058**

The Great Island Channel stretches from Little Island to Midleton, with its southern boundary being formed by Great Island. It is an integral part of Cork Harbour which contains several other sites of conservation interest. Geologically, Cork Harbour consists of two large areas of open water in a limestone basin, separated from each other and the open sea by ridges of Old Red Sandstone. Within this system, Great Island Channel forms the eastern stretch of the river basin and, compared to the rest of Cork Harbour, is relatively undisturbed. Within the site is the estuary of the Owennacurra and Dungourney Rivers. These rivers, which flow through Midleton, provide the main source of freshwater to the North Channel.

The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (\* = priority; numbers in brackets are Natura 2000 codes):

[1140] Tidal Mudflats and Sandflats [1330] Atlantic Salt Meadows

The main habitats of conservation interest in Great Island Channel SAC are the sheltered tidal sand and mudflats and the Atlantic salt meadows. Owing to the sheltered conditions, the intertidal flats are composed mainly of soft muds. These muds support a range of macro-invertebrates, notably *Macoma balthica*, *Scrobicularia plana*, *Hydrobia ulvae*, *Nephtys hombergi*, *Nereis diversicolor* and *Corophium volutator*.

Green algal species occur on the flats, especially *Ulva lactuca* and *Enteromorpha* spp. Cordgrass (*Spartina* spp.) has colonised the intertidal flats in places, especially at Rossleague and Belvelly.

The saltmarshes are scattered through the site and are all of the estuarine type on mud substrate. Species present include Sea Purslane (*Halimione portulacoides*), Sea Aster (*Aster tripolium*), Thrift (*Armeria maritima*), Common Saltmarsh-grass (*Puccinellia maritima*), Sea Plantain (*Plantago maritima*), Greater Sea-spurrey (*Spergularia media*), Lax-flowered Sea-lavender (*Limonium humile*), Sea Arrowgrass (*Triglochin maritimum*), Sea Mayweed (*Matricaria maritima*) and Red Fescue (*Festuca rubra*).

The site is extremely important for wintering waterfowl and is considered to contain three of the top five areas within Cork Harbour, namely North Channel, Harper's Island and Belvelly-Marino Point. Shelduck is the most frequent duck species with 800-1,000 birds centred on the Fota/Marino Point area. There are also large flocks of Teal and Wigeon, especially at the eastern end. Waders occur in the greatest density

A population of about 80 Grey Plover is a notable feature of the area. All the mudflats support feeding birds; the main roost sites are at Weir Island and Brown Island, and to the north of Fota at Killacloyne and Harper's Island. Ahanesk supports a roost also but is subject to disturbance. The numbers of Grey Plover and Shelduck, as given above, are of national importance. The site is an integral part of Cork Harbour which is a wetland of international importance for the birds it supports. Overall, Cork Harbour regularly holds over 20,000 waterfowl and contains internationally important numbers of Black-tailed Godwit (1,181) and Redshank (1,896), along with nationally important numbers of nineteen other species. Furthermore, it contains large Dunlin (12,019) and Lapwing (12,528) flocks. All counts are average peaks, 1994/95 – 1996/97. Much of the site falls within Cork Harbour Special Protection Area, an important bird area designated under the E.U. Birds Directive.

While the main land use within the site is aquaculture (oyster farming), the greatest threats to its conservation significance come from road works, infilling, sewage outflows and possible marina developments.

The site is of major importance for the two habitats listed on Annex I of the E.U. Habitats Directive, as well as for its important numbers of wintering waders and wildfowl. It also supports a good invertebrate fauna.

As mentioned above, over 90% of protected habitats are classified as having "unfavourable conservation status". The catchments based approach requires river restoration and rehabilitation, these things in turn require schemes and plans which are in motion through International, National and County level developments as well as involving local stakeholders. The recent halting of Roscommon Co Co. in executing a drainage plan as well as increased vocal opposition to hard drainage schemes in Nenagh and Bantry, illustrates the concern people have for the waterways. Blue ways are being created for leisure activities and people have engaged to a much greater degree in rivers and local activities during the Covid lockdowns.

. Increased flow rates with intense increasing rates of precipitation will increase bank erosion, especially in areas with little riparian vegetation. Listed species require areas of gravel, sediment and the cover and feed provided by in stream vegetation. No works to remove material or remodel banks is to be undertaken, vegetation removal will not be undertaken. The screening report has to consider the proposed works in conjunction with other pressures and consider effects on conservation objectives, for this reason works are to be undertaken in dry settled weather and observing buffer zones, while the immediate establishment of surface vegetation through reseeding with meadow species will anchor the soil that is to be spread on the field.

The tree lines and scrub habitats adjacent to the watercourses offer ideal foraging and commuting areas for bat species to utilise. There are three outcomes in dealing with planning and bats as all Irish bats are listed under Annex IV of the Habitats Directive and Appendix II of the Bern Convention and are strictly protected. Each of the following scenarios should be designed to satisfy Section 25 of the Habitats Directive;

- avoidance of the impact- no negative outcome
- on-site mitigation - the improvement /enhancement of existing roosts or the provision of new roost locations within the structures
- off-site compensation of roost structures at another suitable location

Other protected mammal species which could utilise the watercourses are the Otter (*Lutra lutra*), which is strictly protected in Appendix II of the Bern Convention which is listed in Annex II and IV of the Habitats Directive as a species of European interest.

Under the water framework directive (WFD) set out by the EU, Ireland must achieve a 'good status' on all of our watercourses by 2027. Unfortunately, over the past couple of years, Ireland has seen water quality deteriorating.

The two designated sites downstream from the site have specific conservation objectives.;

Favourable conservation status of a habitat is achieved when:

- its natural range, and area it covers within that range, are stable or increasing, and
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable.

The favourable conservation status of a species is achieved when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

Conservation objective for Great Island Channel SAC [001058]

#### 1140 Mudflats and sandflats not covered by seawater at low tide

To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in Great Island Channel SAC, which is defined by the following list of attributes and targets:

#### Attribute Measure Target Notes

Habitat area Hectares The permanent habitat area is stable or increasing, subject to natural processes.

Habitat area was estimated using as 723ha using OSi data

Community distribution

Hectares Conserve the following community type in a natural condition: Mixed sediment to sandy mud with polychaetes and oligochaetes community complex.

Based on intertidal and subtidal surveys undertaken in 2006 (Aquafact, 2007) and 2011 (EcoServe, 2012; MERC, 2012).

#### Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)

To restore the favourable conservation condition of Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) in Great Island Channel SAC, which is defined by the following

list of attributes and targets:

Habitat area Hectares Area stable or increasing, subject to natural processes, including erosion and succession.

For sub-sites mapped:

Bawnard - 0.29ha;

Carrigatohil - 1.01ha.

Based on data from Saltmarsh Monitoring Project (SMP) (McCorry and Ryle, 2009). Two sub-sites that supported Atlantic salt meadow were mapped

(1.30ha) and additional areas of potential saltmarsh (17.60ha) were identified from an examination of aerial photographs, giving a total estimated area of 18.90ha. Saltmarsh habitat has also been recorded at two other sub-sites within the SAC (Curtis and Sheehy Skeffington, 1998). NB further unsurveyed areas maybe present within the SAC. See coastal habitats supporting document for further details

Habitat distribution Occurrence No decline or change in habitat distribution, subject to natural processes. Based on data from McCorry and Ryle (2009).

Within the sites surveyed by the SMP, estuary type saltmarsh over a mud substrate is most common and ASM is the dominant saltmarsh habitat. NB further unsurveyed areas maybe present within the SAC. See coastal habitats supporting document for further details.

#### Physical structure: sediment supply

Presence/ absence of physical barriers

Maintain/restore natural circulation of sediments and organic matter, without any physical obstructions

Based on data from McCorry and Ryle (2009). At Bawnard there is a seawall that was constructed in the 18th-19th centuries. At Carrigatohil the northern and eastern shorelines have been significantly



modified by road construction. Part of the saltmarsh has also been infilled.

Physical structure: creeks and pans

Occurrence Maintain/restore creek and pan structure, subject to natural processes, including erosion and succession

Based on data from McCorry and Ryle (2009). The ASM at Carrigatohil is poorly developed, though some of the larger sections contain salt pans. The smaller sections, however, tend to be quite uniform in topography. The saltmarsh topography at Bawnard is poorly developed with few typical saltmarsh features.

Physical structure: flooding regime

Hectares flooded; frequency

Maintain natural tidal regime

Based on data from McCorry and Ryle (2009). At Bawnard, the entire bay empties at low tide to expose soft intertidal mudflats.

Vegetation structure: zonation

Occurrence Maintain range of coastal habitats including transitional zones, subject to natural processes including erosion and succession

Based on data from McCorry and Ryle (2009).

Zonations to Salicornia flats and intertidal mudflats occurs at Carrigatohil. At Bawnard, there is succession from saltmarsh to brackish saltmarsh and wet grassland as well as zonation to intertidal mudflats at the lower saltmarsh boundary.

Vegetation structure: vegetation height

Centimetres Maintain structural variation within sward

Based on data from McCorry and Ryle (2009). At Carrigatohil, the sward height is quite tall due to lack of grazing. At Bawnard only part of the site is grazed.

Vegetation structure: vegetation cover

Percentage cover at a representative number of monitoring stops Maintain more than 90% area outside creeks vegetated.

Based on data from McCorry and Ryle (2009). Some poaching was noted in places at Bawnard.

Vegetation composition: typical species and sub-communities

Percentage cover at a representative number of monitoring stops Maintain range of sub-communities with typical species listed in SMP

(McCorry and Ryle, 2009)

Vegetation structure: negative indicator species – *Spartina anglica*

Hectares No significant expansion of common cordgrass (*Spartina anglica*), with an annual spread of less than 1% where it is known to occur

Based on data from McCorry and Ryle (2009).

*Spartina* occurs at both sub-sites in this SAC.

#### 4. Screening of European Sites

**Describe the individual elements of the project (either alone or in combination with other plans or projects) likely to give rise to impacts on the European Site.**

The elements of the project that will have the potential to give rise to impacts to European Sites include both direct and indirect impacts.

The direct impacts that have the potential to arise during the project include the disturbance or injury of qualifying species and habitats of the SAC.

The indirect impacts that have the potential to arise during the project include changes to water quality associated with surface water runoff.

How the project will have the potential to result in direct and indirect impacts and the likelihood of such impacts occurring to the key features of the European Sites are outlined in **Section 4.1 to 4.3**, while Section 4.4 provides an assessment of the risks posed by such impacts to the conservation status of these key features. The potential for significant impacts arising from the proposal was determined by a number of criteria including:

- Habitat loss or alteration
- Disturbance/displacement of key species
- Potential impairment of water quality.
- Increased sediment or erosion of banks

#### **Likely Significant Effect to Qualifying Species**

Disturbance to feeding or breeding grounds for qualifying species and impacts to habitats used by birds are likely to generate the most significant effects to the qualifying species of the SAC and SPA

As the project site is located outside of the SAC/SPA boundary but connected hydrologically, direct impacts to the qualifying species and their associated habitats may arise as a result of the proposed works.

Disturbance to these species arising from noise and dust related impacts associated with the proposed project is unlikely, although the works will be carried out at the correct time of year. Nevertheless, the potential for such impacts to occur are examined in more detail in **Table 1**. Furthermore, potential indirect impacts to associated habitats reflect those outlined in *Section 3.1*

and as such it is not considered likely that such impacts will adversely affect the habitats of the SAC/SPA which support the qualifying species.

All the qualifying species of this SAC are dependent on the aquatic environment and all are likely to occur downstream from the proposed project areas. All of these species are sensitive to changes in hydrology, water pollution and disturbance.

It is considered unlikely that changes in hydrology and/or water pollution will arise as a result of the proposed project and therefore do not represent potential risks to the qualifying species of the SAC.

As all construction activity associated with the works, will be undertaken during the daytime, no disturbance associated with lighting will arise.

#### **Likely Significant Effects to Qualifying Habitats**

The qualifying habitats associated with the SPA/SAC are estuarine or coastal habitats and do not occur within close proximity to the proposed project area. The site is located in a depositing lowland river with no tidal activity. These habitats are sensitive to hydrological change, water pollution and changes in nutrient status. These habitats are found downstream, the distance from this habitat and the site are considerable and no works are proposed within or adjacent to this habitat; therefore, it is not considered that the works or excavations will interfere with hydrological regimes associated with them.

#### **Impacts**

The risk of contamination by accidental spillage is deemed unlikely provided that the mitigation measures are implemented and that all design, construction and operational standards are followed. All equipment will be refuelled, maintained and stored off-site.

#### **Screening Assessment in line with EU Guidance Assessment Criteria**

*Table 1* provides a Screening Assessment in line with EU Guidance Assessment Criteria used to examine the potential of the proposed development to adversely impact upon the **Great Island Channel SAC** and **Cork Harbour SPA**. A conclusion of this NIS is provided in *Table 1*.

*Table 1* summaries the proposed sites, the element of the proposed project and the likelihood of any of these elements adversely affecting the integrity and conservation status of qualifying interests for **Great Island Channel SAC** and **Cork Harbour SPA**. The assessment criteria outlined in *Table 1* follow those detailed in the EC guidance.

**Photo 4, showing riparian vegetation and pasture**



**Table 1: Assessment of Likely Significant Effects to the Great Island Channel SAC and Cork Harbour SPA**

<b>Assessment Criteria</b>
<b>Describe any likely direct, indirect or secondary impacts of the project (either alone or in combination with other plans or projects) on the Natura 2000 sites</b>
<b>Size and Scale</b> The development is to deposit soil in undulations existing in a field adjacent to the River Lee; the topsoil will be removed and the fill will be graded, the topsoil will then be re-instated over the deposited soils and reseeded with meadow species. No riparian vegetation is to be removed and buffer zones are to be observed. It is envisaged that a species rich pasture/meadow will result. There is to be no chemical fertilizer or pesticides used.

**Land-take**

There will be no reduction in habitat areas as channels and banks are to be left undisturbed. With site specific works on the land in indentations. Trees are not be uprooted or removed or trimmed.

**Distance from Natura 2000 sites or key features of the site** The sites are located within 15 km from **Great Island Channel SAC and Cork Harbour SPA** . The site are all connected via the River Lee

**Resource requirements**

soil.

**Emissions**

Surface run-off and increasing sediment and nutrient loads could potentially constitute the principal emission from the proposed sites during works. The techniques mentioned below, will if implemented properly reduce the likelihood of watercourse deterioration. Potentially contaminating material required during construction are principally associated with machinery fuels and accidental spills. These will be stored and maintained off site.

Changes in the nutrient status of a waterbody and the habitats listed in this section would be likely to arise as a result of increased inputs of nitrogen and phosphorous. The principal sources of excessive nitrogen and phosphorous inputs to watercourses are from point source wastewater discharges and diffuse source surface water runoff (Jarvie *et al* 2006; Walsh *et al* 2005). The material is to be taken from its present location north of the Lee Road to the fields adjacent to the River Lee, it is utilising about 150 m of public road. This will reduce traffic and emissions arising from dealing with the material in any other manner.

Emissions in terms of dust and air quality will be minimised. Plant should be kept to a minimum and vehicles should not be left idling when not in use. All machinery should be kept in good operational use in order to ensure noise is minimised.

All equipment should be serviced and checked for leakage or faults prior to use. Any construction machinery should be maintained in good operational order while on-site, minimising the risk of any pollution incidences arising from leaking vehicles or machinery. All equipment will be operated by a licenced contractor, utilising best practice, all chemicals/fuel will be stored off-site. Refuelling of machinery during the works phase should occur off-site in order to minimise the potential threat to water quality.

**Excavation requirements**

Excavated material being stored prior to backfilling, has the potential to impact negatively on surrounding areas of intact habitat if stored inappropriately. The potential for surface water pollution as a result of run-off from stockpiled soil and building materials is moderate. Works

should proceed in dry periods in order to avoid the risk of surface run-off from entering watercourses.

**Transportation requirements**

Materials will be transported onto the site, from just across the Lee Road all of the excavated material will be utilized on site. The depositing of soil from an adjacent site will reduce transportation congestion and carbon emissions. Transportation of material will be undertaken by a licensed contractor utilizing best practice.

**Duration of construction, operation etc.**

All construction activity will be framed with reference to the prevailing weather conditions. Due to the sensitive nature of the site, transporting and grading soil material should be undertaken during dry conditions to reduce risk to qualifying species and to reduce possibility of sedimentation. It is envisaged that works should be completed in less than a month.

**Other**

The River Lee is a highly modified stretch of watercourse, there are hydro-electric dams upstream and with increased rainfall and river flows there can be increased river energy and with potential to increase bank erosion rates. The increase of riparian vegetation would be considered important to bind banks.

**Describe any likely changes to the N2K site arising as a result of:**

**Reduction of habitat area**

There is to be no reduction in protected habitat area.

**Disturbance of key species**

The disturbance to the soil profile would be the most significant impact. If the guidelines are followed, this potential impact would be reduced. It is not considered that any key species associated with any of the Natura 2000 site, within the sphere of influence, will be significantly disturbed. With no disturbance to channels and banks this likelihood will be reduced. Visual inspections for wildlife activity should be undertaken prior to mechanical activity commencing.

Further enhancement of riparian vegetation could be undertaken with a planting regime and limiting grazing animal impact, this would enhance a more robust riparian zone, allowing natural regeneration of plant species. Marginal and Riparian vegetation also act as a filter to sediments contained in surface run off, reduces bank erosion and limits flood risk.

**Habitat or species fragmentation**

The site is currently located in open pasture land, with established tree lines. Due to legislation and the advent of new agricultural schemes and implementation of EU Directives it is envisaged that riparian zones along watercourses will be enhanced and restored. Planting shrubs and trees would link existing tree-lines and foraging areas leading to mature riparian woodland. It is not envisaged to remove trees or shrubs along the area beside the waterbodies. Woodland can enhance conditions for some listed species, as well as providing food and shelter. This 'edge

habitat' is important for biodiversity as it interfaces with the watercourse, woodland and pasture giving wildlife a matrix of habitat. To ensure linkages between these areas by planting would enhance habitat connectivity. This development would increase high value habitat and reduce species fragmentation. To remove impediments for migrating fish and to ensure clean water and gravel beds for listed species.

#### **Reduction in species density**

It is unlikely for any listed species to be reduced in number.

#### **Changes in key indicators of conservation status**

The European Commission (2006) Explanatory Notes and Guidelines for the Assessment, Monitoring and Reporting under Article 17 of the Habitats Directive outlines key indicators for assessing the conservation status of designated sites. The key indicators for assessing the conservation status of key species are:

*Range:* as outlined above the elements of the proposed project are unlikely to result in direct or indirect impacts to the SAC or SPA. Therefore, it is unlikely that the distribution of key species, for which the SAC and SPA are designated, will be altered by the proposed project.

*Population:* As the elements of the proposed project are unlikely to result in direct or indirect impacts to the SAC or SPA the populations of key species will not be affected during the implementation of the proposed project;

*Habitat for the species:* The destruction of important wildlife corridors and linkages between habitats for qualifying species would impact on conservation objectives. The qualifying bird, mammal and aquatic species are not specifically directly impacted by the proposed works. Additional enhancement planting could be undertaken in the future, (pilot projects are being presently undertaken) as part of other schemes and with other agencies, this will improve overall ecological linkages. As direct or indirect impacts to the habitats that support key species i.e. alluvial woodland are not predicted to occur, these habitats which support key species will not be affected by the proposed project.

*Future Prospects:* As the proposed project will not result in direct or indirect affects to the SAC or SPA the future prospect of the qualifying interests of this site will not be affected.

#### **Climate change**

Present land-use of adjoining properties is ongoing so the impacts arising from suburban and agricultural practices will be incremental rather than new. Climate change is accelerating, extreme weather events are expected to be more intense and occur more frequently. The Paris accord limits carbon amounts for its signatory participants. These targets have been recently being given further national incentive by the publication of the Climate Action Bill, which commits Ireland to a climate neutral economy by 2050. There are significant long term effects on land-use which will have to include catchment wide management, rather than the narrow channel focused view of land drainage.

**Describe any likely impacts on the Natura 2000 Site as a whole in terms of:**

Interference with key relationships that define the structure of the site

There will be no interference with key relationships affecting the SPA s structure.

Interference with key relationships that define the function of the site

There will be no interference with relationships that define Natura 2000 sites functions.

**Describe from the above the elements of the project or plan or combination of elements, where the above impacts are likely to be significant or where the scale of magnitude of impacts is not known.**

**Based upon the above assessment criteria it has been concluded that the proposed works will not result in likely significant effects to the Natura 2000 Sites occurring within the sphere of influence of this project. It is considered that the proposed work when undertaken as outlined above does not require a stage two appropriate assessment, as it will not have negative ecological impacts on the Great Island Channel SAC and Cork Harbour SPA .**

## References

Cork County Development Plan.

National Parks and Wildlife.

EPA Catchments.ie

Irelands Rivers (2020) – UCD

OPW Environmental Guidance; Drainage maintenance & Construction

Stream and Watershed Resoration (2013) Roni & Beechie

River Futures (2008) Brierley & Fryirs

Sustainable Riverbank Protection' Reducing Riverbank Erosion Second Edition: August 2020 SEPA

Fossitt J. A. (2000). A Guide to Habitats in Ireland. Heritage Council.

Heritage Council (2002). Draft Habitat Survey Guidelines. Hertiage Council.

The 3rd Cycle Draft Lee, Cork Harbour and Youghal Bay Catchment Report (HA 16)( Environmental Protection Agency August 2021)



The Screening Assessment was undertaken with reference to the following guidance documents on Appropriate Assessments:

- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (2009). DEHLG.
- Managing Natura 2000 Sites – The provisions of Article 6 of the Habitats directive 92/43/EEC. European commission (2000). (To be referred to as MN 2000).
- Assessment of Plans and Projects Significantly Affecting Natura 2000 sites – Methodological Guidance of the Provisions of Article 6(3) and (4) of the Habitats directive 92/43/EEC. European Commission (2001). (To be referred to as the APP Guidelines).
- Guidance on Article 6(4) of the Habitats Directive 92/43/EEC – Clarification of the Concepts of: Alternative Solutions, Imperative reasons of Overriding Public Interest, Compensatory Measures, Overall coherence, Opinion of the Commission. European Commission (2007).

Jim Minogue BSc, MA, Contact – email [andoire@gmail.com](mailto:andoire@gmail.com) or phone 087-163 48 79



# Export WTF

## WTF Summary

WTF Number:	C048660
Status:	Completed
Notifier Name:	Asbestaway Ireland Limited

## Notifier Address

Address Line 1:	6 Westlink Business Park
Address Line 2:	Doughcloyne Industrial Estate
Address Line 3:	Wilton
Address Line 4:	Cork
County:	Cork County
Country:	Ireland
Consignee:	Rilta Environmental Ltd (W0185-01)

## Notifier - Carrier Part

Date Shipped:	02/12/2020
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## Quantity Shipped

Tonnes:	
m3:	
Waste Generator (if Different from Notifier):	Declim Ltd. T23 XVF2 (Kevin Fitzgerald)
Type of Collections:	Single Collection
EWC Codes:	17 06 05* Construction materials containing asbestos (18)
Comment:	13-11265-02 Wear PPE
Waste Description:	Corrugated roof sheets & rainwater goods
Physical Characteristics:	Solid
Special Handling Requirements:	Do Not Inhale Dust

## Consignee Part

Date Received:	02/12/2020
----------------	------------

## Quantity Shipped

Tonnes:	0.1
m3:	
EWC Codes:	
Comment:	JOB REF: 178225
Comments on EWC Codes Differences:	
Vehicle Registration Number:	132KE2377
Vehicle Type:	ARTIC
Trailer/Container Number Received:	N/A

## Disposal/Recovery Operation(s)

D-Codes:	D15 Storage pending any of the operations numbered D1-D12
R-Codes:	



**KEREEN  
QUARRIES LTD.**

KEREEN,  
CO. WATERFORD  
024-96453  
086 3833182

**Received In**

**KEREEN  
QUARRIES LTD.**

KEREEN,  
CO. WATERFORD  
024-96453  
086 3833182

**Received In**

**A 2304**

Permit No: WFP - WCCC - 18-0004-01	
ORDER No.	
Processed & Recycled of Waste Types	
Concrete E.W.C. 17 01 01	✓
Brick E.W.C. 17 01 02	
Tiles & Ceramics E.W.C. 17 01 03	
Mixture of Concrete, Bricks, Tiles & Ceramics E.W.C. 17 01 07	
Bituminous Material E.W.C 17 03 02	

Customer's Name

Site Address

Drivers Name

VEHICLE REG.

Collection Permit Number

WEIGHMANS SIGNATURE

Permit No: WFP - WCCC - 18-0004-01	
ORDER No.	
<b>LOAD INSPECTED</b>	
Processed & Recycled of Waste Types	
Concrete E.W.C. 17 01 01	✓
Brick E.W.C. 17 01 02	
Tiles & Ceramics E.W.C. 17 01 03	
Mixture of Concrete, Bricks, Tiles & Ceramics E.W.C. 17 01 07	
Bituminous Material E.W.C 17 03 02	

Customer's Name

Site Address

Drivers Name

VEHICLE REG.

Collection Permit Number

WEIGHMANS SIGNATURE



KEREN

QUARRIES LTD.

KEREN,

CO. WATERFORD

024-96453

086 3833182

A

Received In

Permit No:

WFP - WCCC - 18-0004-01

ORDER No.

Processed & Recycled  
of Waste Types

Concrete

E.W.C. 17 01 01

Brick

E.W.C. 17 01 02

Tiles & Ceramics

E.W.C. 17 01 03

Mixture of Concrete,  
Bricks, Tiles &  
Ceramics

E.W.C. 17 01 07

Bituminous Material

E.W.C 17 03 02

Customer's Name

Site Address

Drivers Name

VEHICLE REG.

Collection Permit Number

WEIGHMANS SIGNATURE

KEREN

QUARRIES LTD.

KEREN,

CO. WATERFORD

024-96453

086 3833182

A

22954

Received In

Permit No:

WFP - WCCC - 18-0004-01

ORDER No.

LOAD INSPECTED

Processed & Recycled  
of Waste Types

Concrete

E.W.C. 17 01 01

Brick

E.W.C. 17 01 02

Tiles & Ceramics

E.W.C. 17 01 03

Mixture of Concrete,  
Bricks, Tiles &  
Ceramics

E.W.C. 17 01 07

Bituminous Material

E.W.C 17 03 02

Customer's Name

Site Address

Drivers Name

VEHICLE REG.

Collection Permit Number

WEIGHMANS SIGNATURE







Ballymichael,  
Lissarda,  
Co. Cork.

T: 0876834092  
E: Conhorconstrucion@gmail.com  
www.conhorconstruction.ie

### Waste Docket

Date: 21-01-2021

Docket No: 10023

Delivery to: Garry o Leary

Job Type: Collection

Vehicle Reg: 191-C-6888

Origin: Lee road

Destination: Conhor Construction Aharla - WFP-CK-14-0137-01

**Description**

**Basis of Charge**

**Qty**

Concrete - 170101

Tipper Load

1.00 Loads

Signature:

DH





Ballymichael,  
Lissarda,  
Co. Cork.  
  
T: 0876834092  
E: Conhorconstrucion@gmail.com  
www.conhorconstruction.ie

### Waste Docket

Date: 21-01-2021 Docket No: 10024  
 Delivery to: Garry o Leary  
 Job Type: Collection  
 Vehicle Reg: 191-C-6888  
 Origin: Lee road  
 Destination: Conhor Construction Aherla - WFP-CK-14-0137-01

Description	Basis of Charge	Qty
Concrete - 170101	Tipper Load	1.00 Loads

Signature:

DH





Ballymichael,  
Lissarda,  
Co. Cork.

T: 0876834092  
E: Conhorconstrucion@gmail.com  
www.conhorconstruction.ie

### Waste Docket

Date: 21-01-2021

Docket No: 10025

Delivery to: Garry o Leary

Job Type: Collection

Vehicle Reg: 191-C-6888

Origin: Lee road

Destination: Conhor Construction Aherta - WFP-CK-14-0137-01

Description	Basis of Charge	Qty
Concrete - 170101	Tipper Load	1.00 Loads

Signature:

DH





CONHOR CONSTRUCTION LTD

Ballymichael,  
Lissarda,  
Co. Cork.

T: 0876834092  
E: Conhorconstrucion@gmail.com  
www.conhorconstruction.ie

### Waste Docket

Date: 21-01-2021 Docket No: 10027

Delivery to: Garry o Leary

Job Type: Collection

Vehicle Reg: 161-C-16144

Origin: Lee road

Destination: Conhor Construction Aherla - WFP-CK-14-0137-01

Description	Basis of Charge	Qty
Mixed Soil & Stone/Concrete 170101	Tipper Load	1.00 Loads

Signature:

DH





**Appendix 3** – Copies of previous Section 5 determinations (Ref. R711/22 and R665/21)





# Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Kevin Fitzgerald,  
c/o Ross O'Donovan,  
JHK Consultants Ltd.,  
Clyde House,  
Brian Boru Street,  
Cork T23 FR90

23/05/2022

RE: Section 5 Declaration R711/22 Mount Desert, Lee Road, Cork  
T23 XVF2

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, I wish to advise as follows:

The Planning Authority, in view of the above and having regard to —

- Sections 2, 3, 4 and 177U of the Planning and Development Act 2000 (as amended), and
- Articles 6, 8 and 9 of the Planning and Development Regulations 2001 (as amended),

it is considered that proposed raising of lands at Mount Desert, Lee Road, Carrigrohane is **Development** and is **Not Exempted Development** for which Appropriate Assessment is required.

Is mise le meas,

Kate Magner  
Development Management Section  
Community, Culture and Placemaking Directorate  
Cork City Council



We are Cork.



<b>Planner's Report Ref. R711 /22</b>	Cork City Council, Culture, Community and Placemaking
<b>Application type</b>	Section 5 Declaration
<b>Description</b>	Is the raising of a hollow section of land by less than 1m with native soil and subsoil from existing lands of the applicant considered to be exempted development?
<b>Location</b>	Mount Desert, Lee Road
<b>Applicant</b>	Kevin Fitzgerald
<b>Agent on behalf of applicant</b>	Ross O'Donovan, JHK Consultants Limited
<b>Date</b>	23/05/2022
<b>Recommendation</b>	Is Development and is not Exempted Development

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

## 1. Requirements for a Section 5 Declaration

Section 5(1) of the Act states,

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

The requirements for making a Section 5 'Declaration and referral on development and exempted development' are set out in the Act.

## 2. The Question before the Planning Authority

In framing the question to the planning authority, the applicant states in Q2 of the application form:

**Is the raising of a hollow section of land by less than 1m with native soil and subsoil from existing lands of the applicant considered to be exempted development?**

Additional details regarding question:

Since the 2009 flooding of the River Lee, a new control regime has been in operation at the ESB's Inniscarra Hydrological Dam resulting in the river running at full bore for a prolonged and more frequent basis. This has resulted in two hollow sections of the land

forming, which now need to be filled, to ensure no further subsidence of the land can occur.

A Natura Site Screening Report 'Lee Fields, Cork - Proposed Fill' was provided as part of the Section 5 application form submission.

#### Notes:

- The same query has previously been raised through Section 5 under Ref. **R665/21** Mount Desert, Lee Road in which the conclusion stated, 'It is considered that proposed raising of lands at Mount Desert, Lee Road, Carrigrohane **Is Development** and is **Not Exempted Development** for which appropriate assessment is required.'

### 3. Site Description

The site in question is an agricultural field located on the southern side of the Lee Road and adjoining the northern bank of the River Lee. The land falls southwards from the Lee Road to the River Lee with trees and hedge along all four boundaries of the site. There is a low stone boundary along sections of the road adjoining the site. There are drains running north to south into the Lee River across the site.

The majority of the site falls within **Zone A Flooding**.

Site falls within **Lee Catchment Flood Risk Assessment and Management Study area**.

The majority of the site is designated as **Lee Valley proposed Natural Heritage Area**.

The adjoining section of River Lee is a protected area under **Salmonid River Regs (S.I. 293 only)**.

### 4. Planning History

There are no planning applications associated with the subject site. The Section 5 Application Form indicates that there are two permissions associated with lands in the same ownership on the opposite side of the Lee Road. These are as follows:

- |                |   |
|----------------|---|
| <b>18/5297</b> | Demolition of an existing single storey detached dwellinghouse and the construction of a new single storey detached dwellinghouse including a new wastewater treatment unit, percolation area and all associated site works |
| Outcome        | Granted 27/09/2018 (Within landownership)   |
| <b>16/7114</b> | The construction of a two-storey detached dwelling with split level upper floor including a new site entrance, a wastewater treatment unit, percolation area and all associated site works                                  |
| Outcome        | Granted 16/05/2017 (Outside landownership)  |

### 5. Legislative Provisions

## 5 The Act

### Section 1 Preliminary and General

#### F1 Legal acts of the European Union given effect to by this Act.

#### Section 2(1),

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

#### Section 3(1),

In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or ‘the making of any material change in the use of any structures or other land’

#### Section 4(1),

The following shall be exempted developments for the purposes of this Act—

(i) development consisting of the carrying out of any of the works referred to in the Land Reclamation Act, 1949, not being works comprised in the fencing or enclosure of land which has been open to or used by the public within the ten years preceding the date on which the works are commenced F42 [ or works consisting of land reclamation or reclamation of estuarine marsh land and of callows, referred to in section 2 of that Act. ]

(Preamble to Land Reclamation Act 1949 – An act to authorise the Minister for Agriculture to carry out land reclamation, field drainage and other works for the improvement of agricultural holdings and to provide for the payment by the occupiers of a contribution towards the cost of those works and for other matters relating to the matters aforesaid.)

**Section 4(2)** provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001-2013.

**F40 (4)** Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

#### **Section 177U (9) (screening for Appropriate Assessment)**

In deciding upon a declaration or a referral under Section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a Screening for Appropriate Assessment in accordance with the provisions of this section.

## 5.2 Planning and Development Regulations

### Article 6 Exempted Development

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

### Article 8. Works specified in a drainage scheme

Works specified in a drainage scheme confirmed by the Minister for Finance under Part II of the Arterial Drainage Act 1945 (No. 3 of 1945) or the Arterial Drainage (Amendment) Act 1995 (No. 14 of 1995), carried out by, on behalf of, or in partnership with, the Commissioners, with such additions, omissions, variations and deviations or other works incidental thereto, as may be found necessary by the Commissioners or their agent or partner in the course of the works, shall be exempted development.

(B) Works consisting of field drainage for agriculture, other than drainage and/or reclamation of wetlands, shall be exempted development.

(C) Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development.

### Article 9. Restrictions on exemption

(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act

(a) if the development would –

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,



(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

**132 G.** Screening determination of whether request or referral with certain accompanying information relates to development requiring environmental impact assessment.

## **Schedule 2, Part 1 Exempted Development – General – Class 6**

### **Schedule 5 Part 2 ‘Development for the Purposes of Part 10’**

## **6. Assessment**

It should be stated at the outset that the purpose of this report is not to determine the acceptability or otherwise of the proposed development of filling in two hollow sections of field with 755m<sup>3</sup> of soils (within 12-25m of the River Lee and 8m from road drain on eastern side) at this location in respect to the proper planning and sustainable development of the area, but rather whether or not the proposed development falls within the scope of exempted development.

### **6.1 Development**

The first issue for consideration is whether or not the matter at hand is ‘development’.

‘Development’ as defined in the Act (3)(1) comprises two possible chief components: ‘the carrying out of any works on, in, over or under land’, or ‘the making of any material change in the use of any structures or other land’. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

The proposed infill of two hollow sections of a field with 755m<sup>3</sup> of subsoil for recontouring is considered works on land, and so, constitutes development.

### **6.2 Exempted development**

The issue for consideration is whether or not the matter at hand is exempted development.

I note that one of the planning permissions referenced in the application, 18/5297, relates to the demolition of a dwelling. Information provided implies that the fill proposed will exclude waste from the demolition as highlighted in the copy of waste docketts from Conhor Construction Ltd provided (description of waste concrete, mixed soil and stone with origin Lee Road). The submission also indicates that the soil also relates to this application site.

There are no articles within the Regulations which confirm the proposed development to be exempted development. The applicant has not put forward any indication of the provisions, of the Act or Regs, they believe exempts the proposed development from the requirement for planning permission.

Review of the relevant legislation indicates that certain land improvement works for the purposes of drainage for agriculture are exempt. It is unclear from information provided:

- whether or not the two hollow areas are classified as wetland,
- what is the extent of two hollow areas (in Hectares),
- if additional soils will be required for the proposed fill outside of lands within the applicants ownership, or
- if the site forms part of a farm holding.

## **7. ENVIRONMENTAL ASSESSMENT**

Environmental considerations beyond Natura 2000 sites:

- part of the site is designated as the Lee Valley proposed Natural Heritage Area,
- site adjoins section of River Lee protected under the Salmonid Regulations, and
- proposed infill works would result in the loss of 755m<sup>3</sup> of flood storage.

### **7.1 Screening for Environmental Impact Assessment**

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location may have significant effects on the environment, given the above considerations. Accordingly, it is considered that an environmental impact statement screening would be required to be submitted.

### **7.2 Screening for Appropriate Assessment**

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the Habitats Directive, the Appropriate Assessment Guidelines for Planning Authorities 2009 (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058).

I note that there is a hydrological link between the subject site, which is bounded on its southern side with the River Lee, and both the Cork Harbour SPA and the Great Island Channel cSAC.

Please see Screening Report on the next page.

<b>STEP 1 - Description of the project</b>				
(a)	File Reference No:	R665/21		
(b)	Brief description of the project or plan:	The raising of lands by the importation of 755m <sup>3</sup> of soils		
(c)	Brief description of site characteristics:	Site is a low-lying field on the northern side of the River Lee, within an area identified as Flood Zone A and a proposed Natural Heritage Area and immediately adjoining section of Salmonid River		
(d)	Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW			
(e)	Response to consultation			
<b>STEP 2 - Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives</b>				
European Site (code)	List of Qualifying Interest / Special Conservation Interests	Distance from proposed development (km)(2)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Cork Harbour SPA (site code 004030)	Little Grebe ( <i>Tachybaptus ruficollis</i> ) [A004] Great Crested Grebe ( <i>Podiceps cristatus</i> ) [A005] Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Grey Heron ( <i>Ardea cinerea</i> ) [A028] Shelduck ( <i>Tadorna tadorna</i> ) [A048] Wigeon ( <i>Anas penelope</i> ) [A050] Teal ( <i>Anas crecca</i> ) [A052] Pintail ( <i>Anas acuta</i> ) [A054] Shoveler ( <i>Anas clypeata</i> ) [A056] Red-breasted Merganser ( <i>Mergus serrator</i> ) [A069] Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130]	9.7km	River Lee – on southern boundary of site	Y

	<p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Lapwing (<i>Vanellus vanellus</i>) [A142]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Common Gull (<i>Larus canus</i>) [A182]</p> <p>Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Wetland and Waterbirds [A999]</p>			
Great Island SAC (site code 001058)	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]</p>	14.1	River Lee – on southern boundary of site	Y
<b>STEP 3 - Assessment of Likely Significant Effects</b>				
<b>(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings</b>				
<p>Construction phase e.g. Vegetation clearance / Demolition / Surface water runoff from soil Excavation/infill/ landscaping (including borrow pits) / Dust, noise, vibration / Lighting disturbance / Impact on</p>	<p>Construction phase in this instance relates to the act of importation of soil onto the site, from across the Road, within the same land ownerships as the applicant. It is likely that whatever materials are brought to the site, there is potential runoff directly</p>			

<p>undewater/dewatering / Storage of excavated/construction materials / Access to site / Pests</p>	<p>into the River Lee and could potentially be carried to the SAC and SPA sites downstream.</p>
<p><b>Operational phase e.g.</b>  Direct emission to air and water / Surface water runoff containing contaminant or sediment / Lighting disturbance / Noise/vibration / Changes to water/groundwater due to drainage or abstraction / Presence of people, vehicles and activities / Physical presence of structures (e.g. collision risks) / Potential for accidents or incidents</p>	<p>The importation of 755m<sup>3</sup> of soils would displace water during flood events.</p> <p>OPW Flood Risk Management Guidelines state:</p> <p><b>“Why is land-raising not an easy option? Even in a defended floodplain, land-raising may reduce the potential amount of flood storage or affect a flood-flow route, with consequent effects on flood risk elsewhere.</b></p> <p>During a flood event that can be contained by the defences, land-raising behind those defences may have little or no impact. However, should overtopping or a breach occur (or the defences be by-passed by flood waters), land-raising could adversely affect the surrounding low-lying areas by causing areas to flood that would not have flooded previously due to loss of floodplain storage. <b>The beneficial effects of land-raising should therefore be balanced against potential increased flood risk elsewhere.</b>”</p> <p>CFRAMS mapping on <a href="http://www.floodinfo.ie">www.floodinfo.ie</a>, the equivalent 1%AEP fluvial flood level near this site (ref. node 8LEE_7882, adjacent to the downstream end of the site) is estimated at 6.67mOD. With reference to the below sections through the site, the existing ground levels range from 4.5mOD to 5.5mOD. <b>It is very likely this site will be flooded, and the current “hollows” mobilised as flood storage, on a regular basis. The proposed works would effectively lose 755m<sup>3</sup> of flood storage.</b></p> <p>Climate Change will result in more frequent weather events including heavy rainfall. The proposed relocation of flood storage would exacerbate such impacts.</p>

	<p>Changes in the river system have potential to impact upon the European sites downstream.</p>
<p><b>In combination / other</b></p>	<p>The site forms part of the Lee Catchment Flood Risk Assessment and Management Study. The infill of 755m<sup>3</sup> of soils would result in the loss of 755m<sup>3</sup> of flood storage.</p>
<p><b>(b) Describe any likely changes to the European Site</b></p>	
<p>Examples of the type of changes to give consideration to include:</p> <p>Reduction or fragmentation of habitat area / Disturbance to QI species / Habitat or species fragmentation / Reduction or fragmentation in species density / Changes in key indicators of conservation status value (water or air quality etc.) / Changes to areas of sensitivity or threats to QI / Interference with the key relationships that define the structure or ecological function of the site</p>	<p>The application site is approximately 10.5km due west of Cork Harbour SPA.</p> <p>The site is not located adjacent to or within a European site, however as there is a direct hydrological link from the site to both the SAC and SPA, there is potential direct impact of disturbance or injury of habitat or species.</p> <p>It is not clear if the subject site, a low lying field beside the River Lee, is an ex-situ site for the QI bird species in the Cork Harbour SPA. Further information would be required to establish the ecological significance of the site.</p> <p>It is not clear if the soil contains invasive species which may impact the species habitat.</p> <p>It is not clear if the relocation of flood storage would impact the SAC or SPA. Further information would be required to clarify such.</p>
	<p>There is potential for sediment and phosphorous discharged into the River Lee would impact:</p> <p>a) the water quality, and</p> <p>b) adjoining Salmonid River (protected under Salmonid River Regs (S.I. 293 only); which has potential to indirectly impact Natura 2000 species in combination with potential direct impact on both proposed Natural Heritage Area Lee Valley.</p>

	It is unclear if the works would impact the proposed Natural Heritage Area Lee Valley and indirectly impact the SAC or SPA.
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**(c) Are ‘mitigation’ measures necessary to reach a conclusion that likely significant effects can be ruled out at screening? (Select as appropriate)**

Yes - In order to avoid impacts on the status of the European Sites, there are several forms of mitigation measures proposed within the ‘Proposed Fill Natura Site Screening Report’ including:

To avoid risk of surface run-off and increasing sedimentation, increasing phosphorous and nutrient loads, erosion of banks, impacting water quality and Salmonid River:

- Buffer area of 8m from drain running along eastern boundary of site connecting road drainage to River Lee,
- Buffer area of 12-25m from River Lee, and
- Earth works (transportation of and grading works) to be carried out during dry periods.

To avoid water pollution with oils or lubricants for machinery vehicles / accidental spillage:

- All equipment will be refuelled, maintained and stored off-site.

Suggested additional mitigation:

- Visual inspection of wildlife activity prior to works commencing, and
- Increase of riparian vegetation would be important to bind banks, reduce potential erosion and enhance habitat connectivity.

**STEP 4 - Screening Determination Statement**

The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is not likely to have significant effects on European site(s) in view of its conservation objectives

On the basis of the information submitted, it is not possible to ascertain whether the proposed importation of soil is or is not likely to have significant effects on European sites. The mitigation measures above cannot be considered as part of the Appropriate Assessment at Screening stage.

Conclusion:	Select Y or N	Recommendation: (delete as appropriate)
(i) It is clear that there is <b>no</b> likelihood of significant effects on an European site	N	<del>The proposal can be screened out—</del> Appropriate assessment not required
(ii) It is uncertain whether the proposal will have a significant effect on a European site	Y	Appropriate Assessment would be required.
(iii) Significant effects are likely	Unclear - TBC	Request NIS

		Refuse planning permission <input type="radio"/>
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This screening report has concluded that it is not possible, based on the information provided, to ascertain whether the proposed development would have a significant effect on European sites downstream of the site. As this report has concluded elsewhere that the proposed development is **not exempted development** it is not appropriate to issue a request for further information.

## 8. Conclusion

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed infill of 755m<sup>3</sup> of soil is development and is **not exempted development**.

## 9. Recommendation

In view of the above and having regard to —

- Sections 2, 3, 4 and 177U of the Planning and Development Act 2000 (as amended), and
- Articles 6, 8 and 9 of the Planning and Development Regulations 2001 (as amended),

it is considered that proposed raising of lands at Mount Dessert, Lee Road, Carrigrohane **Is Development** and is **Not Exempted Development** for which Appropriate Assessment is required.

Kind regards,  
Hugh Killen  
Executive Planner, Development Management,  
Community, Culture and Place-Making, Cork City Council



PLANNER'S REPORT Ref. R665 /21		Cork City Council Culture, Community and Placemaking
Application type	Section 5 Declaration	
Description	<i>See section 2 below</i>	
Location	Mount Desert, Lee Road	
Applicant	Kevin Fitzgerald	
Date	18/05/2022	
Recommendation	<i>Is Development and Is Not Exempted Development</i>	

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

### 1. Requirements for a Section 5 Declaration

Section 5(1) of the Planning and Development Act 2000 as amended states,

*5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.*

The requirements for making a section 5 declaration are set out in the Act.

### 2. The Question before the Planning Authority

In framing the question to the planning authority, the applicant states in Q2 of the application form:

*I am applying for a section 5 declaration to carry out the following work on my land at Mount Desert, Lee Rd, Carrigrohane Cork and outlined on the attached map.*

*Scope of works: Raise two areas of land by 0.95 mts as outline on the attached map together with survey of existing levels. I also enclose photographs indicting the areas where the proposed work is to be carried out and how my hand is impacted. The revision in 2010 (approx. date) of how the Inniscarra Dam operates has resulted in the river flowing at full bore for far greater and longer periods prior to this date. This has resulted in water lodging on my land a lot more frequently at the locations indicated which as resulting in the existing levels of my land subsiding. The raising of the land by 0.95 mts will eliminate this issue and help to restore the land to its original levels. The land has a gravel sub base which compounds the issue. This was established during a county wide hydrology survey some years ago. The material to be used to facilitate the work will come from my land on the opposite side of the road. This excavation was necessary to facilitate the building of a house for my son Bryan and further excavation now to build a house for my wife and myself Planning references 16/07114 and 18/05297. I own the land on both sides of the road as indicated on the enclosed map.*

### 3. Site Description

The property in question is low lying field located on the southern side of the Lee Road, between the road and the River Lee.

#### 4. Planning History

There are no planning applications associated with the subject site. The Section 5 Application Form indicates that there are two permissions associated with lands in the same ownership on the opposite side of the Lee Road. These are as follows:

18/5297	Demolition of an existing single storey detached dwellinghouse and the construction of a new single storey detached dwellinghouse including a new waste water treatment unit, percolation area and all associated site works
Outcome	Granted 27/09/2018
16/7114	The construction of a two storey detached dwelling with split level upper floor including a new site entrance, a waste water treatment unit, percolation area and all associated site works
Outcome	Granted 16/05/2017

I note that neither of the site location maps, submitted with of these planning applications, showed the land that is the subject of this Section 5 application as being within the same ownership / control of the applicants.

#### 5. Legislative Provisions

##### 5.1 The Act

###### Section 2(1),

*"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.*

###### Section 3(1),

*In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or 'the making of any material change in the use of any structures or other land'*

###### Section 4(1),

*The following shall be exempted developments for the purposes of this Act—*

*(1) – Development consisting of the carrying out of any of the works referred to in the Land Reclamation Act, 1949, not being works comprised in the fencing or enclosure of land which has been open to or used by the public within the ten years preceding the date on which the works are commenced*

*(Preamble to Land Reclamation Act 1949 – An act to authorise the Minister for Agriculture to carry out land reclamation, field drainage and other works for the improvement of agricultural holdings and to provide for the payment by the occupiers of a contribution towards the cost of those works and for other matters relating to the matters aforesaid.)*

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001-2013.

###### Section 177U (9) (screening for appropriate assessment)

*In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.*

**The Regulations****Article 6**

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1

**Article 8**

Works specified in a drainage scheme confirmed by the Minister for Finance under Part II of the Arterial Drainage Act 1945 (No. 3 of 1945) or the Arterial Drainage (Amendment) Act 1995 (No. 14 of 1995), carried out by, on behalf of, or in partnership with, the Commissioners, with such additions, omissions, variations and deviations or other works incidental thereto, as may be found necessary by the Commissioners or their agent or partner in the course of the works, shall be exempted development.

(B) Works consisting of field drainage for agriculture, other than drainage and/or reclamation of wetlands, shall be exempted development

(C) Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development.

**Article 9 (1)**

Development to which article 6 relates shall not be exempted development for the purposes of the Act

(a) if the development would –

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

**Schedule 2, Part 1****Exempted Development – General – Class 6**

(a) The construction of any path, drain or pond or the carrying out of any landscaping works within the curtilage of a house.

(b) Any works within the curtilage of a house for—

(i) the provision to the rear of the house of a hard surface for use for any purpose incidental to the enjoyment of the house as such, or,

(ii) the provision of a hard surface in the area of the garden forward of the front building line of the house, or in the area of the garden to the side of the side building line of the house, for purposes incidental to the enjoyment of the house as such.

**6. ASSESSMENT**

It should be stated at the outset that the purpose of this report is not to determine the acceptability or otherwise of the wake park at this location in respect to the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so falls within the scope of exempted development.

**6.1 Development**

The first issue for consideration is whether or not the matter at hand is ‘development’.

'Development' as defined in the Act (3)(1) comprises two possible chief components: 'the carrying out of any works on, in, over or under land', or 'the making of any material change in the use of any structures or other land'. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

I note that there is a general exemption for landscaping works set out in Class 6 of Part 1 of Schedule 2 in the Regs. This however relates only to lands within the curtilage of the a house, which is not the case for the subject lands.

It also states in section 3(2)(b) that:

(2) For the purposes of subsection (1) and without prejudice to the generality of that subsection—

(b) where land becomes used for any of the following purposes—

- (i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,
- (ii) the storage of caravans or tents, or
- (iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders' waste, rubbish or debris,

the use of the land shall be taken as having materially changed.

'Works' is defined in section 2(1) of the Act as 'the carrying out of any works on, in, over, or under land' including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal, and in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.'

I consider that the proposed development, which may include the deposit of builders waste from the demolition of a residence permitted under permission 18/5297, and the raising of the land constitutes development.

## **6.2 Exempted development**

The next issue for consideration is whether or not the matter at hand is exempted development.

The applicant has not put forward any indication of the provisions, of the Act or Regs, they believe exempts the proposed development from the requirement for planning permission. My review of the relevant legislation indicates that certain land improvement works for the purposes of arterial drainage or agriculture are exempt. The subject proposal does not accord with these exemptions.

I note that one of the planning permissions referenced in the application, 18/5297, relates to the demolition of a dwelling. It is not clear whether the fill proposed will include waste from the demolition. If this is the case, then a material change of use may have taken place for which there is no exemption.

## **7. ENVIRONMENTAL ASSESSMENT**

### **7.1 Screening for Environmental Impact Assessment**

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly, it is considered that an environmental impact statement is not required to be submitted.

***Screening for Appropriate Assessment***

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058).

I note that there is a hydrological link between the subject site, which is bounded on its southern side by the River Lee, and both the Cork Harbour SPA and the Great Island Channel cSAC.

Please see Screening Report on the next page.

<b>STEP 1</b>				
<b>Description of the project</b>				
(a) File Reference No:		R665/21		
(b) Brief description of the project or plan:		The raising of lands by the importation of materials		
(c) Brief description of site characteristics:		Site is a low lying field on the northern side of the River Lee		
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW		N/A		
(e) Response to consultation		N/A		
<b>STEP 2</b>				
<b>Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives</b>				
European Site (code)	List of Qualifying Interest / Special Conservation Interests	Distance from proposed development (km)(2)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Cork Harbour SPA (site code 004030)	Little Grebe ( <i>Tachybaptus ruficollis</i> ) [A004]	9.7km	River Lee – on southern boundary of site	Y
	Great Crested Grebe ( <i>Podiceps cristatus</i> ) [A005]			
	Cormorant ( <i>Phalacrocorax carbo</i> ) [A017]			
	Grey Heron ( <i>Ardea cinerea</i> ) [A028]			
	Shelduck ( <i>Tadorna tadorna</i> ) [A048]			
	Wigeon ( <i>Anas penelope</i> ) [A050]			
	Teal ( <i>Anas crecca</i> ) [A052]			
	Pintail ( <i>Anas acuta</i> ) [A054]			
	Shoveler ( <i>Anas clypeata</i> ) [A056]			
	Red-breasted Merganser ( <i>Mergus serrator</i> ) [A069]			
	Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130]			
	Golden Plover ( <i>Pluvialis apricaria</i> ) [A140]			
	Grey Plover ( <i>Pluvialis squatarola</i> ) [A141]			
	Lapwing ( <i>Vanellus vanellus</i> ) [A142]			
	Dunlin ( <i>Calidris alpina</i> ) [A149]			
	Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156]			

	<p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curllew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Common Gull (<i>Larus canus</i>) [A182]</p> <p>Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Wetland and Waterbirds [A999]</p>			
Great Island SAC (site code 001058)	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]</p>	14.1	River Lee – on southern boundary of site	Y
<b>STEP 3</b> <b>Assessment of Likely Significant Effects</b>				
<b>(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings</b>				
<b>Construction phase e.g.</b> Vegetation clearance / Demolition / Surface water runoff from soil Excavation/infill/ landscaping (including borrow pits) / Dust, noise, vibration / Lighting disturbance / Impact on groundwater/dewatering / Storage of excavated/construction materials / Access to site / Pests		Construction phase in this instance relates to the act of importation of materials onto the site. No detail has been provided regarding the volume of material. No information has been provided regarding the nature of the material, other than the fact that it will come from the site of two permissions one to include the demolition of an existing residence. It is likely that whatever materials are brought to the site will runoff directly into the River Lee and could potentially be carried to the SAC and SPA sites downstream.		
<b>Operational phase e.g.</b> Direct emission to air and water / Surface water runoff containing contaminant or sediment / Lighting disturbance / Noise/vibration / Changes to water/groundwater due to drainage or abstraction / Presence of people, vehicles and activities / Physical presence of structures (e.g. collision risks) / Potential for accidents or incidents		The importation of material will displace water during flood events. The subject site forms part of the flood plain for the River Lee and floods regularly. Changes in the river system have the potential to impact upon the European sites downstream.		
<b>In combination / other</b>		There are no projects or plans in the vicinity of the		

	subject site that would lead to cumulative effects.	
<b>(b) Describe any likely changes to the European Site</b>		
Examples of the type of changes to give consideration to include: Reduction or fragmentation of habitat area / Disturbance to QI species / Habitat or species fragmentation / Reduction or fragmentation in species density / Changes in key indicators of conservation status value (water or air quality etc.) / Changes to areas of sensitivity or threats to QI / Interference with the key relationships that define the structure or ecological function of the site	The application site is not located adjacent or within a European site, therefore there is no risk of habitat loss or fragmentation or any effects on QI species in-situ.  It is not clear if the subject site, a low lying field beside the River Lee, is an ex-situ site for the QI bird species in the Cork Harbour SPA. Further information would be required to establish the ecological significance of the site.	
<b>(c) Are ‘mitigation’ measures necessary to reach a conclusion that likely significant effects can be ruled out at screening? (select as appropriate)</b>		
Yes	No mitigation measures have been set out. These would however be necessary, if the materials brought to the site could impact on the status of the European Sites and have the potential to travel downstream by the adjoining river.  Further information is required regarding the nature of the materials to be imported. If these are potentially harmful then mitigation measures must be implemented.	
<b>STEP 4</b>		
<b>Screening Determination Statement</b>		
The assessment of significance of effects: Describe how the proposed development (alone or in-combination) is/is not likely to have significant effects on European site(s) in view of its conservation objectives		
On the basis of the information submitted, it is not possible to ascertain whether the proposed importation of soil is or is not likely to have significant effects on European sites.		
<b>CONCLUSION:</b>		
	Select Y or N	Recommendation: (delete as appropriate)
(i) It is clear that there is no likelihood of significant effects on an European site	N	The proposal can be screened out –  Appropriate assessment not required
(ii) It is uncertain whether the proposal will have a significant effect on a European site	Y	Request further information to complete screening  <del>Request NIS</del>  <del>Refuse planning permission</del>



Significant effects are likely	n/a	Request NIS Refuse planning permission
--------------------------------	-----	---

This screening report has concluded that it is not possible, based on the information provided, to ascertain whether the proposed development would have a significant effect on European sites downstream of the site. As this report has conclude elsewhere that the proposed development is not exempted development it is not appropriate to issue a request for further information.

#### 8. CONCLUSION

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed altered layout is development and is not exempted development

#### 9. RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3, 4 and 177U of the Planning and Development Act 2000 (as amended), and
- Articles 6, 8 and 9 of the Planning and Development Regulations 2001 (as amended),

It is considered that proposed raising of lands at Mount Dessert, Lee Road, Carrigrohane Is Development and is **Not Exempted Development** for which appropriate assessment is required.



Martina Foley  
Executive Planner



**COMHAIRLE CATHRACH CHORCAÍ**  
**CORK CITY COUNCIL**

Community, Culture & Placemaking Directorate,  
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail [planning@corkcity.ie](mailto:planning@corkcity.ie)  
Fón/Tel: 021-4924709  
Líonra/Web: [www.corkcity.ie](http://www.corkcity.ie)

**SECTION 5 DECLARATION APPLICATION FORM**  
under Section 5 of the Planning & Development Acts 2000 (as amended)

**1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT**

Mount Desert Lee Road, Cork T23,XVF2

**2. QUESTION/ DECLARATION DETAILS**

**PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:**

*Sample Question: Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?*

*Note: only works listed and described under this section will be assessed under the section 5 declaration.*

Is the raising of a hollow section of land by less than 1 m with native soil and subsoil from existing lands of the applicant considered to be exempted development

-----  
-----  
-----  
-----

**ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:**  
(Use additional sheets if required).

Since the 2009 flooding of the River Lee, a new control regime has been in operation at the ESB's Inniscarra Hydroelectric Dam resulting in the river running at full bore for a prolonged and more frequent basis. This has resulted in two hollow sections of the land forming, which now need to be filled, to ensure no further subsidence of the lands can occur.

-----  
-----  
-----  
-----  
-----

DEVELOPMENT MANAGEMENT  
26 APR 2022  
CORK CITY COUNCIL

3. Are you aware of any enforcement proceedings connected to this site?  
 If so please supply details: No

4. Is this a Protected Structure or within the curtilage of a Protected Structure?  No

If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority?

5. Was there previous relevant planning application/s on this site?   
 If so please supply details:

No

**6. APPLICATION DETAILS**

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	N/A
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including those for which planning permission has been obtained)?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide floor areas. (sq m)
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle)	Proposed/existing use (please circle)
-----	-----
-----	-----
-----	-----

**7. LEGAL INTEREST**

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question		
If you are not the legal owner, please state the name and address of the owner if available		

8. I / We confirm that the information contained in the application is true and accurate:

Signature:   
 Date: 26/04/2022

**CONTACT DETAILS**

**9. Applicant:**

<b>Name(s)</b>	Kevin Fitzgerald
<b>Address</b>	Mount Desert ----- Lee Road ----- Cork -----

**10. Person/Agent acting on behalf of the Applicant (if any):**

<b>Name(s):</b>	Ross O'Donovan	
<b>Address:</b>	Clyde House, ----- Brian Boru Street, ----- Cork, T23FR90 -----	
<b>Telephone:</b>	[REDACTED]	
<b>E-mail address:</b>	[REDACTED]	
Should all correspondence be sent to the above address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

**11. ADDITIONAL CONTACT DETAILS**

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

Tel. No. [REDACTED]

Mobile No. [REDACTED]

Email Address: [REDACTED]

For Office Use Only:  File Ref. No. _____
---

#### **ADVISORY NOTES:**

The application must be accompanied by the required fee of €80

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

*The application should be sent to the following address:*

**The Development Management Section, Community, Culture & Placemaking  
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.**

- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

*The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.*

#### **DATA PROTECTION**

*"Cork City Council is committed to fulfilling its obligations imposed by the Data Protection Acts 1988 to 2018 and the GDPR. Our privacy statement and data protection policy is available at <https://www.corkcity.ie/en/council-services/public-info/gdpr/>*

*We request that you read these as they contain important information about how we process personal data.*

Our Ref: KM/168.  
Your Ref:

26<sup>th</sup> April 2022.

**PLANNING DEPARTMENT,**  
Cork City Council,  
City Hall,  
Anglesea Street,  
CORK

Dear Sir/Madam,

**RE: KEVIN FITZGERALD – SECTION 5 DECLARATION FOR FILLING OF  
LANDS AT MOUNT DESERT, LEE ROAD, CORK**

---

Please find enclosed herewith 2 No. copies of all relevant drawings and documentation with respect to the above Section 5 Declaration application, for your information.

My client wishes to fill 2 existing hollow sections on his lands with native soils and subsoils from his lands. Please note that an original dwelling on his lands was previously demolished and all waste disposed of by a licensed contractor to a licensed waste facility. Please see attached certs.

The volumes of filling material are detailed in the Natura Screening Assessment and are also detailed on the site sections.

Also find herewith cheque for €80.00 being applicable fee which you might please receipt at your earliest convenience.

---

**Engineering & Project Management Consultants**

Civil & Structural Engineering | Land & Building Surveys | Arbitration & Expert Witness | Legal Mapping | Sustainable Urban Drainage Design  
Planning & Design | Building Energy Rating | Health & Safety (PSDP) | Fire Safety Certification | Disability Access Certification

Registered in Ireland No.: 524054 Director: Ross O'Donovan BE, HDip., AppSc., MIF, ACI Arb.



Clyde House, Brian Boru St. Cork, Ireland

T. 021 4554040

M. 086 2520605

F. 021 4526802

E. info@jhk.ie

Should you have any queries, or should you require any further information, please do not hesitate to contact this office.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ross O'Donovan', written over a horizontal line.

ROSS O'DONOVAN. BE M.I.E.I

Encls.

1. Application Form
2. Site Location map.
3. Site Drawings and sections
4. Natura Site Screening Report.
5. Copy of Waste Certs for removal of original house

## Engineering & Project Management Consultants

Civil & Structural Engineering | Land & Building Surveys | Arbitration & Expert Witness | Legal Mapping | Sustainable Urban Drainage Design  
Planning & Design | Building Energy Rating | Health & Safety (PSDP) | Fire Safety Certification | Disability Access Certification

Registered in Ireland No. 524054 Director: Ross O'Donovan BE, HDip, AppSc., MIEI, AClArb





Conhor Construction Ltd  
Ballymichael,  
Lissarda,  
Co. Cork.

T: 0876834092  
E: Conhorconstrucion@gmail.com  
www.conhorconstruction.com

### Waste Docket

Date: 21-01-2021

Docket No: 10023

Delivery to: Garry o Leary

Job Type: Collection

Vehicle Reg: 191-C-6888

Origin: Lee road

Destination: Conhor Construction Aharla - WFP-CK-14-0137-01

Description	Basis of Charge	Qty
Concrete - 170101	Tipper Load	1.00 Loads

Signature:

DH





Conhor Construction Ltd  
Ballymichael,  
Lissarda,  
Co. Cork.

Tel: 0876834092  
Email: Conhorconstrucion@gmail.com

### Waste Docket

Date: 21-01-2021

Docket No: 10024

Delivery to: Garry o Leary

Job Type: Collection

Vehicle Reg: 191-C-6888

Origin: Lee road

Destination: Conhor Construction Aheria - WFP-CK-14-0137-01

Description	Basis of Charge	Qty
Concrete - 170101	Tipper Load	1.00 Loads

Signature:

DH





Conhor Construction Ltd  
Ballymichael,  
Lissarda,  
Co. Cork.

Tel: 0876834092  
Email: Conhorconstruction@gmail.com  
Website: www.conhorconstruction.com

## Waste Docket

Date: 21-01-2021

Docket No: 10025

Delivery to: Garry o Leary

Job Type: Collection

Vehicle Reg: 191-C-6888

Origin: Lee road

Destination: Conhor Construction Aherla - WFP-CK-14-0137-01

Description	Basis of Charge	Qty
Concrete - 170101	Tipper Load	1.00 Loads

Signature:

DH





Conhor Construction Ltd  
Ballymichael,  
Lissarda,  
Co. Cork.

T: 0876834092  
E: Conhorconstrucion@gmail.com  
conhorconstruction.ie

## Waste Docket

Date: 21-01-2021 Docket No: 10026  
Delivery to: Garry o Leary  
Job Type: Collection  
Vehicle Reg: 161-C-16144  
Origin: Lee road  
Destination: Conhor Construction Aherle - WFP-CK-14-0137-01

Description	Basis of Charge	Qty
Mixed Soil & Stone/Concrete 170101	Tipper Load	1.00 Loads

Signature:

DH







Conhor Construction Ltd

Ballymichael,  
Lissarda,  
Co. Cork.

Tel: 0876834092  
Email: Conhorconstrucion@gmail.com  
Website: www.conhorconstruction.com

## Waste Docket

Date: 21-01-2021

Docket No: 10027

Delivery to: Garry o Leary

Job Type: Collection

Vehicle Reg: 161-C-16144

Origin: Lee road

Destination: Conhor Construction Aheria - WFP-CK-14-0137-01

Description	Basis of Charge	Qty
Mixed Soil & Stone/Concrete 170101	Tipper Load	1.00 Loads

Signature:

DH



**WARRIUS LIM**  
 GREEN,  
 CO. WATERFORD  
 24-96453  
 86 3833182

**Received In**

Permit No:  
 WFP - WCCC - 18-0004-01

ORDER No.

Processed & Recycled of Waste Types	
Concrete E.W.C. 17 01 01	
Brick E.W.C. 17 01 02	
Tiles & Ceramics E.W.C. 17 01 03	
Mixture of Concrete, Bricks, Tiles & Ceramics E.W.C. 17 01 07	
Bituminous Material E.W.C 17 03 02	

Customer's Name  
*Carroll Lee*

Site Address

Drivers Name  
*Carroll Lee*

Collection Permit Number

VEHICLE REG.

WEIGHMAN'S SIGNATURE

CO. WATERFORD  
 024-96453  
 086 3833182

**Receive**

Permit No:  
 WFP - WCCC - 18-0004-01

ORDER No.

**LOAD INSPECTED**

Processed & Recycled of Waste Types	
Concrete E.W.C. 17 01 01	
Brick E.W.C. 17 01 02	
Tiles & Ceramics E.W.C. 17 01 03	
Mixture of Concrete, Bricks, Tiles & Ceramics E.W.C. 17 01 07	
Bituminous Material E.W.C 17 03 02	

Customer's Name  
*Carroll Lee*

Site Address

Drivers Name  
*Carroll Lee*

Collection Permit Number

VEHICLE REG.

WEIGHMAN'S SIGNATURE



WEIGHMANS LTD

KEREEN,  
CO. WATERFORD  
024-96453  
086 3833182

Received In

Permit No: WFP - WCCC - 18-0004-01	
ORDER No.	
Processed & Recycled of Waste Types	
Concrete E.W.C. 17 01 01	✓
Brick E.W.C. 17 01 02	
Tiles & Ceramics E.W.C. 17 01 03	
Mixture of Concrete, Bricks, Tiles & Ceramics E.W.C. 17 01 07	
Bituminous Material E.W.C 17 03 02	

Customer's Name

Site Address

Drivers Name

Collection Permit Number

VEHICLE REG.

WEIGHMANS SIGNATURE

KEREEN,  
CO. WATERFORD  
024-96453  
086 3833182

Received

Permit No: WFP - WCCC - 18-0004-01	
ORDER No.	
<b>LOAD INSPECTED</b>	
Processed & Recycled of Waste Types	
Concrete E.W.C. 17 01 01	✓
Brick E.W.C. 17 01 02	
Tiles & Ceramics E.W.C. 17 01 03	
Mixture of Concrete, Bricks, Tiles & Ceramics E.W.C. 17 01 07	
Bituminous Material E.W.C 17 03 02	

Customer's Name

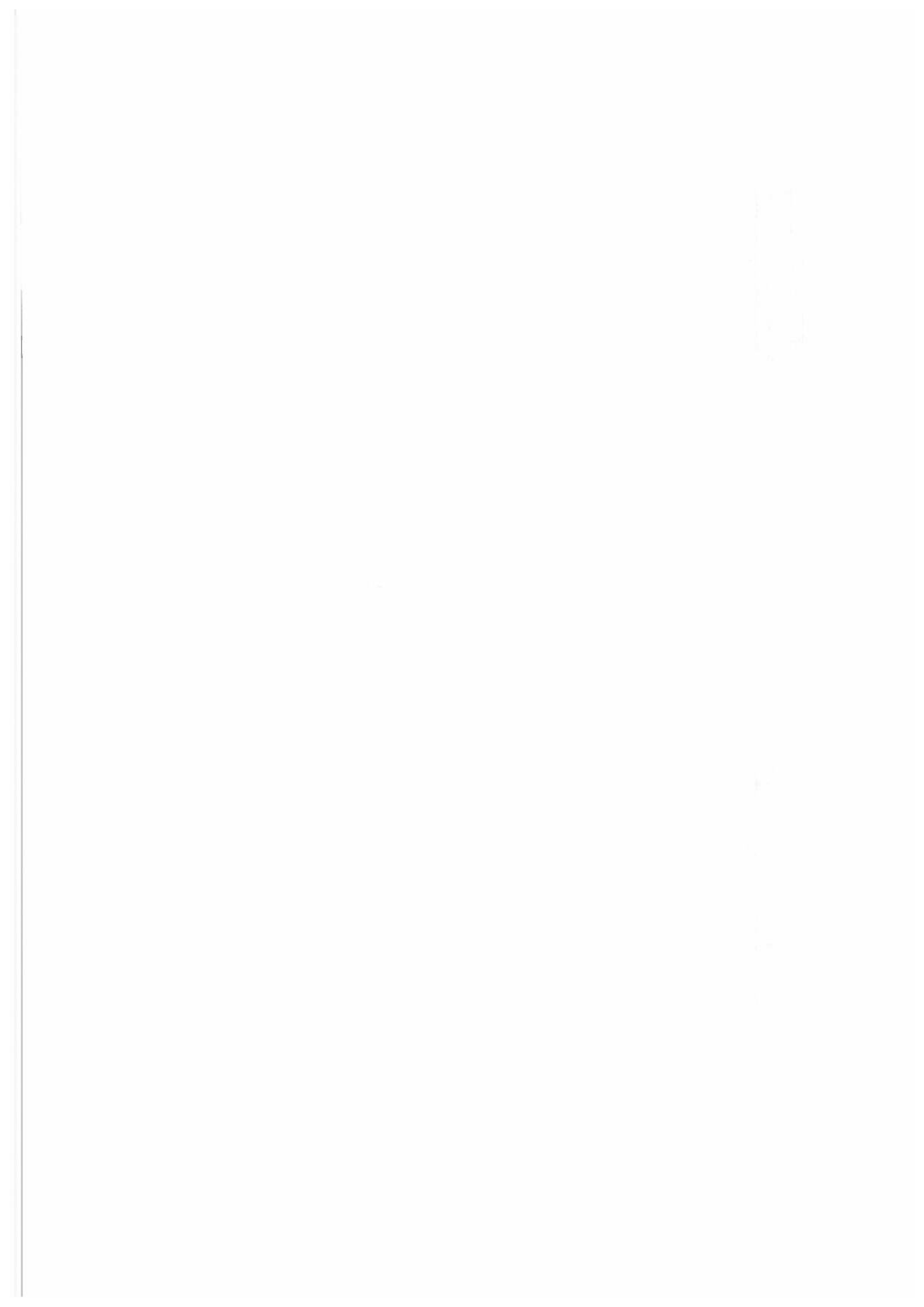
Site Address

Drivers Name

Collection Permit Number

VEHICLE REG.

WEIGHMANS SIG



# Export WTF

## WTF Summary

WTF Number:	C048660
Status:	Completed
Notifier Name:	Asbestaway Ireland Limited

## Notifier Address

Address Line 1:	6 Westlink Business Park
Address Line 2:	Doughcloyne Industrial Estate
Address Line 3:	Wilton
Address Line 4:	Cork
County:	Cork County
Country:	Ireland
Consignee:	Rilta Environmental Ltd (W0185-01)

## Notifier - Carrier Part

Date Shipped:	02/12/2020
---------------	------------

## Quantity Shipped

Tonnes:	
m3:	
Waste Generator (if Different from Notifier):	Declim Ltd. T23 XVF2 (Kevin Fitzgerald)
Type of Collections:	Single Collection
EWC Codes:	17 06 05* Construction materials containing asbestos (18)
Comment:	13-11265-02 Wear PPE
Waste Description:	Corrugated rof sheets & rainwater goods
Physical Characteristics:	Solid
Special Handling Requirements:	Do Not Inhale Dust

## Consignee Part

Date Received:	02/12/2020
----------------	------------

## Quantity Shipped

Tonnes:	0.1
m3:	
EWC Codes:	
Comment:	JOB REF: 178225
Comments on EWC Codes Differences:	
Vehicle Registration Number:	132KE2377
Vehicle Type:	ARTIC
Trailer/Container Number Received:	N/A

## Disposal/Recovery Operation(s)

D-Codes:	D15 Storage pending any of the operations numbered D1-D12
R-Codes:	





# Export WTF

## WTF Summary

WTF Number:	C048660
Status:	Completed
Notifier Name:	Asbestaway Ireland Limited

## Notifier Address

Address Line 1:	6 Westlink Business Park
Address Line 2:	Doughcloyne Industrial Estate
Address Line 3:	Wilton
Address Line 4:	Cork
County:	Cork County
Country:	Ireland
Consignee:	Rilta Environmental Ltd (W0185-01)

## Notifier - Carrier Part

Date Shipped:	02/12/2020
---------------	------------

## Quantity Shipped

Tonnes:	
m3:	
Waste Generator (if Different from Notifier):	Declim Ltd. T23 XVF2 (Kevin Fitzgerald)
Type of Collections:	Single Collection
EWC Codes:	17 06 05* Construction materials containing asbestos (18)
Comment:	13-11265-02 Wear PPE
Waste Description:	Corrugated roof sheets & rainwater goods
Physical Characteristics:	Solid
Special Handling Requirements:	Do Not Inhale Dust

## Consignee Part

Date Received:	02/12/2020
----------------	------------

## Quantity Shipped

Tonnes:	0.1
m3:	
EWC Codes:	
Comment:	JOB REF: 178225
Comments on EWC Codes Differences:	
Vehicle Registration Number:	132KE2377
Vehicle Type:	ARTIC
Trailer/Container Number Received:	N/A

## Disposal/Recovery Operation(s)

D-Codes:	D15 Storage pending any of the operations numbered D1-D12
R-Codes:	



# Lee Fields, Cork, Proposed Fill Natura Site Screening Report



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<b>2.Site Description</b>	<b>page 7</b>
<b>2.1 The project</b>	<b>page 8</b>
<b>3 Screening Methodology</b>	<b>page 13</b>
<b>3.1 The Project and Natura 2000 Baseline</b>	<b>page 14</b>
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## 1. Introduction

### Background and Requirement for Habitats Directive Assessment

I Jim Minogue have been commissioned by Mr Kevin Fitzgerald to prepare a Natura Impact Statement, under Article 6 of the EU Habitats Directive, for a proposal to deposit soil on fields adjoining the River Lee. The aim of this assessment is to screen for likely or potential or significant impacts on the Designated European Sites, under the EU Habitats Directive.

The EU Water Framework Directive is an important and ambitious piece of EU environmental legislation which aims at improving our water environment. It requires governments to take a new holistic approach to managing their waters. It applies to rivers, lakes, groundwater, estuaries and coastal waters. River Catchment Plans are an important element in managing our waterways, for the entire watershed.

Traditional methods of managing water flows are not suitable for ecological objectives being met. Modern thinking sometimes is in direct opposition to these traditional methods. Our waterways have multi-purpose utilities, rather than single objective drainage purposes. Changing climatic and land use conditions have also influenced river processes. Management techniques are governed by EU legislation and this has prime consideration in conducting the proposed works.



Photo 1. Site area, north of the River Lee and south of the Lee Road.

## 1.2 A note on surface water condition in Ireland

Any assessment taking in account designated habitats, has to consider the base levels of river conditions at the time that works are being planned, for the last number of years on a number of metrics Irish rivers have been deteriorating. The EPA is responsible for monitoring, assessing and reporting on the quality of rivers and lakes, it found in a 2020 publication that 43% of our rivers are in unsatisfactory condition, with 38% of sites having rising concentrations of nutrients. There has been a decline of water quality in 230 rivers. River Basin Plans are due to be updated from next year. Draft plans are available this year for the Lee Catchment. There is an urgency to reduce high nitrate levels in surface waters and this will be the focus of the next Nitrates Action Plan. Nitrate levels are too high in 47% of Irish Rivers, the Lee and many of the rivers in the south and south east of Ireland have high concentrations of both nitrates and phosphates.

The reformed Common Agricultural Policy will include measures to manage Riparian zones along river banks, it will also through encouragement by agricultural schemes and by limitations on total phosphate and nitrate levels used on farms attempt to reduce agricultural nutrient loads to rivers. The Irish Government has published a Ag-Climate roadmap for the sector which includes reduction in fertiliser, increases in organic farming and increased afforestation among other measures. The Paris accord and EU commitments to mitigate climate change effects also will focus attention on Irelands land use practices, as agriculture is responsible for 35% of Irelands greenhouse emissions.

Fifteen of the hottest years recorded have occurred in the last twenty years in Ireland with rain-fall 6 % higher in the period 1989 – 2018 than in the proceeding thirty years. Sea levels around the island are increasing by 2-3mm a year and there has been an increase in river flows across Ireland since the 1990 s. As the above illustrates land-use, legislative and environmental systems are in a state of change, while the baseline for Irish Rivers is deteriorating. With such an evolving environment, practises that were once practiced routinely cannot not be applied today.

The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. These habitats and species are listed in the Habitats and Birds Directives and Special Areas of Conservation and Special Protection Areas are designated to afford protection to the most vulnerable of them. These two designations are collectively known as the Natura 2000 network.

European and national legislation places a collective obligation on Ireland and its citizens to maintain habitats and species in the Natura 2000 network at favourable conservation condition. The Government and its agencies are responsible for the implementation and enforcement of regulations that will ensure the ecological integrity of these sites.

### 1.3 Requirement for Screening Assessment

The transposition of the EU Habitats Directive Assessment by the European Communities (Natural Habitats) Regulations 1997 – 2011 (referred to as the Habitat Regulations) provide the legal basis for the protection of habitats and species of European importance in Ireland.

The legislative protection of habitats and species provided by the Habitats Directive has been implemented in Ireland and throughout Europe through the establishment of a network of designated conservation areas known as the Natura 2000 (N2K) network.

The N2K network includes sites designated as Special Areas of Conservation (SACs), under the EU Habitats Directive and Special Protection Areas (SPAs) designated under the EU Birds Directive. SACs are designated in areas that support habitats listed on Annex I and/or species listed on Annex II of the Habitats Directive. SPAs are designated in areas that support: 1% or more of the all-Ireland population of bird species listed on Annex I of the EU Birds Directive; 1% or more of the population of a migratory species; and more than 20,000 waterfowl. Under the Habitat Regulations all designated sites are referred to as European Sites. It is noted that, under the Habitats Regulations, the term European Site includes cSACs as well as SACs.

Articles 6(1) & (2) of the Habitats Directive set out provisions for the conservation management of European Sites. Articles 6(3) and 6(4) of this Directive set out a series of procedural steps that test whether or not a plan or project is likely to affect a European Site. Article 6(3) also establishes the requirement for a HDA:

*“any plan or project not directly connected with or necessary to the management of the (Natura 2000) site but likely to have a significant effect thereon, either individually or in combination with other plans and projects, shall be subjected to appropriate assessment of its implications for the site in view of the site’s conservation objectives. In light of the conclusions of the assessment of the implication for the site and subject to the provisions of paragraph 4 (i.e Article 6(4)), the competent national authorities shall agree to the plan or project only after having ascertained that it will not affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public”.*

As such any project with the potential to result in likely significant effects, either individually or in combination with other plans or projects, upon the conservation objectives of a Natura 2000 site must undergo an assessment of its implications on relevant Natura 2000 sites. In order to establish whether or not a likely significant effects will arise as a result of the implementation of a project a Screening Assessment should be undertaken.

The proposed project is located adjacent to the River Lee, it is located upstream from the Great Island Channel SAC, it is further connected to the Cork Harbour SPA, these are the two designated sites that shall be considered for this screening.

The site is within 14km of the Ballymacoda SAC, Sovereign Islands SPA, Old Head of Kinsale SPA and Ballycotton Bay SPA. For the purpose of this screening report it is considered that only sites that are hydrologically connected to the rivers and waterways should be considered. The Gearagh SAC is located upstream of the site, so is not considered for this assessment.

It has been deemed necessary to screen this project for its potential to result in likely significant effects to the conservation objectives of these two Natura 2000 sites. The prime concern of this screening is on the water quality in the River Lee and any possible effects on conservation interests associated with it.

According to the EPA a waterbody is Not at Risk when it is achieving its environmental objective of either High or Good Status and that there is no evidence indicating that there is a trend towards status decline.

A waterbody can be considered as Review for the following three reasons:

- The waterbody does not have status assigned to it yet, it is referred to as an unassigned waterbody, and therefore there is not enough evidence to determine if it is At Risk or Not At Risk.
- The waterbody has shown some slight evidence or improvement, but more evidence is needed before it can be considered as Not At Risk.
- Measures are planned or have already been implemented for the waterbody and no further measures should be applied until there is enough time assess if these measures are working.

A waterbody that is at Risk means that either the waterbody is currently not achieving its Water Framework Directive (WFD) environmental objective of Good or High Ecological Status or that there is an upward trend in nutrients or ammonia and if this trend continues the waterbody Status will decline by the end of Cycle 3 and will fail to meet its environmental objective.

The Lee, Cork Harbour and Youghal Bay Catchment Report (DRAFT) (HA 19), released in August 2021, explains the state of waters in the catchment.

In total there are 136 waterbodies in the Lee, Cork Harbour and Youghal Bay Catchment and 49(36%) are At Risk, 34 (25%) in Review and 53 (39%) are Not At Risk

Of concern to this study are the surface waters;

For the 92 river waterbodies, 32 (35%) are At Risk, 22 (24%) are in Review and 38 (41%) are Not At Risk.

- ◆ All three (100%) lake waterbodies in the catchment are At Risk.
- ◆ For the 13 transitional waterbodies, eight (62%) are At Risk and five (38%) are in Review.
- ◆ For the six coastal waterbodies in the catchment, two (33%) are At Risk, one (17%) is in Review and three (50%) are Not At Risk. Cork Harbour and Youghal Bay are the coastal waterbodies at Risk
- ◆ The largest proportion of At Risk waterbodies are found in rivers, accounting for 32 (65%) of 49 At Risk waterbodies.
- ◆ Overall there is an increase in 13 At Risk waterbodies reflected by reductions of nine Review and four Not At Risk waterbodies between Cycle 2 and Cycle 3.

For rivers, the main significant issues are morphological issues (17), nutrient pollution (16), organic pollution (8), hydrological issues (8) and sediment (3).

The site is located in the Lee[Cork]\_SC\_060, 050 sub-catchment of the Lee, Cork Harbour and Youghal Bay Catchment, as classified under the WFD.

In the Summary information on all waterbodies in the Lee, Cork Harbour and Youghal Bay Catchment the following assessment is as follows;

Recommended Areas for Action Name; Carrigdrohid

LEE (CORK)\_050 River which is the section adjacent to the field, to the east of the site, is classified as being not at risk while its water status has not been assigned. It does not have high ecological status.

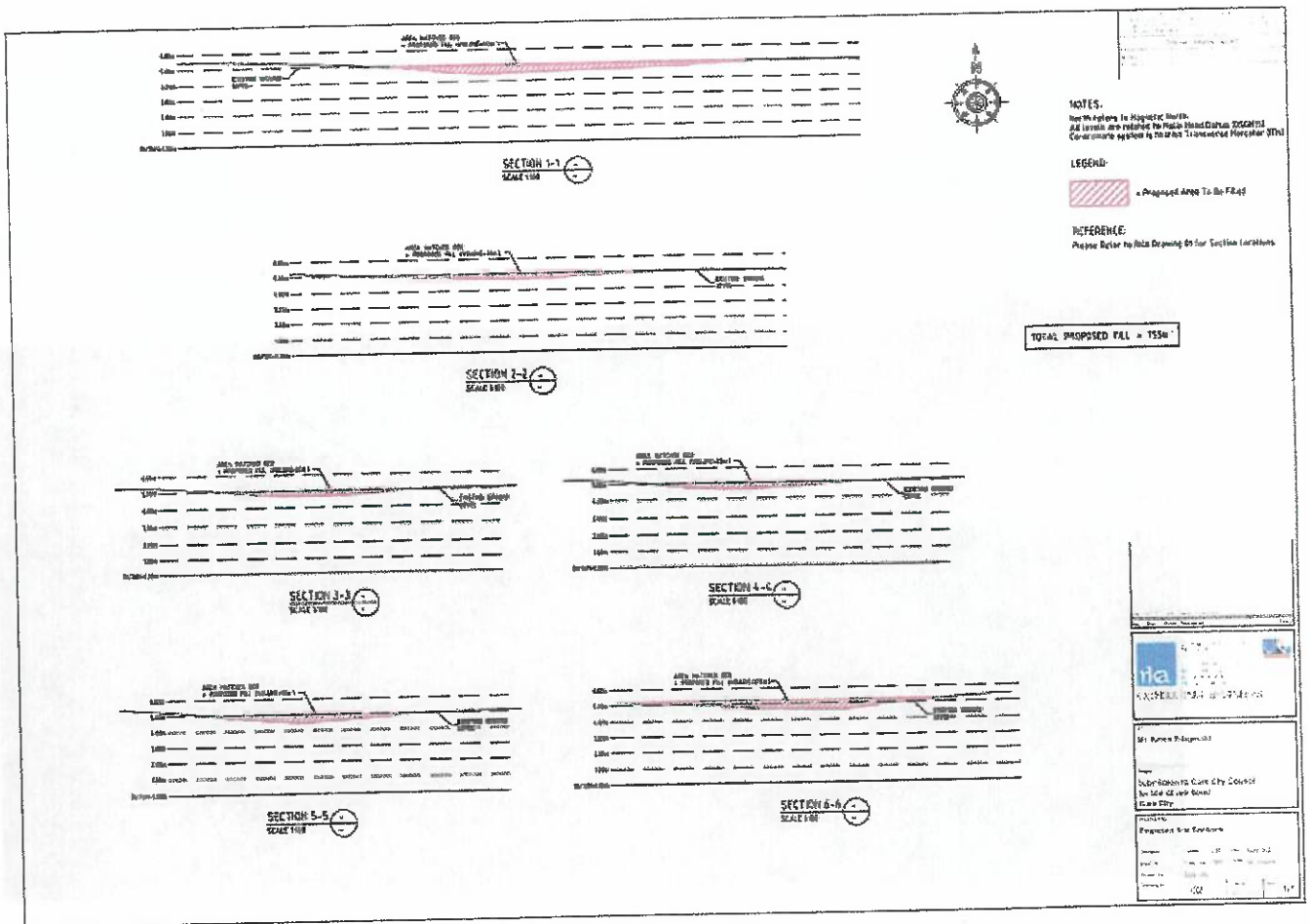
LEE (CORK)\_060 River, which is the section adjacent to the field to the west, is classified as being not at risk. This areas water status is unassigned and it also does not have high ecological status.

Recommended Areas for Action, Expand PAA (Priority Action Areas) to include inputting waterbodies. It is presumed that this means that drainage functions through land is included in this action.



Photo 2. Showing the field looking south towards the River Lee





Map 1. Showing sectional form of the land.

## 2. Site description

The fields located between the river Lee and Lee road are undulating pasture, with two gentle indentations running roughly parallel to the river Lee, with a rise towards the river channel, which may be the spoil from earlier river dredging (see photo two below). The fields are part of what was previously a large alluvial plain, it is likely that this was before human settlement a flood plain, where the river channel would meander over time, depositing sediments and elevating the adjoining land over the channel.

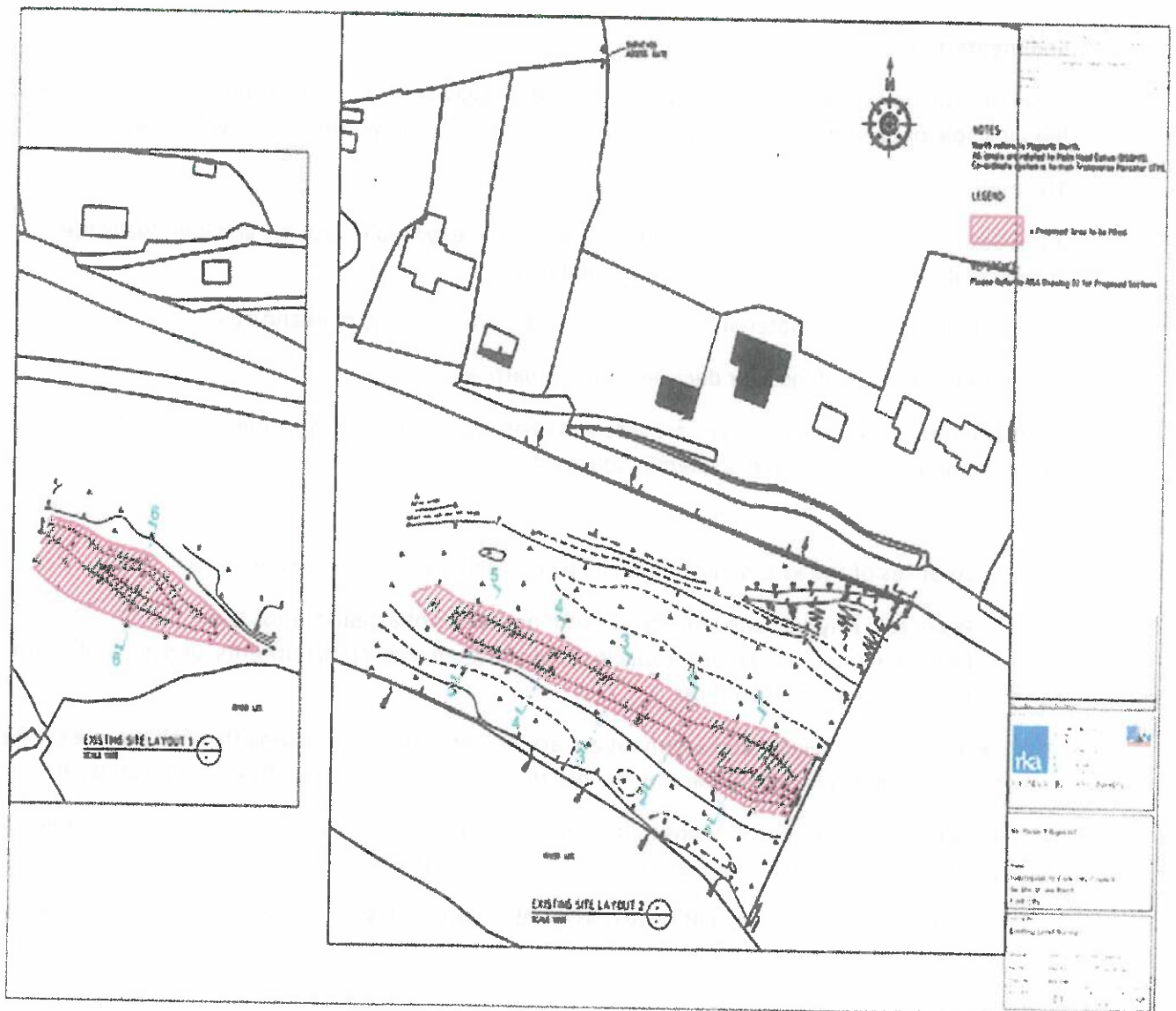


Photo 3. View of field showing indentations.

The **vegetation communities** found within the site are classified according to Fossit (2000). The grassland sward is not intensively farmed or fertilised the species composition fluctuates between Dry meadows/grassy verges and (GS2) and Wet grassland (GS4). The adjoining River Lee can be classified as a depositing lowland river (FW2) which is bordered by riparian woodland (WN5). These habitats are locally abundant and do not represent any ecological interest for conservation objectives. There is also a drainage ditch (FW4) present in the field.

**2.1 The Project**, following construction activity on land adjacent to the site, the owner of these lands Mr Kevin Fitzgerald, wished to deposit and spread about 755m<sup>3</sup> of subsoil and covering topsoil onto the field. Map 1 and 2 above illustrate where this material will be spread. A covering note from the engineer will include description of methods. It will infill the indentations and level the surface of the field. As illustrated in the photos above the land does not slope directly to the river and is retained by higher ground adjoining the channel. The material contains subsoil and topsoil and will be mechanically graded by excavator. The topsoil is to be removed and the imported material will be graded and the topsoil will be reinstated. This will ensure a uniformity of soil type across the fields and merge with adjoining lands. This material does not include any construction or demolition waste (C&D Waste) from the site works north of the Lee Road as this was disposed of through a licenced waste management contractor. It includes soil and subsoil. It will not be within 25 metres of the river Lee on the western side of the fields and will not be within 12 metres of the river at its nearest in the east side of the field. The material will be spread in the areas outlined in the above maps. It will not be near any field drains and there will be no disturbance to vegetation adjoining the river.

As mentioned above, the risk of increasing sedimentation and nutrient loads to the River Lee would represent the greatest potential impact from this proposed development on the designated sites. The site is not in a designated area, if it was, it would be subject to a provision to inform the National Parks and Wildlife as an Activities Requiring Consent (ARC), as reclamation including infill (ARC-1). The fact that it is upstream from two designated sites does mean that consideration has to be given to any possible impact on these sites. The present topsoil will be removed prior to infilling the imported material. The topsoil will then be returned and graded and reseeded. The material to be deposited on the field has been stored across the Lee Road and has no sign of invasive species being present. The material is to be spread about 8 m from the eastern drain in the field, this area will be a buffer area. This eastern drain carries water from the public road and further up slope. The drain is mechanically cleaned annually.



Map 2 showing plan of field

## **Sedimentation**

Sediment can carry nutrients either absorbed or chemically bound to fine particles; some of which is bio-available or can become available depending on changes in the chemical environment.

The main sources of sediment are as follows:

- Disruption of the soil surface, causing the subsoil to be exposed to erosion and eventually the transportation of the finer particles by overland flow.
- Weathering of parent material resulting in particle movement by overland flow.
- The transportation of loose or decaying organic particles.

Particles from any of these sources are referred to as sediment while in suspension and their accumulation on a streambed is referred to as sedimentation.

## **Soils**

For the purposes of the assessment, soils can be divided into two broad categories:

- Peaty soil: Any soil with a depth of 30cm or greater of a peat/humus layer.
- Mineral soils have a greater capacity than peaty soils to retain nutrients, and generally pose a lower risk of sediment loss.

The main losses of nutrients and sediment are associated with water moving through the site to the aquatic zone. Rainfall falling on the site reaches the aquatic zone through three main pathways:

- Over surface: Surface run-off tends to occur more frequently on impermeable soils such as peat or heavy clays or on very thin soils over bedrock or iron pans. It is most evident during heavy rainfall.
- Through the soil/subsoil: This pathway is associated with highly permeable soils, e.g. brown earths and brown podsols.
- Through drains/channels flowing directly from the site to the aquatic zone: This pathway also includes temporary drains (in which water may not be permanently present) that may only operate during and immediately after rainfall.

The speed of water flow in drains will determine whether the drains can reduce the amount of sediment and/or nutrients being lost to the aquatic zone. If a drain (either permanent or temporary) is devoid of vegetation, water velocity is generally higher.

Where a drain (whether permanent or temporary) is covered with vegetation and the water flows slowly or ponds, sediment may settle out and phosphorus may be taken up in plant growth. However, such drains are unlikely to operate as effective sediment traps or nutrient sinks during heavy rainfall.

Steeper slopes lead to greater soil erosion and more rapid nutrient loss. Surface runoff is faster on a steep slope, resulting in less contact between water and the soil and vegetation, and less time for sediment to settle out or nutrients to be taken up. Slope categories are as follows:

Even to 1-in-7 (<15%) Moderate

1-in-7 to 1-in-3 (15–30%) Steep

1-in-3 or greater (>30%) Very steep

#### **Nutrient transportation**

Phosphorus loss is generally considered more significant than nitrogen loss, as this is typically the limiting nutrient in Irish aquatic zones. Phosphorus will behave differently in different soil types. Mineral soils will bind phosphorus, particularly if they are strongly acid or if they have a high clay content (sticky soils).

Peaty soils have very little capacity to bind phosphorus.

Nutrients in both dissolved and particulate forms move with the water leaving the site, either across the surface, through the soil or through drains. The greatest amount of nutrients is lost during or immediately after heavy rainfall. The ability of a site to retain nutrients is influenced by soil type. Research has shown that, because peaty soils have little or no ability to bind phosphorus, this nutrient can be released from un-vegetated sites with a deep peat/humus layer and washed into nearby watercourses. On soils with a shallow peat/humus layer, there is often enough contact with mineral soils to bind the phosphorus, thereby reducing the risk of its release into watercourses. Drained peat is also highly erodible and can give rise to sedimentation. If there is peat adjacent to the aquatic zone, any brash/roots allowed to break down in this area will release phosphorus directly to the water. Where peat is adjacent to the aquatic zone, the buffer zone will be ineffective.

Buffer zones in such situations will only operate through uptake by vegetation. The soils on the site are mineral in nature with no peat soils encountered.

There are two main mechanisms by which the amount of nutrients reaching the aquatic zone can be reduced, providing that the water velocity can be slowed:

- Adsorption: If the water is brought in contact with mineral soil, phosphorus may bind to the clay and mineral particles. This requires sufficient contact between the water and the mineral soil. Consequently, binding is most effective if water percolates into mineral soil. Once water begins to flow over the surface, the binding potential is greatly reduced.
- Uptake: If the water flows slowly through vegetation plants may take up phosphorus and nitrogen for growth. This occurs most effectively where water

runs slowly and percolates into the litter layer or soil of a well-vegetated buffer zone.

### Sediment transportation

Best practice aims at minimising sediment mobilisation. Where soil is disturbed or exposed (i.e. little or no vegetation), there is a risk of soil erosion. Where certain soil types (e.g. peaty soils, sandstone derived soils) and steep slopes occur together, there is a greater risk of soil erosion and subsequent sedimentation. It should also be noted that subsoils may be more prone to erosion than the associated top soil. The erodability of a site may be assessed based on relevant factors such as;

- Parent material: Parent material comprising non-consolidated material represents a high risk.
- Soil type: Soil type is linked to geology. Soils with a high clay content (sticky soils, e.g. gleys) are less likely to erode than those that are friable in nature (e.g. soils derived from Old Red Sandstone).
- Slope: Generally the steeper the slope, the greater the likelihood of soil erosion.
- Climate: Erosion is linked to climatic severity, which varies with altitude and exposure.

Soil particles move during and immediately after heavy rainfall, with heavier rainfall resulting in the movement of larger soil particles. If rainfall runs off the soil surface or through drains, there is a risk of sedimentation. If the water percolates into the soil, the risk of sedimentation is low. Steep slopes lead to rapid surface run-off and fast flow in drains, and represent the highest risk of sedimentation. Rivers and streams transport sediments downstream as either suspended solids or as part of the bed load.

There are four main mechanisms by which the amount of sediment reaching the aquatic zone can be reduced:

- Minimisation of soil disturbance: Reduction of soil disturbance minimises the generation of sediment.
- Settlement: where the water ponds or flows slowly, with particles subsequently settling out of suspension.
- Filtration: where the water flows slowly through the vegetation and litter layer, e.g. in buffer zones/strips, both act as sieves to filter out particles.
- Brash mats: Soil can be protected by the use of brash mats along routes where machinery is obliged to travel.

Soil erosion can continue to occur as long as there is exposed soil on site. In practice, this means that erosion can occur until the soil has been stabilised by vegetation cover.

Tree canopy and ground vegetation cover can influence the ability of the site to retain sediment and nutrients. The canopy intercepts a significant proportion of incoming rainfall, which, consequently, never reaches the ground. Ground vegetation can help retain phosphorus on site by taking it up for growth as it is released from the decaying brash and roots. Ground vegetation can also help to remove sediment, by filtering it out of the water and/or by aiding infiltration into the ground. The ability of a site to retain nutrients and sediment can be referred to as the 'site retention capacity' or 'internal buffering'. Vegetated riparian zones and natural depressions within the site can be particularly effective in retaining nutrients and sediment. The effectiveness of such features depends

on the amount of run-off intercepted before it reaches the aquatic zone. For example, a vegetated zone that runs parallel to the aquatic zone will generally intercept a much greater volume of water than one running at a right angle.

As the above discussion illustrates the presence of material not anchored by vegetation presents a potential risk in terms of sedimentation and nutrient enrichment of the River Lee. It is envisaged that the main material will be deposited within the old channel undulations on site. There will be no drainage directly of this material to the river. There will be buffers exceeding 12-25 metres from the river bank and 35 metres from the field drain, within these buffer zones there will be no disturbance of existing vegetation or deposition of soil material. As the land is undulating and not sloping towards the river it is deemed unlikely that overland flow will transport sediments or nutrients to the River Lee. The mineral nature of the soils on site also aid the retention of nutrients.

### **3. Screening Methodology**

#### **Introduction**

The function of the Screening Assessment is to identify whether or not the proposal will have a likely significant effect on European Sites. In this context "likely" refers to the presence of doubt with regard to the absence of significant effects (ECJ case C-127/02) and "significant" means not trivial or inconsequential but an effect that has the potential to undermine the site's conservation objectives (English Nature, 1999; ECJ case C-127/02). In other words, any effect which would compromise the functioning and viability of a site and interfere with achieving the conservation objectives of the site would constitute a significant effect.

The nature of the likely interactions between the proposal and the integrity of the Site will depend upon the sensitivity of the Site's qualifying features to potential impacts arising from the proposal; the current conservation status of the site; and the likely changes to water quality that will result from activities associated with the proposal, in combination with other plans and projects.

The APP Guidelines (2001) outline the stages involved in undertaking a Screening Assessment of a project that has the potential to have likely significant effects on European Sites. The methodology adopted for this Screening Assessment is informed by these guidelines and was undertaken in the following stages:

1. Define the project and determine whether it is necessary for the conservation management of European Sites;
2. Identify European Sites likely to be influenced by the project;
3. Review the project to determine if it has the potential to affect European Sites and determine whether the European Sites are vulnerable to the effects; and
4. Identify other plans or projects that, in combination with the project, have the potential to affect European Sites.

### 3.1 The Project and Natura 2000 Baseline

The River Lee system flows through County Cork. The Natura sites that may be directly affected are the **Great Island Channel SAC and Cork Harbour SPA**

#### **CORK HARBOUR SPA**

SITE CODE: 004030

Cork Harbour is a large, sheltered bay system, with several river estuaries - principally those of the Rivers Lee, Douglas, Owenboy and Owennacurra. The SPA site comprises most of the main intertidal areas of Cork Harbour, including all of the North Channel, the Douglas River Estuary, inner Lough Mahon, Monkstown Creek, Lough Beg, the Owenboy River Estuary, Whitegate Bay, Ringabella Creek and the Rostellan and Poul nabibe inlets.

Owing to the sheltered conditions, the intertidal flats are often muddy in character. These muds support a range of macro-invertebrates, notably *Macoma balthica*, *Scrobicularia plana*, *Hydrobia ulvae*, *Nephtys hombergi*, *Nereis diversicolor* and *Corophium volutator*. Green algae species occur on the flats, especially *Ulva* spp. Cordgrass (*Spartina* spp.) has colonised the intertidal flats in places, especially where good shelter exists, such as at Rossleague and Belvelly in the North Channel. Salt marshes are scattered through the site and these provide high tide roosts for the birds.

Some shallow bay water is included in the site. Rostellan Lake is a small brackish lake that is used by swans throughout the winter. The site also includes some marginal wet grassland areas used by feeding and roosting birds.

The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Little Grebe, Great Crested Grebe, Cormorant, Grey Heron, Shelduck, Wigeon, Teal, Mallard, Pintail, Shoveler, Red-breasted Merganser, Oystercatcher, Golden Plover, Grey Plover, Lapwing, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Greenshank, Black-headed Gull, Common Gull, Lesser Black-backed Gull and Common Tern.

The site is also of special conservation interest for holding an assemblage of over 20,000 wintering waterbirds. The E.U. Birds Directive pays particular attention to wetlands and, as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds.

Cork Harbour is an internationally important wetland site, regularly supporting in excess of 20,000 wintering waterfowl. Of particular note is that the site supports internationally important populations of Black-tailed Godwit (1,896) and Redshank (2,149) - all figures given are five year mean peaks for the period 1995/96 to 1999/2000. Nationally important populations of the following 19 species occur:

Little Grebe (57), Great Crested Grebe (253), Cormorant (521), Grey Heron (80), Shelduck (2,009), Wigeon (1,791), Teal (1,065), Mallard (513), Pintail (57), Shoveler (103), Red-breasted Merganser (121), Oystercatcher (1,809), Golden Plover (3,342), Grey Plover (95), Lapwing (7,569), Dunlin



(9,621), Bar-tailed Godwit (233), Curlew (2,237) and Greenshank (46). The Shelduck population is the largest in the country (over 10% of national total). Other species using the site include Mute Swan (38), Whooper Swan (5), Pochard (72), Gadwall (6), Tufted Duck (64), Goldeneye (21), Coot (53), Ringed Plover (73), Knot (26) and Turnstone (113). Cork Harbour is an important site for gulls in winter and autumn, especially Black-headed Gull (3,640), Common Gull (1,562) and Lesser Black-backed Gull (783), all of which occur in numbers of national importance. Little Egret and Mediterranean Gull, two species which have recently colonised Ireland, also occur at this site.

A range of passage waders occurs regularly in autumn, including such species as Ruff (5-10), Spotted Redshank (1-5) and Green Sandpiper (1-5). Numbers vary between years and usually a few of each of these species over-winter.

Cork Harbour has a nationally important breeding colony of Common Tern (102 pairs in 1995). The birds have nested in Cork Harbour since about 1970, and since 1983 on various artificial structures, notably derelict steel barges and the roof of a Martello Tower. The birds are monitored annually and the chicks are ringed.

Cork Harbour is of major ornithological significance, being of international importance both for the total numbers of wintering birds (i.e. > 20,000) and also for its populations of Black-tailed Godwit and Redshank. In addition, it supports nationally important wintering populations of 22 species, as well as a nationally important breeding colony of Common Tern. Several of the species which occur regularly are listed on Annex I of the E.U. Birds Directive, i.e. Whooper Swan, Little Egret, Golden Plover, Bar-tailed Godwit, Ruff, Mediterranean Gull and Common Tern. The site provides both feeding and roosting sites for the various bird species that use it. Cork Harbour is also a Ramsar Convention site and part of Cork Harbour SPA is a Wildfowl Sanctuary.

**Great Island Channel SAC** (this SPA overlaps with Cork Harbour SPA),

**Site Code: 001058**

The Great Island Channel stretches from Little Island to Midleton, with its southern boundary being formed by Great Island. It is an integral part of Cork Harbour which contains several other sites of conservation interest. Geologically, Cork Harbour consists of two large areas of open water in a limestone basin, separated from each other and the open sea by ridges of Old Red Sandstone. Within this system, Great Island Channel forms the eastern stretch of the river basin and, compared to the rest of Cork Harbour, is relatively undisturbed. Within the site is the estuary of the Owennacurra and Dungourney Rivers. These rivers, which flow through Midleton, provide the main source of freshwater to the North Channel.

The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (\* = priority; numbers in brackets are Natura 2000 codes):

[1140] Tidal Mudflats and Sandflats [1330] Atlantic Salt Meadows

The main habitats of conservation interest in Great Island Channel SAC are the sheltered tidal sand and mudflats and the Atlantic salt meadows. Owing to the sheltered conditions, the intertidal flats are composed mainly of soft muds. These muds support a range of macro-invertebrates, notably *Macoma balthica*, *Scrobicularia plana*, *Hydrobia ulvae*, *Nephtys hombergi*, *Nereis diversicolor* and *Corophium volutator*.

Green algal species occur on the flats, especially *Ulva lactuca* and *Enteromorpha* spp. Cordgrass (*Spartina* spp.) has colonised the intertidal flats in places, especially at Rossleague and Belvelly.

The saltmarshes are scattered through the site and are all of the estuarine type on mud substrate. Species present include Sea Purslane (*Halimione portulacoides*), Sea Aster (*Aster tripolium*), Thrift (*Armeria maritima*), Common Saltmarsh-grass (*Puccinellia maritima*), Sea Plantain (*Plantago maritima*), Greater Sea-spurrey (*Spergularia media*), Lax-flowered Sea-lavender (*Limonium humile*), Sea Arrowgrass (*Triglochin maritimum*), Sea Mayweed (*Matricaria maritima*) and Red Fescue (*Festuca rubra*).

The site is extremely important for wintering waterfowl and is considered to contain three of the top five areas within Cork Harbour, namely North Channel, Harper's Island and Belvelly-Marino Point. Shelduck is the most frequent duck species with 800-1,000 birds centred on the Fota/Marino Point area. There are also large flocks of Teal and Wigeon, especially at the eastern end. Waders occur in the greatest density

A population of about 80 Grey Plover is a notable feature of the area. All the mudflats support feeding birds; the main roost sites are at Weir Island and Brown Island, and to the north of Fota at Killacloyne and Harper's Island. Ahanesk supports a roost also but is subject to disturbance. The numbers of Grey Plover and Shelduck, as given above, are of national importance. The site is an integral part of Cork Harbour which is a wetland of international importance for the birds it supports. Overall, Cork Harbour regularly holds over 20,000 waterfowl and contains internationally important numbers of Black-tailed Godwit (1,181) and Redshank (1,896), along with nationally important numbers of nineteen other species. Furthermore, it contains large Dunlin (12,019) and Lapwing (12,528) flocks. All counts are average peaks, 1994/95 – 1996/97. Much of the site falls within Cork Harbour Special Protection Area, an important bird area designated under the E.U. Birds Directive.

While the main land use within the site is aquaculture (oyster farming), the greatest threats to its conservation significance come from road works, infilling, sewage outflows and possible marina developments.

The site is of major importance for the two habitats listed on Annex I of the E.U. Habitats Directive, as well as for its important numbers of wintering waders and wildfowl. It also supports a good invertebrate fauna.

As mentioned above, over 90% of protected habitats are classified as having "unfavourable conservation status". The catchments based approach requires river restoration and rehabilitation, these things in turn require schemes and plans which are in motion through International, National and County level developments as well as involving local stakeholders. The recent halting of Roscommon Co Co. in executing a drainage plan as well as increased vocal opposition to hard drainage schemes in Nenagh and Bantry, illustrates the concern people have for the waterways. Blue ways are being created for leisure activities and people have engaged to a much greater degree in rivers and local activities during the Covid lockdowns.

. Increased flow rates with intense increasing rates of precipitation will increase bank erosion, especially in areas with little riparian vegetation. Listed species require areas of gravel, sediment and the cover and feed provided by in stream vegetation. No works to remove material or remodel banks is to be undertaken, vegetation removal will not be undertaken. The screening report has to consider the proposed works in conjunction with other pressures and consider effects on conservation objectives, for this reason works are to be undertaken in dry settled weather and observing buffer zones, while the immediate establishment of surface vegetation through reseedling with meadow species will anchor the soil that is to be spread on the field.

The tree lines and scrub habitats adjacent to the watercourses offer ideal foraging and commuting areas for bat species to utilise. There are three outcomes in dealing with planning and bats as all Irish bats are listed under Annex IV of the Habitats Directive and Appendix II of the Bern Convention and are strictly protected. Each of the following scenarios should be designed to satisfy Section 25 of the Habitats Directive;

- avoidance of the impact- no negative outcome
- on-site mitigation - the improvement /enhancement of existing roosts or the provision of new roost locations within the structures
- off-site compensation of roost structures at another suitable location

Other protected mammal species which could utilise the watercourses are the Otter (*Lutra lutra*), which is strictly protected in Appendix II of the Berne Convention *which* is listed in Annex II and IV of the Habitats Directive as a species of European interest.

Under the water framework directive (WFD) set out by the EU, Ireland must achieve a 'good status' on all of our watercourses by 2027. Unfortunately, over the past couple of years, Ireland has seen water quality deteriorating.

The two designated sites downstream from the site have specific conservation objectives.;

Favourable conservation status of a habitat is achieved when:

- its natural range, and area it covers within that range, are stable or increasing, and
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable.

The favourable conservation status of a species is achieved when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

Conservation objective for Great Island Channel SAC [001058]

#### 1140 Mudflats and sandflats not covered by seawater at low tide

To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in Great Island Channel SAC, which is defined by the following list of attributes and targets:

#### Attribute Measure Target Notes

Habitat area Hectares The permanent habitat area is stable or increasing, subject to natural processes.

Habitat area was estimated using as 723ha using OSi data

Community distribution

Hectares Conserve the following community type in a natural condition: Mixed sediment to sandy mud with polychaetes and oligochaetes community complex.

Based on intertidal and subtidal surveys undertaken in 2006 (Aquafact, 2007) and 2011 (EcoServe, 2012; MERC, 2012).

Atlantic salt meadows (Glauco-Puccinellietalia maritimae)

To restore the favourable conservation condition of Atlantic salt meadows (Glauco-Puccinellietalia maritimae) in Great Island Channel SAC, which is defined by the following

list of attributes and targets:

Habitat area Hectares Area stable or increasing, subject to natural processes, including erosion and succession.

For sub-sites mapped:

Bawnard - 0.29ha;

Carrigatohil - 1.01ha.

Based on data from Saltmarsh Monitoring Project (SMP) (McCorry and Ryle, 2009). Two sub-sites that supported Atlantic salt meadow were mapped

(1.30ha) and additional areas of potential saltmarsh (17.60ha) were identified from an examination of aerial photographs, giving a total estimated area of 18.90ha. Saltmarsh habitat has also been recorded at two other sub-sites within the SAC (Curtis and Sheehy Skeffington, 1998). NB further unsurveyed areas maybe present within the SAC. See coastal habitats supporting document for further details

Habitat distribution Occurrence No decline or change in habitat distribution, subject to natural processes. Based on data from McCorry and Ryle (2009).

Within the sites surveyed by the SMP, estuary type saltmarsh over a mud substrate is most common and ASM is the dominant saltmarsh habitat. NB further unsurveyed areas maybe present within the SAC. See coastal habitats supporting document for further details.

Physical structure: sediment supply

Presence/ absence of physical barriers

Maintain/restore natural circulation of sediments and organic matter, without any physical obstructions

Based on data from McCorry and Ryle (2009). At Bawnard there is a seawall that was constructed in the 18th-19th centuries. At Carrigatohil the northern and eastern shorelines have been significantly

modified by road construction. Part of the saltmarsh has also been infilled.

Physical structure: creeks and pans

Occurrence Maintain/restore creek and pan structure, subject to natural processes, including erosion and succession

Based on data from McCorry and Ryle (2009). The ASM at Carrigatohil is poorly developed, though some of the larger sections contain salt pans. The smaller sections, however, tend to be quite uniform in topography. The saltmarsh topography at Bawnard is poorly developed with few typical saltmarsh features.

Physical structure: flooding regime

Hectares flooded; frequency

Maintain natural tidal regime

Based on data from McCorry and Ryle (2009). At Bawnard, the entire bay empties at low tide to expose soft intertidal mudflats.

Vegetation structure: zonation

Occurrence Maintain range of coastal habitats including transitional zones, subject to natural processes including erosion and succession

Based on data from McCorry and Ryle (2009).

Zonations to Salicornia flats and intertidal mudflats occurs at Carrigatohil. At Bawnard, there is succession from saltmarsh to brackish saltmarsh and wet grassland as well as zonation to intertidal mudflats at the lower saltmarsh boundary.

Vegetation structure: vegetation height

Centimetres Maintain structural variation within sward

Based on data from McCorry and Ryle (2009). At Carrigatohil, the sward height is quite tall due to lack of grazing. At Bawnard only part of the site is grazed.

Vegetation structure: vegetation cover

Percentage cover at a representative number of monitoring stops Maintain more than 90% area outside creeks vegetated.

Based on data from McCorry and Ryle (2009). Some poaching was noted in places at Bawnard.

Vegetation composition: typical species and sub-communities

Percentage cover at a representative number of monitoring stops Maintain range of sub-communities with typical species listed in SMP

(McCorry and Ryle, 2009)

Vegetation structure: negative indicator species – *Spartina anglica*

Hectares No significant expansion of common cordgrass (*Spartina anglica*), with an annual spread of less than 1% where it is known to occur

Based on data from McCorry and Ryle (2009).

*Spartina* occurs at both sub-sites in this SAC.

#### **4. Screening of European Sites**

**Describe the individual elements of the project (either alone or in combination with other plans or projects) likely to give rise to impacts on the European Site.**

The elements of the project that will have the potential to give rise to impacts to European Sites include both direct and indirect impacts.

The direct impacts that have the potential to arise during the project include the disturbance or injury of qualifying species and habitats of the SAC.

The indirect impacts that have the potential to arise during the project include changes to water quality associated with surface water runoff.

How the project will have the potential to result in direct and indirect impacts and the likelihood of such impacts occurring to the key features of the European Sites are outlined in **Section 4.1 to 4.3**, while Section 4.4 provides an assessment of the risks posed by such impacts to the conservation status of these key features. The potential for significant impacts arising from the proposal was determined by a number of criteria including:

- Habitat loss or alteration
- Disturbance/displacement of key species
- Potential impairment of water quality.
- Increased sediment or erosion of banks

#### **Likely Significant Effect to Qualifying Species**

Disturbance to feeding or breeding grounds for qualifying species and impacts to habitats used by birds are likely to generate the most significant effects to the qualifying species of the SAC and SPA

As the project site is located outside of the SAC/SPA boundary but connected hydrologically, direct impacts to the qualifying species and their associated habitats may arise as a result of the proposed works.

Disturbance to these species arising from noise and dust related impacts associated with the proposed project is unlikely, although the works will be carried out at the correct time of year. Nevertheless, the potential for such impacts to occur are examined in more detail in **Table 1**.

Furthermore, potential indirect impacts to associated habitats reflect those outlined in *Section 3.1*

and as such it is not considered likely that such impacts will adversely affect the habitats of the SAC/SPA which support the qualifying species.

All the qualifying species of this SAC are dependent on the aquatic environment and all are likely to occur downstream from the proposed project areas. All of these species are sensitive to changes in hydrology, water pollution and disturbance.

It is considered unlikely that changes in hydrology and/or water pollution will arise as a result of the proposed project and therefore do not represent potential risks to the qualifying species of the SAC.

As all construction activity associated with the works, will be undertaken during the daytime, no disturbance associated with lighting will arise.

#### **Likely Significant Effects to Qualifying Habitats**

The qualifying habitats associated with the SPA/SAC are estuarine or coastal habitats and do not occur within close proximity to the proposed project area. The site is located in a depositing lowland river with no tidal activity. These habitats are sensitive to hydrological change, water pollution and changes in nutrient status. These habitats are found downstream, the distance from this habitat and the site are considerable and no works are proposed within or adjacent to this habitat; therefore, it is not considered that the works or excavations will interfere with hydrological regimes associated with them.

#### **Impacts**

The risk of contamination by accidental spillage is deemed unlikely provided that the mitigation measures are implemented and that all design, construction and operational standards are followed. All equipment will be refuelled, maintained and stored off-site.

#### **Screening Assessment in line with EU Guidance Assessment Criteria**

*Table 1* provides a Screening Assessment in line with EU Guidance Assessment Criteria used to examine the potential of the proposed development to adversely impact upon the **Great Island Channel SAC** and **Cork Harbour SPA**. A conclusion of this NIS is provided in *Table 1*.

*Table 1* summaries the proposed sites, the element of the proposed project and the likelihood of any of these elements adversely affecting the integrity and conservation status of qualifying interests for **Great Island Channel SAC** and **Cork Harbour SPA**. The assessment criteria outlined in *Table 1* follow those detailed in the EC guidance.

**Photo 4, showing riparian vegetation and pasture**



**Table 1: Assessment of Likely Significant Effects to the Great Island Channel SAC and Cork Harbour SPA**

<b>Assessment Criteria</b>
<b>Describe any likely direct, indirect or secondary impacts of the project (either alone or in combination with other plans or projects) on the Natura 2000 sites</b>
<p><b>Size and Scale</b></p> <p>The development is to deposit soil in undulations existing in a field adjacent to the River Lee; the topsoil will be removed and the fill will be graded, the topsoil will then be re-instated over the deposited soils and reseeded with meadow species. No riparian vegetation is to be removed and buffer zones are to be observed. It is envisaged that a species rich pasture/meadow will result. There is to be no chemical fertilizer or pesticides used.</p>



**Land-take**

There will be no reduction in habitat areas as channels and banks are to be left undisturbed. With site specific works on the land in indentations. Trees are not be uprooted or removed or trimmed.

**Distance from Natura 2000 sites or key features of the site** The sites are located within 15 km from **Great Island Channel SAC** and **Cork Harbour SPA** . The site are all connected via the River Lee

**Resource requirements**

soil.

**Emissions**

Surface run-off and increasing sediment and nutrient loads could potentially constitute the principal emission from the proposed sites during works. The techniques mentioned below, will if implemented properly reduce the likelihood of watercourse deterioration. Potentially contaminating material required during construction are principally associated with machinery fuels and accidental spills. These will be stored and maintained off site.

Changes in the nutrient status of a waterbody and the habitats listed in this section would be likely to arise as a result of increased inputs of nitrogen and phosphorous. The principal sources of excessive nitrogen and phosphorous inputs to watercourses are from point source wastewater discharges and diffuse source surface water runoff (Jarvie *et al* 2006; Walsh *et al* 2005). The material is to be taken from its present location north of the Lee Road to the fields adjacent to the River Lee, it is utilising about 150 m of public road. This will reduce traffic and emissions arising from dealing with the material in any other manner.

Emissions in terms of dust and air quality will be minimised. Plant should be kept to a minimum and vehicles should not be left idling when not in use. All machinery should be kept in good operational use in order to ensure noise is minimised.

All equipment should be serviced and checked for leakage or faults prior to use. Any construction machinery should be maintained in good operational order while on-site, minimising the risk of any pollution incidences arising from leaking vehicles or machinery. All equipment will be operated by a licenced contractor, utilising best practice, all chemicals/fuel will be stored off-site. Refuelling of machinery during the works phase should occur off-site in order to minimise the potential threat to water quality.

**Excavation requirements**

Excavated material being stored prior to backfilling, has the potential to impact negatively on surrounding areas of intact habitat if stored inappropriately. The potential for surface water pollution as a result of run-off from stockpiled soil and building materials is moderate. Works

should proceed in dry periods in order to avoid the risk of surface run-off from entering watercourses.

**Transportation requirements**

Materials will be transported onto the site, from just across the Lee Road all of the excavated material will be utilized on site. The depositing of soil from an adjacent site will reduce transportation congestion and carbon emissions. Transportation of material will be undertaken by a licensed contractor utilizing best practice.

**Duration of construction, operation etc.**

All construction activity will be framed with reference to the prevailing weather conditions. Due to the sensitive nature of the site, transporting and grading soil material should be undertaken during dry conditions to reduce risk to qualifying species and to reduce possibility of sedimentation. It is envisaged that works should be completed in less than a month.

**Other**

The River Lee is a highly modified stretch of watercourse, there are hydro-electric dams upstream and with increased rainfall and river flows there can be increased river energy and with potential to increase bank erosion rates. The increase of riparian vegetation would be considered important to bind banks.

**Describe any likely changes to the N2K site arising as a result of:**

**Reduction of habitat area**

There is to be no reduction in protected habitat area.

**Disturbance of key species**

The disturbance to the soil profile would be the most significant impact. If the guidelines are followed, this potential impact would be reduced. It is not considered that any key species associated with any of the Natura 2000 site, within the sphere of influence, will be significantly disturbed. With no disturbance to channels and banks this likelihood will be reduced. Visual inspections for wildlife activity should be undertaken prior to mechanical activity commencing.

Further enhancement of riparian vegetation could be undertaken with a planting regime and limiting grazing animal impact, this would enhance a more robust riparian zone, allowing natural regeneration of plant species. Marginal and Riparian vegetation also act as a filter to sediments contained in surface run off, reduces bank erosion and limits flood risk.

**Habitat or species fragmentation**

The site is currently located in open pasture land, with established tree lines. Due to legislation and the advent of new agricultural schemes and implementation of EU Directives it is envisaged that riparian zones along watercourses will be enhanced and restored. Planting shrubs and trees would link existing tree-lines and foraging areas leading to mature riparian woodland. It is not envisaged to remove trees or shrubs along the area beside the waterbodies. Woodland can enhance conditions for some listed species, as well as providing food and shelter. This 'edge

habitat' is important for biodiversity as it interfaces with the watercourse, woodland and pasture giving wildlife a matrix of habitat. To ensure linkages between these areas by planting would enhance habitat connectivity. This development would increase high value habitat and reduce species fragmentation. To remove impediments for migrating fish and to ensure clean water and gravel beds for listed species.

#### **Reduction in species density**

It is unlikely for any listed species to be reduced in number.

#### **Changes in key indicators of conservation status**

The European Commission (2006) Explanatory Notes and Guidelines for the Assessment, Monitoring and Reporting under Article 17 of the Habitats Directive outlines key indicators for assessing the conservation status of designated sites. The key indicators for assessing the conservation status of key species are:

*Range:* as outlined above the elements of the proposed project are unlikely to result in direct or indirect impacts to the SAC or SPA. Therefore, it is unlikely that the distribution of key species, for which the SAC and SPA are designated, will be altered by the proposed project.

*Population:* As the elements of the proposed project are unlikely to result in direct or indirect impacts to the SAC or SPA the populations of key species will not be affected during the implementation of the proposed project;

*Habitat for the species:* The destruction of important wildlife corridors and linkages between habitats for qualifying species would impact on conservation objectives. The qualifying bird, mammal and aquatic species are not specifically directly impacted by the proposed works. Additional enhancement planting could be undertaken in the future, (pilot projects are being presently undertaken) as part of other schemes and with other agencies, this will improve overall ecological linkages. As direct or indirect impacts to the habitats that support key species i.e. alluvial woodland are not predicted to occur, these habitats which support key species will not be affected by the proposed project.

*Future Prospects:* As the proposed project will not result in direct or indirect affects to the SAC or SPA the future prospect of the qualifying interests of this site will not be affected.

#### **Climate change**

Present land-use of adjoining properties is ongoing so the impacts arising from suburban and agricultural practices will be incremental rather than new. Climate change is accelerating, extreme weather events are expected to be more intense and occur more frequently. The Paris accord limits carbon amounts for its signatory participants. These targets have been recently being given further national incentive by the publication of the Climate Action Bill, which commits Ireland to a climate neutral economy by 2050. There are significant long term effects on land-use which will have to include catchment wide management, rather than the narrow channel focused view of land drainage.

<b>Describe any likely impacts on the Natura 2000 Site as a whole in terms of:</b>
Interference with key relationships that define the structure of the site There will be no interference with key relationships affecting the SPA s structure.
Interference with key relationships that define the function of the site There will be no interference with relationships that define Natura 2000 sites functions.
<b>Describe from the above the elements of the project or plan or combination of elements, where the above impacts are likely to be significant or where the scale of magnitude of impacts is not known.</b>
<b>Based upon the above assessment criteria it has been concluded that the proposed works will not result in likely significant effects to the Natura 2000 Sites occurring within the sphere of influence of this project. It is considered that the proposed work when undertaken as outlined above does not require a stage two appropriate assessment, as it will not have negative ecological impacts on the Great Island Channel SAC and Cork Harbour SPA .</b>

**References**

Cork County Development Plan.  
National Parks and Wildlife.  
EPA Catchments.ie  
Irelands Rivers (2020) – UCD  
OPW Environmental Guidance; Drainage maintenance & Construction  
Stream and Watershed Resoration (2013) Roni & Beechie  
River Futures (2008) Brierley & Fryirs  
Sustainable Riverbank Protection’ Reducing Riverbank Erosion Second Edition: August 2020 SEPA  
Fossitt J. A. (2000). A Guide to Habitats in Ireland. Heritage Council.  
Heritage Council (2002). Draft Habitat Survey Guidelines. Hertiage Council.  
The 3rd Cycle Draft Lee, Cork Harbour and Youghal Bay Catchment Report (HA 16)( Environmental Protection Agency August 2021)

The Screening Assessment was undertaken with reference to the following guidance documents on Appropriate Assessments:

- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (2009). DEHLG.
- Managing Natura 2000 Sites – The provisions of Article 6 of the Habitats directive 92/43/EEC. European commission (2000). (To be referred to as MN 2000).
- Assessment of Plans and Projects Significantly Affecting Natura 2000 sites – Methodological Guidance of the Provisions of Article 6(3) and (4) of the Habitats directive 92/43/EEC. European Commission (2001). (To be referred to as the APP Guidelines).
- Guidance on Article 6(4) of the Habitats Directive 92/43/EEC – Clarification of the Concepts of: Alternative Solutions, Imperative reasons of Overriding Public Interest, Compensatory Measures, Overall coherence, Opinion of the Commission. European Commission (2007).

Jim Minogue BSc, MA, Contact – email [andoire@gmail.com](mailto:andoire@gmail.com) or phone 087-163 48 79



# SITE LOCATION MAP

**CENTRE COORDINATES:**  
ITM 562431 572283

**PUBLISHED:** 12/05/2021  
**ORDER NO.:** J0192340\_1

**MAP SERIES:** 6 Inch Raster  
6 Inch Raster  
MAP SHEETS: CK073  
CK074

**COMPILED AND PUBLISHED BY:**  
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Dublin 8,  
Ireland.

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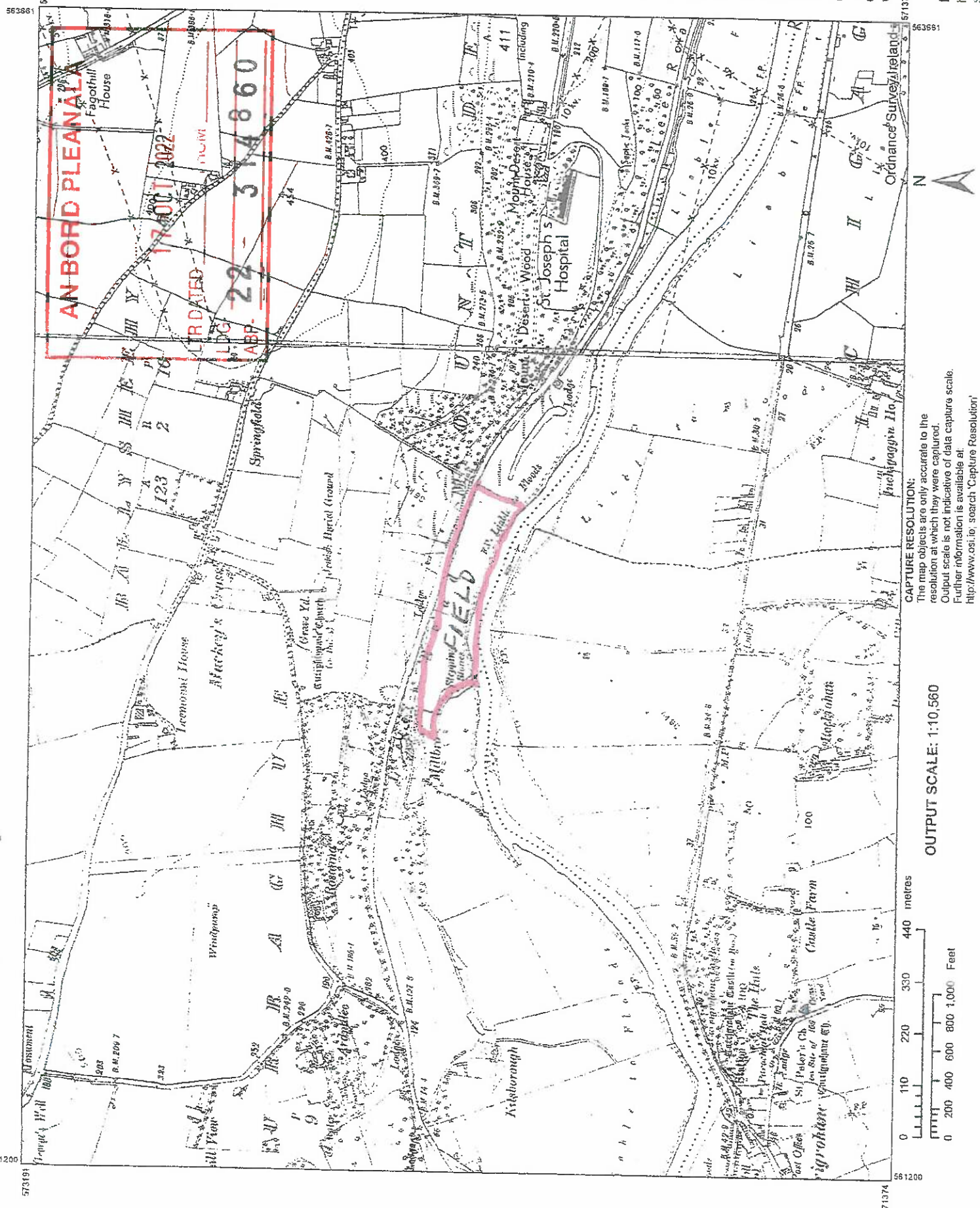
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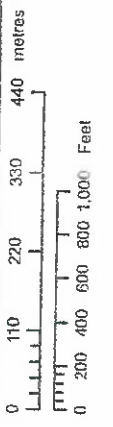
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**LEGEND:**  
<http://www.osi.ie>;  
search 'Large Scale Legend'



**CAPTURE RESOLUTION:**  
The map objects are only accurate to the  
resolution at which they were captured.  
Output scale is not indicative of data capture scale.  
Further information is available at:  
<http://www.osi.ie>, search 'Capture Resolution'

**OUTPUT SCALE: 1:10,560**



563581

561200

573101

571374

563581

561200





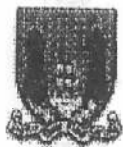
# DEVELOPMENT MANAGEMENT

## SHDESK RECEIPT CHECKLIST

✓ FITZGERALD

TP No.: N/A

LEE ROAD



Cork City Council  
City Hall  
Cork

26/04/2022 15:09:05

Receipt No. : LODGE2/0/2245804

KEVIN FITZGERALD  
LEE ROAD

### Description

of Planning Permission

Copies of Planning Decisions

Copies of Final Grant

General copying

Archive Retrieval

Microfiche

Application Fees

Section 5 applications (Exemption Certs)

Extension of Duration Applications

Planning Searches

Submissions/Objections on Planning Applications

Recouped Enforcement Expenses

Section 254 Licence fees (Fingerpost signs)

HD Fees (Strategic Housing Developments)

Planning Bond Letters

Outdoor Event Licences

EXEMPTION CERTS - FEES 58800 80.00  
GOODS 80.00  
VAT Exempt/Non-vatable  
KEVIN FITZGERALD LEE ROAD

Total : 80.00 EUR

Tendered :  
Cheque 80.00  
500061

Change : 0.00

Issued By : Fiona Hennessey  
From : Cash Desk Till 2  
/at reg No.0005426M

### Planning Contributions

TP No. : \_\_\_\_\_ JDE Account No.: \_\_\_\_\_

Amount: \_\_\_\_\_

Signed: John Smeets

Date: 26/4/22





# Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Mr. Kevin Fitzgerald  
Lee Road  
Carrigrohane  
Cork

15<sup>th</sup> June 2021

*RE: R665/21 – Section 5 Declaration  
Property: Mount Desert, Lee Road*

Dear Sir/Madam,

With reference to your request for a section 5 Declaration at the above named property, I wish to advise and having regard to —

- Sections 2, 3, 4 and 177U of the Planning and Development Act 2000 (as amended), and
- Articles 6, 8 and 9 of the Planning and Development Regulations 2001 (as amended),

It is considered that proposed raising of lands at Mount Dessert, Lee Road, Carrigrohane is **Development** and is **Not Exempted Development** for which appropriate assessment is required.

Yours faithfully,

**Kerry Bergin**  
Assistant Staff Officer  
Community, Culture and Placemaking  
Cork City Council



**We are Cork.**



<b>PLANNER'S REPORT</b>		Cork City Council Culture, Community and Placemaking
<b>Ref. R665 /21</b>		
<b>Application type</b>	Section 5 Declaration	
<b>Description</b>	<i>See section 2 below</i>	
<b>Location</b>	Mount Desert, Lee Road	
<b>Applicant</b>	Kevin Fitzgerald	
<b>Date</b>	14/06/2021	
<b>Recommendation</b>	<i>Is Development and Is Not Exempted Development</i>	

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

### 1. Requirements for a Section 5 Declaration

Section 5(1) of the Planning and Development Act 2000 as amended states,

*5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.*

The requirements for making a section 5 declaration are set out in the Act.

### 2. The Question before the Planning Authority

In framing the question to the planning authority, the applicant states in Q2 of the application form:

*I am applying for a section 5 declaration to carry out the following work on my land at Mount Desert, Lee Rd, Carrigrohane Cork and outlined on the attached map.*

*Scope of works: Raise two areas of land by 0.95 mts as outline on the attached map together with survey of existing levels. I also enclose photographs indicting the areas where the proposed work is to be carried out and how my hand is impacted. The revision in 2010 (approx. date) of how the Inniscarra Dam operates has resulted in the river flowing at full bore for far greater and longer periods prior to this date. This has resulted in water lodging on my land a lot more frequently at the locations indicated which as resulting in the existing levels of my land subsiding. The raising of the land by 0.95 mts will eliminate this issue and help to restore the land to its original levels. The land has a gravel sub base which compounds the issue. This was established during a county wide hydrology survey some years ago. The material to be used to facilitate the work will come from my land on the opposite side of the road. This excavation was necessary to facilitate the building of a house for my son Bryan and further excavation now to build a house for my wife and myself Planning references 16/07114 and 18/05297. I own the land on both sides of the road as indicated on the enclosed map.*

### 3. Site Description

The property in question is low lying field located on the southern side of the Lee Road, between the road and the River Lee.

#### 4. Planning History

There are no planning applications associated with the subject site. The Section 5 Application Form indicates that there are two permissions associated with lands in the same ownership on the opposite side of the Lee Road. These are as follows:

18/5297	Demolition of an existing single storey detached dwellinghouse and the construction of a new single storey detached dwellinghouse including a new waste water treatment unit, percolation area and all associated site works
Outcome	Granted 27/09/2018
16/7114	The construction of a two storey detached dwelling with split level upper floor including a new site entrance, a waste water treatment unit, percolation area and all associated site works
Outcome	Granted 16/05/2017

I note that neither of the site location maps, submitted with of these planning applications, showed the land that is the subject of this Section 5 application as being within the same ownership / control of the applicants.

#### 5. Legislative Provisions

##### 5.1 The Act

###### Section 2(1),

*"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.*

###### Section 3(1),

*In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or 'the making of any material change in the use of any structures or other land'*

###### Section 4(1),

*The following shall be exempted developments for the purposes of this Act—*

*(1) – Development consisting of the carrying out of any of the works referred to in the Land Reclamation Act, 1949, not being works comprised in the fencing or enclosure of land which has been open to or used by the public within the ten years preceding the date on which the works are commenced*

*(Preamble to Land Reclamation Act 1949 – An act to authorise the Minister for Agriculture to carry out land reclamation, field drainage and other works for the improvement of agricultural holdings and to provide for the payment by the occupiers of a contribution towards the cost of those works and for other matters relating to the matters aforesaid.)*

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001-2013.

###### Section 177U (9) (screening for appropriate assessment)

*In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.*

## 5.2 The Regulations

### Article 6

*Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1*

### Article 8

*Works specified in a drainage scheme confirmed by the Minister for Finance under Part II of the Arterial Drainage Act 1945 (No. 3 of 1945) or the Arterial Drainage (Amendment) Act 1995 (No. 14 of 1995), carried out by, on behalf of, or in partnership with, the Commissioners, with such additions, omissions, variations and deviations or other works incidental thereto, as may be found necessary by the Commissioners or their agent or partner in the course of the works, shall be exempted development.*

*(B) Works consisting of field drainage for agriculture, other than drainage and/or reclamation of wetlands, shall be exempted development*

*(C) Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development.*

### Article 9 (1)

*Development to which article 6 relates shall not be exempted development for the purposes of the Act (a) if the development would –*

*(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*

### Schedule 2, Part 1

#### *Exempted Development – General – Class 6*

*(a) The construction of any path, drain or pond or the carrying out of any landscaping works within the curtilage of a house.*

*(b) Any works within the curtilage of a house for—*

*(i) the provision to the rear of the house of a hard surface for use for any purpose incidental to the enjoyment of the house as such, or,*

*(ii) the provision of a hard surface in the area of the garden forward of the front building line of the house, or in the area of the garden to the side of the side building line of the house, for purposes incidental to the enjoyment of the house as such.*

## 6. ASSESSMENT

It should be stated at the outset that the purpose of this report is not to determine the acceptability or otherwise of the wake park at this location in respect to the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so falls within the scope of exempted development.

### 6.1 Development

The first issue for consideration is whether or not the matter at hand is 'development'.

‘Development’ as defined in the Act (3)(1) comprises two possible chief components: *‘the carrying out of any works on, in, over or under land’, or ‘the making of any material change in the use of any structures or other land’*. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

I note that there is a general exemption for landscaping works set out in Class 6 of Part 1 of Schedule 2 in the Regs. This however relates only to lands within the curtilage of the a house, which is not the case for the subject lands.

It also states in section 3(2)(b) that:

*(2) For the purposes of subsection (1) and without prejudice to the generality of that subsection—*

*(b) where land becomes used for any of the following purposes—*

- (i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,*
- (ii) the storage of caravans or tents, or*
- (iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders’ waste, rubbish or debris,*

*the use of the land shall be taken as having materially changed.*

‘Works’ is defined in section 2(1) of the Act as *‘the carrying out of any works on, in, over, or under land’* including *‘any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal, and in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.’*

I consider that the proposed development, which may include the deposit of builders waste from the demolition of a residence permitted under permission 18/5297, and the raising of the land constitutes development.

## **6.2 Exempted development**

The next issue for consideration is whether or not the matter at hand is exempted development.

The applicant has not put forward any indication of the provisions, of the Act or Regs, they believe exempts the proposed development from the requirement for planning permission. My review of the relevant legislation indicates that certain land improvement works for the purposes of arterial drainage or agriculture are exempt. The subject proposal does not accord with these exemptions.

I note that one of the planning permissions referenced in the application, 18/5297, relates to the demolition of a dwelling. It is not clear whether the fill proposed will include waste from the demolition. If this is the case, then a material change of use may have taken place for which there is no exemption.

## **7. ENVIRONMENTAL ASSESSMENT**

### **7.1 Screening for Environmental Impact Assessment**

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly, it is considered that an environmental impact statement is not required to be submitted.



## **7.2 Screening for Appropriate Assessment**

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058).

I note that there is a hydrological link between the subject site, which is bounded on its southern side by the River Lee, and both the Cork Harbour SPA and the Great Island Channel cSAC.

Please see Screening Report on the next page.

<b>STEP 1</b>				
<b>Description of the project</b>				
(a) File Reference No:		R665/21		
(b) Brief description of the project or plan:		The raising of lands by the importation of materials		
(c) Brief description of site characteristics:		Site is a low lying field on the northern side of the River Lee		
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW		N/A		
(e) Response to consultation		N/A		
<b>STEP 2</b>				
<b>Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives</b>				
European Site (code)	List of Qualifying Interest / Special Conservation Interests	Distance from proposed development (km)(2)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N
Cork Harbour SPA (site code 004030)	Little Grebe ( <i>Tachybaptus ruficollis</i> ) [A004]	9.7km	River Lee – on southern boundary of site	Y
	Great Crested Grebe ( <i>Podiceps cristatus</i> ) [A005]			
	Cormorant ( <i>Phalacrocorax carbo</i> ) [A017]			
	Grey Heron ( <i>Ardea cinerea</i> ) [A028]			
	Shelduck ( <i>Tadorna tadorna</i> ) [A048]			
	Wigeon ( <i>Anas penelope</i> ) [A050]			
	Teal ( <i>Anas crecca</i> ) [A052]			
	Pintail ( <i>Anas acuta</i> ) [A054]			
	Shoveler ( <i>Anas clypeata</i> ) [A056]			
	Red-breasted Merganser ( <i>Mergus serrator</i> ) [A069]			
	Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130]			
	Golden Plover ( <i>Pluvialis apricaria</i> ) [A140]			
	Grey Plover ( <i>Pluvialis squatarola</i> ) [A141]			
	Lapwing ( <i>Vanellus vanellus</i> ) [A142]			
Dunlin ( <i>Calidris alpina</i> ) [A149]				
Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156]				

	<p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Common Gull (<i>Larus canus</i>) [A182]</p> <p>Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Wetland and Waterbirds [A999]</p>			
Great Island SAC (site code 001058)	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]</p>	14.1	River Lee – on southern boundary of site	Y
<b>STEP 3</b> <b>Assessment of Likely Significant Effects</b>				
<b>(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings</b>				
<p><b>Construction phase e.g.</b>  Vegetation clearance / Demolition / Surface water runoff from soil  Excavation/infill/ landscaping (including borrow pits) / Dust, noise, vibration / Lighting disturbance / Impact on groundwater/dewatering / Storage of excavated/construction materials / Access to site / Pests</p>	<p>Construction phase in this instance relates to the act of importation of materials onto the site. No detail has been provided regarding the volume of material. No information has been provided regarding the nature of the material, other than the fact that it will come from the site of two permissions one to include the demolition of an existing residence. It is likely that whatever materials are brought to the site will runoff directly into the River Lee and could potentially be carried to the SAC and SPA sites downstream.</p>			
<p><b>Operational phase e.g.</b>  Direct emission to air and water / Surface water runoff containing contaminant or sediment / Lighting disturbance / Noise/vibration / Changes to water/groundwater due to drainage or abstraction / Presence of people, vehicles and activities / Physical presence of structures (e.g. collision risks) / Potential for accidents or incidents</p>	<p>The importation of material will displace water during flood events. The subject site forms part of the flood plain for the River Lee and floods regularly. Changes in the river system have the potential to impact upon the European sites downstream.</p>			
<b>In combination / other</b>	There are no projects or plans in the vicinity of the			

	subject site that would lead to cumulative impacts.	
<b>(b) Describe any likely changes to the European Site</b>		
Examples of the type of changes to give consideration to include: Reduction or fragmentation of habitat area / Disturbance to QI species / Habitat or species fragmentation / Reduction or fragmentation in species density / Changes in key indicators of conservation status value (water or air quality etc.) / Changes to areas of sensitivity or threats to QI / Interference with the key relationships that define the structure or ecological function of the site	The application site is not located adjacent or within a European site, therefore there is no risk of habitat loss or fragmentation or any effects on QI species in-situ.  It is not clear if the subject site, a low lying field beside the River Lee, is an ex-situ site for the QI bird species in the Cork Harbour SPA. Further information would be required to establish the ecological significance of the site.	
<b>(c) Are ‘mitigation’ measures necessary to reach a conclusion that likely significant effects can be ruled out at screening? (select as appropriate)</b>		
Yes	No mitigation measures have been set out. These would however be necessary, if the materials brought to the site could impact on the status of the European Sites and have the potential to travel downstream by the adjoining river.  Further information is required regarding the nature of the materials to be imported. If these are potentially harmful then mitigation measures must be implemented.	
<b>STEP 4</b>		
<b>Screening Determination Statement</b>		
The assessment of significance of effects: Describe how the proposed development (alone or in-combination) is/is not likely to have significant effects on European site(s) in view of its conservation objectives		
On the basis of the information submitted, it is not possible to ascertain whether the proposed importation of soil is or is not likely to have significant effects on European sites.		
<b>CONCLUSION:</b>		
	Select Y or N	Recommendation: (delete as appropriate)
(i) It is clear that there is <b>no</b> likelihood of significant effects on an European site	N	The proposal can be screened out –  Appropriate assessment not required
(ii) It is uncertain whether the proposal will have a significant effect on a European site	Y	Request further information to complete screening  <del>Request NIS</del>  <del>Refuse planning permission</del>

(iii) Significant effects are likely	n/a	Request NIS Refuse planning permission
--------------------------------------	-----	---

This screening report has concluded that it is not possible, based on the information provided, to ascertain whether the proposed development would have a significant effect on European sites downstream of the site. As this report has conclude elsewhere that the proposed development is not exempted development it is not appropriate to issue a request for further information.

## 8. CONCLUSION

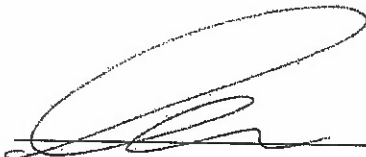
Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed altered layout is development and is not exempted development

## 9. RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3, 4 and 177U of the Planning and Development Act 2000 (as amended), and
- Articles 6, 8 and 9 of the Planning and Development Regulations 2001 (as amended),

It is considered that proposed raising of lands at Mount Dessert, Lee Road, Carrigrohane Is **Development** and is **Not Exempted Development** for which appropriate assessment is required.



Martina Foley  
Executive Planner

3. Are you aware of any enforcement proceedings connected to this site? NO  
 If so please supply details:

---

4. Is this a Protected Structure or within the curtilage of a Protected Structure?  NO

If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority?

5. Was there previous relevant planning application/s on this site?  NO  
 If so please supply details:

---

**6. APPLICATION DETAILS**

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s		
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including those for which planning permission has been obtained)?		Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) _____
(c) If concerning a change of use of land and / or building(s), please state the following:		
Existing/ previous use (please circle)	Proposed/existing use (please circle)	
_____	_____	
_____	_____	
_____	_____	

**7. APPLICANT/ CONTACT DETAILS**

Name of applicant (principal, not agent):		Kevin Fitzgerald	
Applicants Address	Mount Desert Lee Road Carrigrohane Cork		
Person/Agent acting on behalf of the Applicant (if any):	Name:		
	Address:		
	Telephone:		
	Fax:		
	E-mail address:		
Should all correspondence be sent to the above address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

## 5. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other
Where legal interest is 'Other', please state your interest in the land/structure in question		
If you are not the legal owner, please state the name and address of the owner if available		

## 6. I / We confirm that the information contained in the application is true and accurate:

Signature: 

Date: 13/05/21

### ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

*The application should be sent to the following address:*

**The Development Management Section, Community, Culture & Placemaking Directorate,  
Cork City Council, City Hall, Anglesea Street, Cork.**

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

*The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.*

#### **DATA PROTECTION**

*"Cork City Council is committed to fulfilling its obligations imposed by the Data Protection Acts 1988 to 2018 and the GDPR. Our privacy statement and data protections policy is available at <https://www.corkcity.ie/en/council-services/public-info/adpr/>.*

*We request that you read these as they contain important information about how we process personal data.*



# Planning Pack Map

**CENTRE COORDINATES:**  
 ITM 562431,572283

**PUBLISHED:** 4/2/05/2021

**ORDER NO.:** 50192340\_1

**MAP SERIES:** 6381-B

**MAP SHEETS:** 1:2,500

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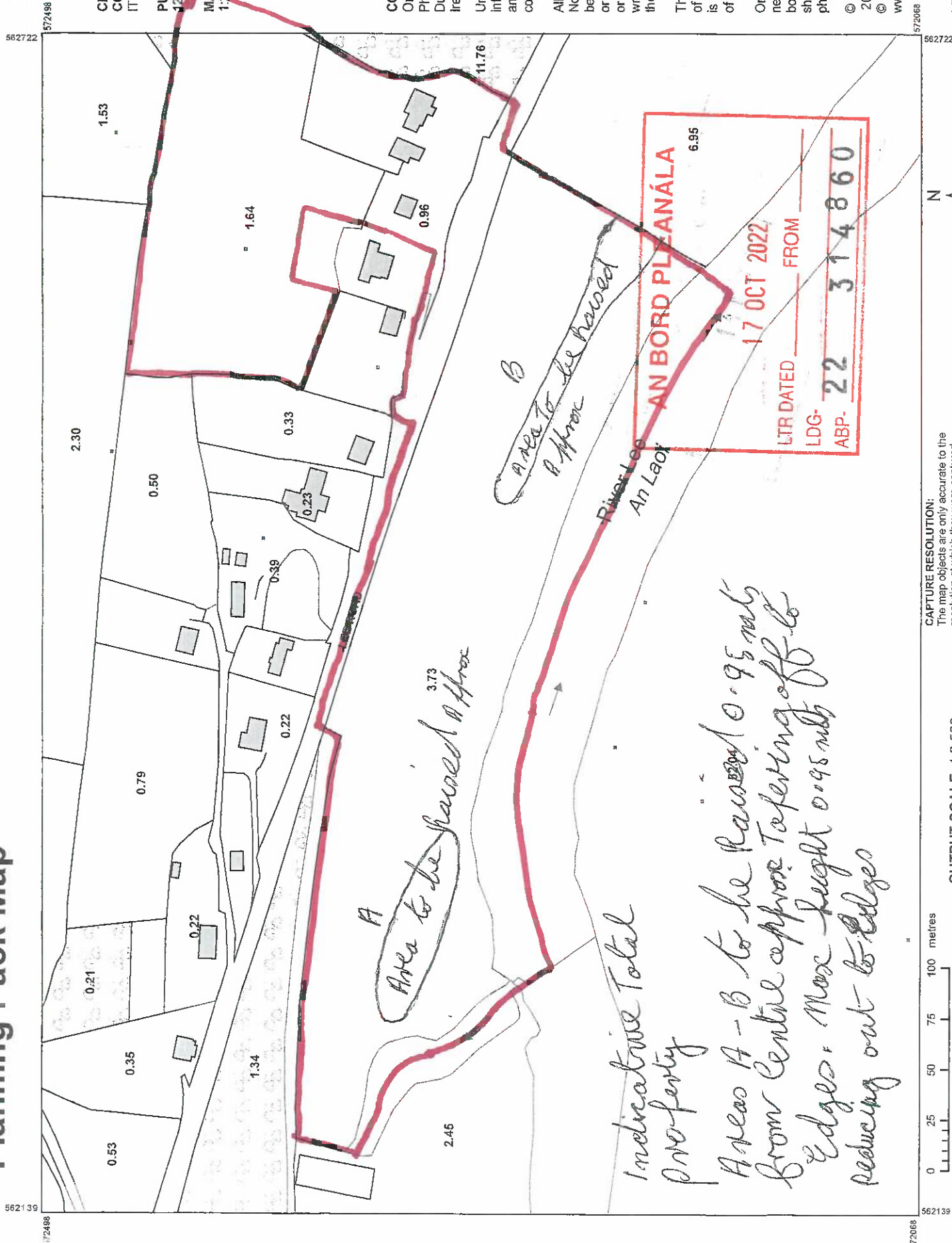
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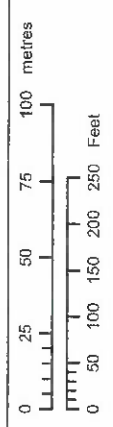
**LEGEND:**  
<http://www.osi.ie>  
 search 'Large Scale Legend'



*Indicative Total  
 property  
 Areas A - B to be raised 0.95 mls  
 from Centre approx tapering off to  
 edges. More height 0.95 mls  
 reducing out to edges*

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**OUTPUT SCALE:** 1:2,500





# Site Location Map

**CENTRE COORDINATES:**  
ITM 562431,572283

**ORDER NO.:**  
50192340\_1

**MAP SERIES:**  
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6 Inch Raster  
CK073  
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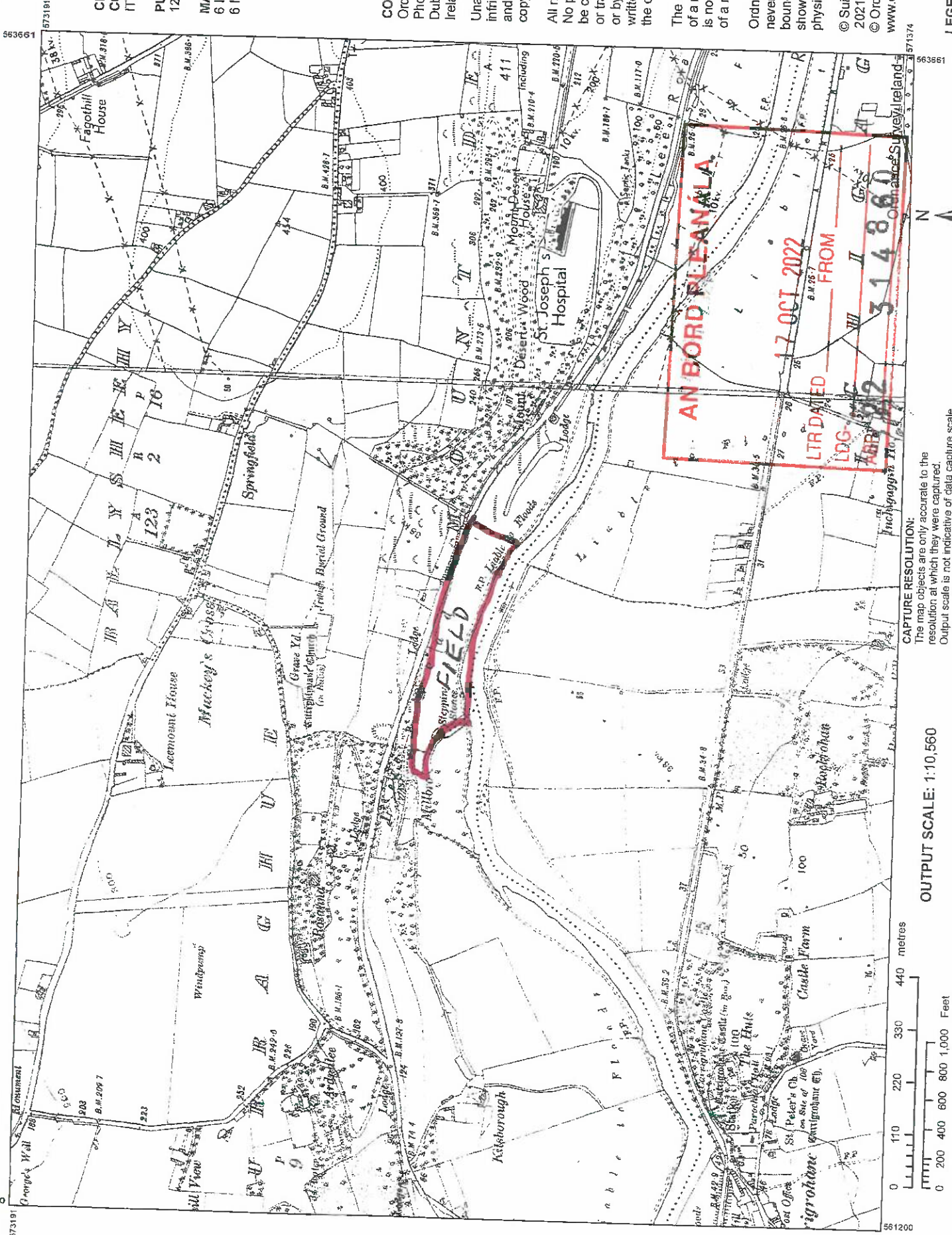
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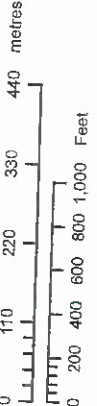
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Further information is available at:

**OUTPUT SCALE: 1:10,560**







THE HALLS  
LEA VALLEY  
W. A. S.











CORK CITY COUNCIL  
CITY HALL  
CORK

20/05/2021 14:31:44

Receipt No. : PLAN3/0/7822439  
\*\*\*\*\* REPRINT \*\*\*\*\*

R665 21  
Kevin Fitzgerald

EBA EXEMPT CERTS - FEES 58800	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
Kevin Fitzgerald	

Total : 80.00 EUR

Tendered :  
Cheque 80.00  
533069

Change : 0.00

Issued By : Eoghan Fahy  
From : Planning Dept. 3  
Pat reg No.0005426M

# PLANNING DEPARTMENT

## CASHDESK RECEIPT CHECKLIST

Name: Kevin Fitzgerald

Amount: €80.00 TP No.: R665/21

Description/ Address: Mount Desert, Lee Rd, Coeigrohore

Business Unit	Description
I4110	Copies of Planning Permission <ul style="list-style-type: none"><li>• Copies of Planning Decisions</li><li>• Copies of Final Grant</li><li>• General copying</li><li>• Archive Retrieval</li><li>• Microfiche</li></ul>
TI4110 (Transitions Area)	
I4114	• Application Fees
TI4114(Transitions Area)	
I4116	• Section 5 applications (Exemption Certs) • Extension of Duration Applications • Planning Searches
TI4116 (Transitions Area)	
I4117	• Submissions/Objections on Planning Applications
TI4117(Transitions Area)	
I4118	• Recouped Enforcement Expenses
TI4118(Transitions Area)	
I4121	• Section 254 Licence fees (Fingerpost signs)
TI4121(Transitions Area)	
I4122	• SHD Fees (Strategic Housing Developments)
TI4122(Transitions Area)	
I4124	• Planning Bond Letters
TI4124(Transitions Area)	
I4100	• Outdoor Event Licences
TI4100(Transitions Area)	

### Planning Contributions

TP NO.: R665/21 JDE Account NO.: \_\_\_\_\_

Amount: €80.00

Signed: K. B. O'Leary Date: 17/05/21

**Appendix 4 – Copies of Planning Permissions associated with the referral site (Ref. 18/5297 and 16/7114)**





# CORK COUNTY COUNCIL APPLICATION FOR PLANNING PERMISSION

ALL PLANS AND DRAWINGS FOR ONE OR TWO DWELLINGS, DOMESTIC EXTENSIONS, DOMESTIC GARAGES OR OUTOFFICES AND FOR ANY OTHER PROPOSED DEVELOPMENTS OF SIMILAR SIZE SHALL BE SUBMITTED ON A3 OR A4 PAPER.  
THANK YOU.

### APPLICANT CHECKLIST

(Please tick ✓)

- 6 No. Copies of Application Form:
- 2 No. Copies Site notice:
- 2 No. Copies Press Notice:
- 6 No. Copies 6" O.S. Maps:
- 6 No. Copies 25" O.S. Maps:
- 6 No. Copies of 1:500 Scaled Layouts:
- 6 No. Copies Plans and Drawings:
- Correct Application Fee:

✓
✓
✓
✓
✓
✓
✓
✓

013  
NR

### FOR OFFICE USE ONLY

Receipt No.	
Cash/Cheque/ Credit Card	
Date	
Planning Ref. No.	

Planning Department
21 MAY 2018
Cork County Council <u>DATE STAMP HERE!!</u> Cork.

Planning Department
19 APR 2018
Cork County Council County Hall Cork.

### Publication of Planning Applications on Cork County Council's Website

Please be advised that it is now the Council's policy to publish Planning Application details on its website. You should therefore make sure that you are satisfied that any information/documentation that you submit is appropriate to be viewed on the internet. Please do not submit any information that you do not want 3<sup>rd</sup> parties to view online.

If you need assistance in filling out this Planning Application Form, please refer to our 'Planning Application Form Guidelines' document which is available on our website [www.corkcoco.ie](http://www.corkcoco.ie) or you can contact your local Planning Office personally or by telephone and request a copy. The addresses and contact details are set out at the end of this form. Thank you.

(Tá leagan gaeilge don foirm seo le fáil ag an gcúntar poiblí agus aran nuíomh idirlíon)

Failure to complete this form or attach the necessary documentation, or the submission of incorrect information or omission of required information will lead to the invalidation of your application. Therefore please ensure that each section of this application form is fully completed and signed, entering N/A (not applicable) where appropriate, and that all necessary documentation is attached to your application form.

It should be noted that Cork County Council has its own development plan, which sets out local development policies and objectives for its own area. The authority may therefore need supplementary information (i.e. other than that required in this form) in order to determine whether the application conforms to the development plan. The Authority may request this on a supplementary application form.

Failure to supply the supplementary information will not invalidate your planning application but may delay the decision-making process or lead to a refusal of permission. Therefore applicants should contact the relevant planning authority to determine what local policies and objectives would apply to the development proposed and whether additional information is required.

#### DATA PROTECTION

The planning process is an open and public one. In that context, all planning applications are made available for public inspection and we (the planning authority) publish weekly lists of planning applications received as well as weekly lists of planning decisions. This information is placed on the Cork County Council website in accordance with the policy of the planning authority.

It has come to our attention that the publication of planning applications by planning authorities can lead to applicants being targeted by persons in the business sector engaged in direct marketing. In response to a request from the Data Protection Commissioner, you are hereby given an opportunity to indicate a preference with regard to the receipt of direct marketing arising from the lodging of a planning application.

If you are satisfied to receive direct marketing please tick  this box.

Direct marketing may be by post, by telephone, by hand or by electronic mail such as email or text message where such details are supplied.

It is the responsibility of those entities wishing to use the personal data on planning applications and decisions lists for direct marketing purposes to be satisfied that they may do so legitimately under the requirements of the Data Protection Acts 1988 & 2003 taking account of the preference.

**1. Name of Applicant:** (address to be supplied in question 60 at the back of the application form)

KEVIN & PATRICIA FITZGERALD

**2. Location of Proposed Development:**

a) Postal Address or Townland or Location (as may best identify the land or structure in question)

MOUNT DESERT, CARRIGROHANE, CO. CORK

b) Ordnance Survey Map Ref. No. (Grid Reference where available)

ITM COORDINATES: 562618,572330

**3. Name of Relevant Planning Authority:**

CORK COUNTY COUNCIL

4. Please tick  the relevant Planning Office where you are lodging your application:

County Hall, Cork

Norton House, Skibbereen, West Cork

5. a) Type of planning permission (please tick  appropriate box):

Permission

Permission for Retention

Outline Permission

Permission Consequent on the Grant of Outline Permission

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

b) Where planning permission is consequent on the grant of outline permission:

Outline Permission Register Reference Number:

N/A

Date of Grant of Outline Permission:

N/A

6. Person/Agent to whom all Correspondence will be sent:

(Address to be supplied in question 61 at the back of the application form)

ANDREW O'BRIEN ARCHITECTS

7. Person primarily responsible for preparation of Drawings and Plans:

(Address to be supplied in question 62 at the back of the application form)

ANDREW O'BRIEN ARCHITECTS

8. Where the Applicant is a Company (registered under the Companies Acts 1963 to 2009):

Name(s) of company  
Director(s)

(Address & Contact details to be supplied at question 63 of additional contact information page.)

N/A

Company Registration  
No.

N/A

9. Description of Proposed Development:

the demolition of an existing single storey detached dwelling house and for Planning Permission for the construction of a new single storey detached dwelling house including a new waste water treatment unit, percolation area and all associated site works

Planning Department

21 MAY 2018

Cork County Council  
County Hall  
Cork.

10. Are you satisfied that the proposed development does not constitute a 'Strategic Infrastructure Development' as defined in the Planning and Development Acts 2000-2010? (Please tick)

YES

**11. Legal Interest of Applicant in the Land or Structure:**

Please tick <input checked="" type="checkbox"/> appropriate box to show applicant's legal interest in the land or structure	A. Owner	<input checked="" type="checkbox"/>	B. Contracted to Purchase	<input type="checkbox"/>
	C. Lessee	<input type="checkbox"/>	D. Other	<input type="checkbox"/>
Where legal interest is 'Other', please expand further on your interest in the land or structure				
If you are not the legal owner, please state the name of the owner and supply a letter from the owner consenting to the making of this application.	<i>(Owner's Address to be supplied at question 64 of this form)</i>			

**12. Site Area:**

Area of site to which the application relates in hectares	0.1723 ha
---	-----------

**13. Where the application relates to a building or buildings:**

Gross floor space of any existing building(s) in m <sup>2</sup>	80m <sup>2</sup>
Gross floor space of proposed works in m <sup>2</sup>	177m <sup>2</sup>
Gross floor space of work to be retained in m <sup>2</sup> (if appropriate)	0m <sup>2</sup>
Gross floor space of any demolition in m <sup>2</sup> (if appropriate)	80m <sup>2</sup>

**14. In the case of mixed development (e.g. residential, commercial, industrial, etc), please provide breakdown of the different classes of development and breakdown of the gross floor area of each class of development:**

**In the case of Housing Estates please provide a breakdown of the gross floor area of each individual house type. (This may be provided on a separate sheet if necessary)**

Class of Development/ House Type	Gross floor area in m <sup>2</sup>
N/A	N/A



**15. Materials and External Finishing:**

(i) Description of buildings and materials used in them:	Nature	Colour
(a) Floors	Concrete	Natural
(b) Walls and partitions	Blocks / Timber	Natural
(c) Roof	Timber	Natural
(ii) Nature and colour of proposed external facing materials:	Nature	Colour
(a) Roofs	Slate / Trocal	Black / Grey
(b) Front Walls	Plaster	White
(c) Side Walls	Plaster	White
(d) Rear Walls	Plaster	White
(e) Road boundary walls	Existing	Existing
(f) Other boundary walls	Existing	Existing
(g) Buildings other than main buildings	N/A	N/A

**16. Where an application is for an extension to a dwelling, please tick  $\checkmark$  if it is intended to use it as a separate dwelling unit/ 'Granny Flat':**

N/A

YES  NO

If so, then please note that a fee of €65 is payable.

**Note: This must also be stated in Press Notice and Site Notice.**

**17. If Permission is granted do you intend to: Please tick  $\checkmark$  as appropriate:**

Sell the house/site	<input type="checkbox"/>
Use the house as your permanent house for year round occupation	<input type="checkbox"/>
Let the house long-term	<input type="checkbox"/>
Let the house short-term	<input type="checkbox"/>
Use as a second home/holiday home	<input type="checkbox"/>
Other : (Please state intended use)	<input type="checkbox"/>

Note: If the use is for Short Term/Holiday Letting, this must be stated in the Press Notice and Site Notice

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**Cork.**

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**Cork.**

**18. In the case of a residential development please provide the breakdown of the residential mix: You are advised that applications for residential developments should be accompanied by a design statement in order to facilitate the proper evaluation of the proposal relative to key objectives of the Development Plan with regard to the creation of sustainable residential communities.**

Number of:	Studio	1 Bed	2 Bed	3 Bed	4 Bed	4+ Bed	Total
Houses							N/A
Apartments							N/A
Number of car parking spaces to be provided	Existing:			Proposed:			Total: N/A

**19. If stables are part of the proposed development please tick  $\checkmark$  the 'Yes' box and complete question 44 on this form.**

YES

N/A

NO

**20. Where the application refers to a change of use to any land/structure or the retention of such a change of use, please complete the following section:**

Existing use (or previous use where permission for retention is sought)	N/A
Proposed use (or the use it is proposed to retain)	
Nature and extent of any such proposed use (or the use it is proposed to retain)	

**21. Social and Affordable Housing:**

Please tick appropriate box	Yes	No
Is the application an application for permission for development to which Part V of the Planning and Development Act 2000 applies?		$\checkmark$
If the answer to the above question is "yes" and the development is not exempt (see below), please specify, as part of your application, the manner in which you propose to comply with section 96 of Part V of the Act.		
If the answer to the above question is "yes" but you consider the development to be exempt by virtue of section 97 of the Planning and Development Act 2000, please submit a copy of the Certificate of Exemption under section 97 (or, where an application has been made but has not yet been decided, please submit a copy of the application).		
If the answer to the above question is "no" by virtue of section 96 (14) of the Planning and Development Act 2000, please submit details indicating the basis on which section 96 (14) is considered to apply to the development.		

**22. Development Details:**

Please tick an appropriate box	YES	NO
<p>Does the proposed development consist of work to a protected structure and / or within its curtilage or proposed protected structure and / or within its curtilage?  <u>If 'Yes' then this must be stated in the development description in the Press Notice and Site Notice</u></p>		✓
<p>Does the proposed development consist of work to the exterior of a structure which is located within an Architectural conservation area (ACA)?</p>		✓
<p><b>Appropriate Assessment:</b> Does the application relate to work within or affecting a European Site or a Natural Heritage Area?  <u>If 'Yes', this may require the preparation of a Natura Impact Statement. If a Natura Impact Statement is submitted with the planning application, this must be stated in the development description in the Press Notice and Site Notice</u></p>		✓
<p>Does the proposed development require the preparation of an Environmental Impact Statement?  <u>If 'Yes' then this must be stated in the development description in the Press Notice and Site Notice</u></p>		✓
<p>Does the application relate to a development which comprises or is for the purpose of an activity requiring an Integrated Pollution Control Licence issued by the Environmental Protection Agency (EPA)?  <u>If 'Yes' then this must be stated in the development description in the Press Notice and Site Notice</u></p>		✓
<p>Does the application relate to a development which comprises or is for the purpose of an activity requiring an Industrial Emissions Directive Licence issued by the Environmental Protection Agency (EPA)?  <u>If 'Yes' then this must be stated in the development description in the Press Notice and Site Notice</u></p>		✓
<p>Does the application relate to a development which comprises or is for the purposes of an activity requiring a waste licence issued by the Environmental Protection Agency (EPA)?  <u>If 'Yes' then this must be stated in the development description in the Press Notice and Site Notice</u></p>		✓
<p>Does the Major Accident Regulations apply to the proposed development? <u>If 'Yes' then the application must be accompanied by 4 no. copies of the information specified in the 3<sup>rd</sup> schedule of the Major Accident Regulations.</u>  <u>If 'Yes' then this must be stated in the development description in the Press Notice and Site Notice</u></p>		✓
<p>Does the application relate to a development in a Strategic Development Zone? <u>If 'Yes' then this must be stated in the development description in the Press Notice and Site Notice</u></p>		✓
<p>Does the proposed development involve the demolition of any habitable house or any other structure over 40 square metres on a domestic site or over 100 square metres on a non-domestic site? <u>If 'Yes' then this must be stated in the development description in the Press Notice and Site Notice</u></p>		✓
<p>Does the application relate to development which affects or is close to a monument or place recorded under section 12 of the National Monuments Act, 1994 as amended.</p>	✓	✓

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**23. Pre-application Consultation:**

Has a pre-application consultation taken place in relation to the proposed Development?

YES

NO

If Yes, Please give details:

Was this consultation conducted under Section 247\* of the Planning and Development Act 2000?

(\* Section 247 – where a time and place is specified by the Planning Authority for Public Consultation and a written record of this consultation is kept by the Planning Authority)

YES

NO

Reference No. (if any):

Date(s) of consultation:

Persons involved:

N/A

**24. Site History:**

Details regarding Site History (If known):

Is any supplementary information concerning Flood Risk Management included with the application?

If yes, please give details e.g. year, extent.

Are you aware of previous uses of the site? (e.g. dumping or quarrying)

If yes, please give details.

Are you aware of any valid planning applications previously made in respect of this land/structure?

If yes please state planning reference number(s) and the date(s) of receipt of the Planning application(s) by the planning authority if known:

Please tick appropriate box ✓

YES		NO	✓
YES		NO	✓
YES		NO	✓
REFERENCE NO.		DATE OF RECEIPT	
<input type="text"/>		<input type="text"/>	

**NOTE:** If a valid planning application has been made in respect of this land or structure in the 6 months prior to the submission of this application, then the site notice must be on a **YELLOW BACKGROUND** in accordance with Article 19(4) of the Planning and Development Regulations 2001 as amended.

Is the site of the proposal subject to a current appeal to An Bord Pleanála in respect of a similar development?

YES  NO

**Please note: the appeal must be determined or withdrawn before another similar application can be made**  
If 'Yes' state the An Bord Pleanála Reference No.

**25. Services:**

<p><b>Existing Water Supply Connection</b> Please specify Public Mains, Group Water Scheme, Private Well or Other.</p>		<p>EXISTING MAINS CONNECTION TO BE RETAINED</p>	
<p><b>Proposed Source of Water Supply:</b></p>	<p>Please tick as appropriate ✓</p>	<p><b>Give Details/Name</b></p>	
<p>New connection</p>			
<p>Public Mains</p>			
<p>Group Water Scheme</p> <p><b>If connecting to Group Water Scheme, Please provide a letter of consent for connection to the scheme</b></p>			
<p>Private Well</p>			
<p>Other (please specify)</p>			
<p><b>Existing Wastewater Treatment:</b> Please specify Public Foul Mains, Treatment System or Other.</p>			
<p><b>Proposed Wastewater Management/Treatment:</b></p>	<p>Please tick as appropriate ✓</p>	<p><b>Give Details/Name</b></p>	
<p>New</p>			
<p>Public Sewer</p>			
<p>Conventional septic tank system</p>			
<p>Other on-site treatment system</p>	<p>✓</p>	<p>Refer to Site Assessment Report</p>	
<p><b>Existing Surface Water Disposal</b> Please specify Public Sewer/Drain, Soak Pit, Watercourse or Other</p>			
<p><b>Proposed Surface Water Disposal:</b></p>	<p>Please tick as appropriate ✓</p>	<p><b>Give Details/Name</b></p>	
<p>Public Sewer/Drain</p>			
<p>Soak Pit</p>			
<p>Watercourse</p>			
<p>Other</p>			

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26. Do you own any of the land which adjoins, abuts or is adjacent to the site?

YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>

27. If yes, have you outlined it in blue on the site location maps submitted?

28. Details of Public Notice:

Approved newspaper in which the notice was published	THE EVENING ECHO
Date of publication	16 <sup>th</sup> May 2018
Date on which site notice was erected	16 <sup>th</sup> May 2018

29 (A). Application Fee:

Fee Payable	€145.00
Basis of Calculation	€65 - Fee for New Dwelling €80 - Fee for Demolition of an Existing Dwelling

29 (B). Application Fee Payment Method:

Please indicate how you have paid or propose to pay the planning application fee by ticking the appropriate box


<u>Payment Method</u>	Please tick as appropriate <input checked="" type="checkbox"/>	<u>Payment Method</u>	Please tick as appropriate <input type="checkbox"/>
Cash	<input type="checkbox"/>	Credit / Debit Card	<input type="checkbox"/>
Cheque	<input checked="" type="checkbox"/>	Electronic Fund Transfer (E.F.T.) ****	<input type="checkbox"/>
Bank Draft	<input type="checkbox"/>	Other: (Please Specify)	<input type="checkbox"/>
Postal Order	<input type="checkbox"/>		<input type="checkbox"/>

\*\*\*\* Please see page 22 of Cork County Council's Planning Application Form Guidelines for details on how to pay your planning fee by Electronic Fund Transfer (E.F.T.)

If your application is for a Domestic Development or for Outline Permission please proceed to question 59 of this form.

**59. Declaration:**

hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the Planning and Development Acts 2000 - 2010 and the Regulations made thereunder:

<i>Signed</i> <i>(Applicant or Agent</i> <i>As appropriate)</i>	 <b>Andrew O'Brien</b>
Date	<b>18<sup>th</sup> April 2018</b>

An applicant will not be entitled solely by reason of a planning permission to carry out the development. The applicant may need other consents, depending on the type of development. For example, all new buildings, extensions and alterations to, and certain changes of use of existing buildings must comply with building regulations, which set out basic design and construction requirements.

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person before that to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the Planning and Development Act 2008 and the Regulations made thereunder.



Andrew O'Brien

10th April 2012

I hereby certify that the information given in this form is correct, accurate and fully compliant with the Planning and Development Act 2008 and the Regulations made thereunder.

Project: [illegible]  
Date: [illegible]  
[illegible]





# CORK COUNTY COUNCIL

## SITE NOTICE

■/We, KEVIN & PATRICIA FITZGERALD, intend to apply for

Permission

Planning Department

21 MAY 2018

Cork County Council  
County Hall

8/13  
NRK

For development of this site at  
MOUNT DESERT, CARRIGROHANE, CO.CORK

The development will consist/ ~~consist~~ of the demolition of an existing single storey detached dwelling house and planning permission for the construction of a new single storey detached dwelling house including a new waste water treatment unit, percolation area and all associated site works

The planning application may be inspected or purchased at a fee not exceeding the reasonable cost of making a copy at the offices of the Planning Authority, County Hall, Carrigrohane Road, Cork, during its public opening hours, i.e. 9.00a.m. to 4.00 p.m. Monday to Friday (excluding public holidays). A submission or observation in relation to the application may be made in writing to the Planning Authority on payment of the prescribed fee within the period of 5 weeks beginning on the date of receipt by the Authority of the application, and such submissions and observations will be considered by the planning authority in making a decision on the application. The planning authority may grant permission subject to or without conditions, or may refuse to grant permission.

Signed:

Andrew O'Brien Architects Limited  
Cork, Ireland 0860730113

Date of erection of site notice: 16<sup>TH</sup> MAY 2018

See directions for completing this notice attached to this form.



**CORK COUNTY COUNCIL**  
**PLANNING & DEVELOPMENT ACTS 2000 - 2010**  
**NOTIFICATION OF DECISION TO GRANT Permission**

Reference No. in Planning Register 16/07114

Bryan & Martene Fitzgerald  
C/O Andrew O'Brien Architects  
12 Curragh Glen  
Upper Aghada  
Midleton  
Co. Cork

In pursuance of the powers conferred upon them by the above mentioned Act and for the reason set out in the First Schedule hereto, the Council of the County of Cork has by Order dated **10/04/2017** decided to **GRANT Permission** for the development of land namely:

The construction of a two storey detached dwelling with split level upper floor including a new site entrance, a waste water treatment unit, percolation area and all associated site works

At: Mount Desert, Carrigrohane, Co. Cork

In accordance with the plans and particulars submitted by the applicant

On: 13/12/2016, as amended on 18/01/2017

And subject to the conditions (15no.) set out in Column 1 of the Second Schedule attached hereto. The reasons for the imposition of the said conditions are set out in Column 2 of the schedule.

An appeal against a decision of the Planning Authority may be made to An Bord Pleanála by any authorised person before the EXPIRATION of the period of FOUR WEEKS beginning on the day of the giving (i.e. Date of Order) of the decision of the Planning Authority. (SEE NOTES ATTACHED)

If there is no appeal against the said decision, a grant of Permission in accordance with the decision will be issued after the expiration of the period within which an appeal may be made to An Bord Pleanála. It should be noted that until a grant of Permission has been issued the development in question is NOT AUTHORISED.

Signed on behalf of the said Council



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Peter Varian  
Senior Staff Officer  
Date: 10/04/2017

SEE NOTES ATTACHED

Please note that pursuant to S.34(3) of the Act, the Planning Authority has had regard to submissions or observations received in accordance with these Regulations.

In accordance with Article 20, site notice shall be removed on receipt of this notification.



CORK COUNTY COUNCIL

**ORDER NO:** 17/4605 **O.S. NO.** 73/8.

**SUBJECT:** Application Reg. Ref. No. 16/07114

**for:** The construction of a two storey detached dwelling with split level upper floor including a new site entrance, a waste water treatment unit, percolation area and all associated site works

**at:** Mount Desert  
Carrigrohane  
Co. Cork

**ORDER:** **Conditional Permission** is hereby GRANTED subject to the provision of Subsection 11 of Section 34 of the Planning and Development Acts, 2000 - 2010 for the reason set out in the First Schedule attached hereto.

**to:** Bryan & Martene Fitzgerald

**of:** C/O Andrew O'Brien Architects  
12 Curragh Glen  
Upper Aghada  
Midleton  
Co. Cork

**for:** The construction of a two storey detached dwelling with split level upper floor including a new site entrance, a waste water treatment unit, percolation area and all associated site works

**at:** Mount Desert, Carrigrohane, Co. Cork,

in accordance with plans and particulars lodged by the applicant on 13/12/2016 and subject to the conditions (15 no.) set out in the Second Schedule attached hereto.

The **Permission** is to be granted subject to the conditions provided no appeal is made to An Bord Pleanála within the statutory time for the making of such appeals.



**SIGNED:**

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Seán O'Callaghan  
Senior Executive Officer

**Dated this** 10/04/2017



## FIRST SCHEDULE

Planning Ref. No. 16/07114

Having regard to the development plan objectives for the area and the pattern of development in this rural area, it is considered that subject to compliance with conditions attached in the Second Schedule, the proposed development would not seriously injure the amenities of the area and would not be prejudicial to public health and, therefore, would be in accordance with the proper planning and sustainable development of the area.





## SECOND SCHEDULE

No.	Condition	Reason
1	The development shall be carried out in accordance with the plans and particulars lodged with the application on the 13th of December 2016, as amended by the documents and drawings received by the Planning Authority on the 15th of March 2017 except as may otherwise be required in order to comply with the conditions herein.	In the interests of clarity.
2	At least one month before commencing development or at the discretion of the Planning Authority within such further period or periods of time as it may nominate in writing, the developer shall pay a contribution of €5093.92 to Cork County Council in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority. The value of this contribution is calculated in accordance with the Council's Development Contributions Scheme on the 1st of January 2017, and shall be increased monthly at a rate of 8% per annum in the period between the date on which this value was calculated, and the date of payment.	It is considered appropriate that the developer should contribute towards the cost of public infrastructure and facilities benefiting development in the area of the Planning Authority, as provided for in the Council's Development Contributions Scheme, made in accordance with section 48 of the 2000 Planning and Development Act, and that the level of contribution payable should increase at a rate which allows both for inflation and for phasing in of the target contribution rates, in the manner specified in that Scheme.
3	(1) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter, unless consent is granted by the Planning Authority for its occupation by other persons who belong to the same category of housing need as the applicant. Before any development commences, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing, the applicant shall enter into a written agreement with the Planning Authority under Section 47 of the Planning and Development Act, 2000 to this effect. (2) Within	To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.



	two months of the occupation of the proposed dwelling, the applicant shall submit to the Planning Authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (1) and the date of such occupation. This condition shall not affect the sale of the dwelling by a mortgagee in possession or by any person deriving title from such a sale.	
4	Before any development commences, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing, details of the materials, colours and textures of all external finishes to the proposed development shall be submitted and agreed in writing with the Planning Authority.	In the interests of visual amenity.
5	Roof covering shall be slate or flat tile coloured dark grey or Blue/Black to the satisfaction of the Planning Authority.	In the interests of visual amenity.
6	All external walls of proposed structure shall be finished in smooth plaster.	In the interests of visual amenity.
7	Any stone finish of dwelling shall be of natural stone indigenous to the vicinity of the site. Details of the type of stone to be used shall be agreed in writing with the Planning Authority prior to the commencement of development.	In the interests of visual amenity.
8	The site shall be landscaped and planted in accordance with a comprehensive scheme to comprise predominantly native species and varieties and to include: [a] details of screen planting (which should not comprise of cupressocyparis leylandii nor grisellinia in rural situations) [b] species, variety, number and locations of trees and shrubs [c] programme for implementation and maintenance of the scheme. Full details shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing.	In the interests of visual amenity.
9	Gradient of entrance recess shall	In the interests of road safety and



	not exceed 1 in 12 between public road edge and entrance gates.	to facilitate vehicular access to the site.
10	Sight distance of 80 m to the West and 80 m to the East shall be provided from centre point of entrance 3 m back from public road edge. No vegetation or structure shall exceed 1m in height within the sight distance triangle.	To provide proper sight distance for emerging traffic in the interests of road safety.
11	Surface water shall be disposed of within the site by means of soakaways and shall not be allowed to flow onto public road.	To prevent the flooding of the public road.
12	Existing roadside drainage arrangements shall be preserved to the satisfaction of the Planning Authority.	To preserve proper roadside drainage and to prevent the flooding of the public road.
13	A drainage grating, along with a discharge pipe to a soakaway located within the site, shall be installed at the entrance to the site to the satisfaction of the Planning Authority.	To prevent flooding of the public road
14	The proposed septic tank and percolation area shall be designed, constructed, laid out and maintained to conform with the provisions of the Code of Practice, Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. < 10) EPA 2009.	To ensure satisfactory design, construction and maintenance of the septic tank drainage system.
15	A filter drain connected to soakaway located within the site, shall be installed along the proposed access road to the satisfaction of the Planning Authority.	To prevent flooding of public road.

