

An Roinn Tithíochta,
Rialtais Áitiúil agus Oidhreacht
Department of Housing,
Local Government and Heritage



An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

AN BORD PLEANÁLA	
LDG-	_____
ABP-	_____
28 MAR 2024	
Fee: €	Type: _____
Time: 9:43	By: regpost

By Registered Post

27th March 2024

NPWS Ref: NA0671

(Please quote the above reference in all relevant correspondence)

Re: Referral to An Bord Pleanála of an application for derogation consent to carry out an operation or activity on a site within the Lady's Island Lake Special Area of Conservation (SAC) (Site Code: 000704) and the Lady's Island Lake Special Protection Area (SPA) (Site Code: 004009) to which the European Communities (EC), (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011) apply, in accordance with Regulation 30 of those Regulations and also to which the European Union Habitats (Lady's Island Lake Special Area of Conservation 000704) Regulations 2018 (S.I. No. 292/2018) and European Communities (Conservation of Wild Birds (Lady's Island Lake Special Protection Area 004009)) Regulations 2010 (S.I. No. 69/2010) - apply, in accordance with Regulation 5 of those Regulations.

Dear Sir/Madam,

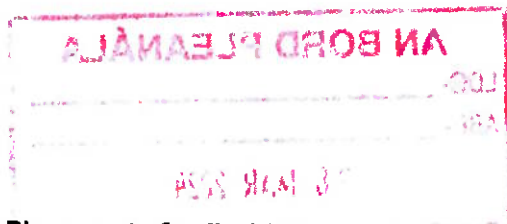
The Minister for Housing, Local Government and Heritage has received an Activity Requiring Consent (ARC) application form from Fr. Jim Cogley P.P. on behalf of Our Lady's Island Pilgrimage Committee, to carry out works within the Lady's Island Lake Special Area of Conservation (SAC), (Site Code: 000704) and the Lady's Island Lake Special Protection Area (SPA) (Site Code: 004009), within the townland of Our Lady's Island, Co. Wexford.

The proposed activities involve:

- **Placement of boulders for the purpose of providing rock armour, within the Lady's Island Lake SAC and the Lady's Island Lake SPA, at southern tip of Lady's Island, extending up to 80 meters on the lake side of the pilgrim path;**

Bóthair an Bhaile Nua, Loch Garman, Y35 AP90
Newtown Road, Wexford, Y35 AP90
T +353 53 911 7353 | designatedprotection@npws.gov.ie
www.tithiocht.gov.ie www.housing.gov.ie





- **Placement of soil within the Lady's Island Lake SAC and the Lady's Island Lake SPA** at southern tip of Lady's Island on the lake side of the pilgrim path to replace areas of eroded soil with new soil to level the path;
- **The placement of boulders and soil will be carried out using a digger;**
- **The proposed activities lie entirely within the Lady's Island Lake SAC and the Lady's Island Lake SPA;**
- Purpose of the above activities to **prevent further erosion to the pilgrim path by shoring up with boulders and to level the current eroded areas of the path with additional soil for a flatter surface to ensure the safety of walkers.**

The Minister has considered the application and has formed the opinion that the above proposed activities may constitute development under the Planning and Development Act and may also alone or in combination with other activities, cause significant effects on habitats and species for which the SAC and SPA are designated. Potential significant effects are **outlined in the associated AA Screening Report** and include:

- Disturbance to Qualifying Interest bird species of the SPA if works were carried out during the breeding period of the common tern, arctic tern, sandwich tern, roseate tern, black-headed gull and gadwall. Works will likely be carried out during the breeding season in advance of the pilgrimage in August.
- Significant effects to the Qualifying Interest coastal lagoon habitat of the SAC through changes to water quality via the use of a digger within the SAC and lagoon habitat and also the permanent placement of boulders within the SAC and lagoon habitat.

Under Regulation 31 (1) of the European Communities (EC) (Birds and Natural Habitats) Regulations (S.I. No 477 of 2011), where the Minister is considering an application for consent and the Minister forms the opinion that the application may not be exempted development, because it would be likely (individually or in combination with other plans or projects) to have a significant effect on a European Site, he shall, if the applicant wishes to pursue the application, refer the matter to An Bord Pleanála, for a determination on the matter.

As per Regulation 31 (1), the Minister has requested the applicant to indicate if he wishes to proceed with a referral of this application to An Bord Pleanála. The Minister has received



confirmation from the applicant that he wishes for the Minister to proceed with the referral of his application to An Bord Pleanála for a determination.

Accordingly, it is the recommendation of this Department that in accordance with Regulation 31 (1) of the Birds and Habitats Regulations; **this application is referred to An Bord Pleanála under Section 5 (8) of the Planning and Development Act for a determination as to whether it relates to development which is not exempted development.**

Please see attached for your reference, a copy of the application for consent which was submitted to this Department on 29 September 2023 by Fr. Jim Cogley and a copy of the email which was received from the applicant requesting the referral to An Bord Pleanála is also attached for your reference. Also below shows Regulation 31 (1) of the European Communities (Birds and Natural Habitats) Regulations 2011 which provides for this referral.

31. (1) Where the Minister is considering an application for consent under these Regulations and he or she forms the opinion that the application relates to a development within the meaning of the Planning and Development Acts 2000 to 2011, and that the development may not be an exempted development because—

- a) it would require an Appropriate Assessment under the Habitats Directive,
- b) it would require environmental impact assessment under the EIA Directive by reason of its likely effect on a European Site or on a Natural Heritage Area,
- c) it would be likely, individually or in combination with other plans or projects, to have a significant effect on a European Site or on a Natural Heritage Area, or
- d) of any other relevant provision in the Planning and Development Acts 2000 to 2011 in relation to exempted development,

he or she shall, if the applicant wishes to pursue the application, refer the matter to the Board under Section 5(8) of the Planning and Development Act 2000 for a determination as to whether the application relates to development which is not exempted development.

Please send your determination to this office at your earliest convenience.



If you require any further information, please do not hesitate to contact the local National Parks and Wildlife Service Conservation Ranger, Hazel Doyle at 085 8054304 or by email at Hazel.Doyle@npws.gov.ie.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Yvonne Nolan'.

Yvonne Nolan
Higher Executive Officer
Designated Areas Protection Unit
Wildlife Enforcement and Nature Conservation
National Parks and Wildlife Service
Department of Housing, Local Government and Heritage
Newtown Road
Wexford
Y35 AP90

Tel: 053 9117353
Email: designatedprotection@npws.gov.ie



Rialtas na hÉireann
Government of Ireland

Appropriate Assessment Screening for ARCS

**Assessment of Activities Requiring Consent within
Lady's Island Lake (SAC), (Site Code: 000704) and the
Lady's Island Lake (SPA) (Site Code: 004009) in
accordance with regulation 30 EC (Birds and Natural)
Habitats Regulations 2011-2021**

Prepared by the Department of Housing, Local Government and Heritage
npws.ie

ARC Form 3 Screening for AA

Application Administrative Reference Number: 000704_004009_HD_01

Description of the activity (from ARC Form 1)

- Placement of boulders for the purpose of providing rock armour, within the Lady's Island Lake SAC and the Lady's Island Lake SPA, at southern tip of Lady's Island, extending up to 80 meters on the lake side of the pilgrim path;
- Placement of soil within the Lady's Island Lake SAC and the Lady's Island Lake SPA at southern tip of Lady's Island on the lake side of the pilgrim path to replace areas of eroded soil with new soil to level the path. Soil to come from Lady's Island;
- The placement of boulders and soil will be carried out using a tractor digger with bucket;
- The proposed activities lie entirely within the Lady's Island Lake SAC and the Lady's Island Lake SPA;
- Purpose of the above activities to prevent further erosion to the pilgrim path by shoring up with boulders and to level the current eroded areas of the path with additional soil for a flatter surface to ensure the safety of walkers.

Part 1: Activities necessary to the management of the site – N/A

Answer these questions if the activity is "directly connected with or necessary to the management of the site". Otherwise go to Part 2.

a). List the European site and the relevant Conservation Objectives (include version number of the Conservation Objective).

Click or tap here to enter text.

b). State how this activity furthers the Conservation Objective(s)

Click or tap here to enter text.

c). Does this activity have the potential to impact negatively on any Conservation Objective (CO), Qualifying Interest (QI)/Special Conservation Interest (SCI) for this or any other European site?

Yes ☐

No ☐

d). Are there aspects of this activity which are NOT directly connected with the management of the site?

Yes ☐

No ☐

If the answer to EITHER of the above questions is **Yes** screening for AA is required, go to Part 2.

If the answer to BOTH questions is **No** go to Part 5.

Part 2: Identify all European sites which may be affected by the activity

List all European sites which may be affected by this activity because they are linked by an ecological pathway. If the site has a second European designation (SAC, SPA) this also needs to be considered.

- Lady's Island Lake SAC (Site Code:000704)
- Lady's Island Lake SPA (Site Code: 004009)

Part 3: Assess the likelihood of significant effects

Provide this information for **each site** listed in Part 2.

List the QI/SCIs for the site, their current conservation condition and the CO for that QI/SCI. Then answer the questions about the impact on that QI/SCI. To answer the question use the information given about the activity on ARC Form 1 together with the QI/SCI information provided here.

Site 1. Name and Code Lady's Island Lake SAC (Site Code:000704)

Site 1.

QI #1: Lagoon

Conservation Condition Unfavourable-Bad

CO Overall to restore the favourable conservation condition of Coastal lagoons* in Lady's Island Lake SAC, defined by Site Specific Conservation Objectives (SSCOs) and a list of attributes and targets including the following which are relevant to the proposed activities: Habitat area (measured in hectares) - Area stable, subject to slight natural variation. Favourable reference area: 299.6ha. See map 3 for mapped lagoon. Habitat distribution (measure occurrence) - No decline, subject to natural processes. See map 3 for mapped lagoon. Hydrological Regime (measured in meters) - Annual water level fluctuations and minima within natural ranges. Typical plant species (measured in numbers and m²) - Maintain number and extent of listed lagoonal specialists, subject to natural variation. Typical animal species (measured in numbers) - Maintain listed lagoonal specialists, subject to natural variation. Negative indicator species (measured in number and percentage cover) - Negative indicator species absent or under control.

There is a potential that the proposed digger working within the Lady's Island Lake SAC and within the priority QI Lagoon habitat will result in likely significant effects to the lagoon habitat via contravention of the above SSCO's. The placement of soil and rock armour within the lagoon habitat could reduce the area and distribution of the habitat, change the hydrological regime of the lagoon, reduce the number and/or extent of typical plant and/or animal species if they occur at this location and the possibility of bringing in invasive species via the spoil is potentially likely. The excavator working in the lagoon could also leak hydrocarbons into the lagoon and result in siltation of the lagoon from the excavator tracks and bucket on the bed of the lagoon.

Tick all the boxes below which may apply.

Your answer will determine if the activity is likely to have a (negative) effect on this QI/SCI. Negative effects may arise because of the activity's location within the site; its proximity to the QI/SCI or the size of the land take involved; the abstraction of water or minerals; emissions or waste arising; the types of transport or machinery being used; the length of time involved or seasonality of the work.

- a). There is likely to be a reduction in the area of QI/SCI habitat ☒
- b). The physical/chemical quality of the environment is likely to be changed in a way which may cause the deterioration of the QI/SCI habitat (e.g. applying lime to an acidic soil) ☒
- c). The structure of the ecological community is likely to be altered (e.g. through altered species composition) in a way which will have negative impact on the QI/SCI. ☒
- d). A QI/SCI species is likely to be disturbed (e.g. through noise, vibrations) ☐
- e). The population size, characteristics or reproductive success of a QI/SCI species is likely to be changed either directly or indirectly (e.g. lighting close to a bat roost entrance) ☐
- f). QI/SCI species or habitats are likely to be more vulnerable to change or less resilient to external change (e.g. to flooding, fire or drought) ☐
- g). There are likely to be effects on other species /habitats (not a QI/SCI for this site) which are ecologically linked with this QI/SCI and, as a consequence, there are likely to be negative effects on this QI/SCI (e.g. the impacts on geese which are the SCI when their non-QI feeding areas are damaged) ☐
- h). This activity will likely cause a deterioration in the conservation condition of this QI/SCI. ☒
- i). There are likely to be other ecological effects not listed above which are likely to have a significant effect on the QI/SCI. ☐
 Explain the effects: [Click or tap here to enter text.](#)

If you have ticked a box for any QI/SCI in any of the sites affected by this activity the likelihood of a significant effect cannot be ruled out and the activity MUST be screened IN for AA.

Site 2. Name and Code Lady's Island Lake SPA (Site Code: 004009)

Site 2.

QI/SCI #1: Gadwall

CO for an QI bird species: To maintain or restore the favourable conservation condition of the wetland habitat at Lady's Island Lake SPA as a resource for the regularly-occurring migratory waterbirds that utilise it. Gadwall are amber listed under the Birds of Conservation Concern list in Ireland. There is no SSCO for Lady's

Island Lake SPA however a digger working in the lagoon and lakeshore during the breeding season has the potential to result in likely disturbance effects to gadwall through noise and vibration etc. Inish provides potentially suitable habitat for nesting gadwall and is in close proximity to the proposed location of the works which are planned to take place during the breeding season for the pilgrimage in August.

QI/SCI #2: Black-headed Gull. Black-headed gull are amber listed under the Birds of Conservation Concern list in Ireland. There is no SSCO for Lady's Island Lake SPA however a digger working in the lagoon and lakeshore during the breeding season has the potential to result in likely disturbance effects to black-headed gulls which nest on Inish, through noise and vibration. The Black-headed gull colony on Inish is in close proximity to the proposed works which are planned to take place during the breeding season. Inish is the most important breeding colony of black-headed gulls in the country.

QI/SCI #3: Sandwich Tern Sandwich tern are amber listed under the Birds of Conservation Concern list in Ireland. There is no SSCO for Lady's Island Lake SPA however a digger working in the lagoon and lakeshore during the breeding season has the potential to result in likely disturbance effects to sandwich tern which nest on Inish, through noise and vibration. The sandwich tern colony on Inish is in close proximity to the proposed works which are planned to take place during the breeding season. Inish is the most important breeding colonies of sandwich tern in the country and is of international importance.

QI/SCI #4: Roseate Tern Roseate tern are amber listed under the Birds of Conservation Concern list in Ireland. There is no SSCO for Lady's Island Lake SPA however a digger working in the lagoon and lakeshore during the breeding season has the potential to result in likely disturbance effects to roseate tern which nest on Inish, through noise and vibration. The roseate tern colony on Inish is in close proximity to the proposed works which are planned to take place during the breeding season. Inish is one of the most important breeding colonies of roseate tern in north western Europe and is of international importance.

QI/SCI #5: Common Tern Common tern are amber listed under the Birds of Conservation Concern list in Ireland. There is no SSCO for Lady's Island Lake SPA however a digger working in the lagoon and lakeshore during the breeding season has the potential to result in likely disturbance effects to common tern which nest on Inish, through noise and vibration. The common tern colony on Inish is in close proximity to the proposed works which are planned to take place during the breeding season. Inish is one of the most important breeding colonies of common tern in Ireland.

QI/SCI #6: Arctic Tern **QI/SCI #7: Arctic tern** are amber listed under the Birds of Conservation Concern list in Ireland. There is no SSCO for Lady's Island Lake SPA however a digger working in the lagoon and lakeshore during the breeding season has the potential to result in likely disturbance effects to arctic tern which nest on Inish, through noise and vibration. The arctic tern colony on Inish is in close proximity to the proposed works which are planned to take place during the breeding season. Inish is one of the most important breeding colonies of arctic tern in Ireland.

QI/SCI #7: Wetland & Waterbirds: the wetland areas of Lady's Island Lake SPA supports the QI birds species and all other waterbird species through wetland habitat for feeding, shelter, breeding and roosting. The proposed works have the potential to cause a likely significant effect to the wetland habitat and associated waterbirds through change in water quality of the lagoon and other wetland habitats, associated reduction in food availability and/or animals and plants these birds feed on. This could result from hydrocarbons and sedimentation and siltation from an excavator working on the lakeshore/lagoon within both the Lady's Island Lake SAC and Lady's Island Lake SPA. The works

could result in a deterrence to QI bird species of the SPA from disturbance impacts and have the potential to result in likely significant effects to breeding success and productivity, particularly for the QI bird species detailed above.

Tick all the boxes below which may apply.

Your answer will determine if the activity is likely to have a (negative) effect on this QI/SCI. Negative effects may arise because of the activity's location within the site; its proximity to the QI/SCI or the size of the land take involved; the abstraction of water or minerals; emissions or waste arising; the types of transport or machinery being used; the length of time involved or seasonality of the work.

- a). There is likely to be a reduction in the area of QI/SCI habitat ☒
- b). The physical/chemical quality of the environment is likely to be changed in a way which may cause the deterioration of the QI/SCI habitat (e.g. applying lime to an acidic soil) ☒
- c). The structure of the ecological community is likely to be altered (e.g. through altered species composition) in a way which will have negative impact on the QI/SCI. ☒
- d). A QI/SCI species is likely to be disturbed (e.g. through noise, vibrations) ☒
- e). The population size, characteristics or reproductive success of a QI/SCI species is likely to be changed either directly or indirectly (e.g. lighting close to a bat roost entrance) ☒
- f). QI/SCI species or habitats are likely to be more vulnerable to change or less resilient to external change (e.g. to flooding, fire or drought) ☒
- g). There are likely to be effects on other species /habitats (not a QI/SCI for this site) which are ecologically linked with this QI/SCI and, as a consequence, there are likely to be negative effects on this QI/SCI (e.g. the impacts on geese which are the SCI when their non-QI feeding areas are damaged) ☐
- h). This activity will likely cause a deterioration in the conservation condition of this QI/SCI. ☒
- i). There are likely to be other ecological effects not listed above which are likely to have a significant effect on the QI/SCI. ☐
Explain the effects: [Click or tap here to enter text.](#)

If you have ticked a box for any QI/SCI in any of the sites affected by this activity the likelihood of a significant effect cannot be ruled out and the activity MUST be screened IN for AA.

Part 4: In Combination Effects

Is this activity likely to cause negative effects in combination with any other plan or project?

(In answering this question you should consider any other consents which have been applied for or granted. For example other ARCs, planning consents, forestry consents, or activities authorised as part of an agreed farm or land management plan. List the plans or projects considered).

Click or tap here to enter text.

No ☐

Yes ☐

Uncertain ☒

If the answer is Yes or Uncertain the activity MUST be screened IN for AA. Fill in Part 5 accordingly.

Part 5: Findings of the AA Screening

Screening not carried out as the activity is "directly connected with or necessary to the management of the site". ☐

Likely significant effects are expected or uncertain.
This activity Screens **IN** and AA **is** required. ☒

Likely significant effects are NOT expected.
This activity Screens **OUT** AA **is not** required. ☐

Signature: _____

Hazel Doyle

Date: 19/03/2024

Part 6: Screening Determination

In the absence of mitigation measures, the proposed activities, alone or in combination with other plans and projects, have the potential to undermine the conservation objectives of Lady's Island Lake SAC and Lady's Island Lake SPA and give rise to likely significant effects to these European sites.

29 SEP 2023

RECEIVED

 **An Roinn Tithíochta,
Rialtais Áitiúil agus Oidhreacht**
Department of Housing,
Local Government and Heritage

**APPLICATION FOR PERMISSION TO CARRY OUT AN OPERATION OR
ACTIVITY ON A SITE TO WHICH THE EUROPEAN COMMUNITIES (NATURAL
HABITATS) REGULATIONS 1997 (NO. 94 OF 1997), APPLY, IN ACCORDANCE
WITH REGULATION 14 OF THOSE REGULATIONS.**

For Completion by Applicant

1. Applicant's Name: Jim Begley PP (On behalf of Pilgrimage Committee)

2. Applicant's Address: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

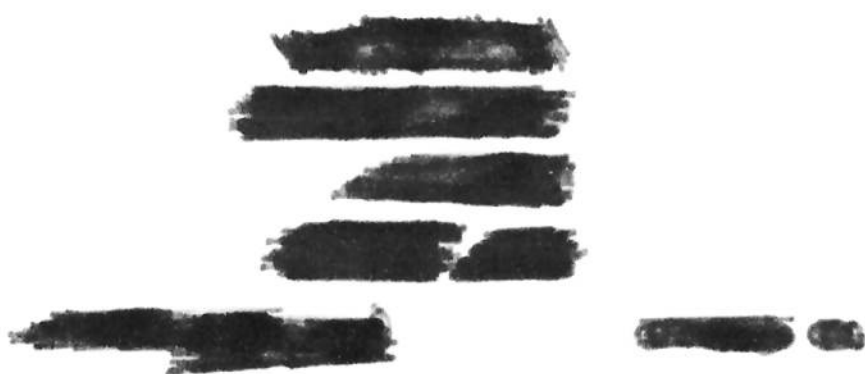
[REDACTED]

[REDACTED]

[REDACTED]

3. Nature of the operation/activity for which the permission is sought (give as full details as possible):

Line of armouring rocks (18" x 18" approx) extending
for 20 yds have sunk due to erosion and need
replacing to protect soil and walkway at head of
Island. This is urgent before the onset of
winter. Also in March/April after lake is drained it
will be necessary to replace some soil which has been
eroded leaving rough surface that is a health and
safety concern. Part of this is yearly maintenance work
and we have soil from Island set aside for this
purpose as Pilgrimage Path/Walkway needs to be
kept level and safe.



For Completion by NPWS Regional Staff

4. SAC Name and Code Number: Lady's Island Lake SAC 000704

5. SPA Name and Code Number: Lady's Island Lake SPA 004009

6. Describe the habitats that would be affected by the above proposal:

* Lagoons This is an Annex I habitat, a QI habitat of the Lady's Island Lake SAC and a Priority habitat. It's overall conservation status in the last Article 17 report is Bad and Deteriorating. This lagoon is a sedimentary lagoon with a shingle/sand barrier and is the largest & best example of this type.

7. Recommendation (Allow/Disallow): Disallow. Referral to ABP. Ireland

8. Reasons for Recommendation:

The proposed activities may constitute development under the Planning & Development Act. The proposed activities ~~may~~ are likely (individually or in combination with other plans/projects) to have a significant effect on the above European sites.

Signed: Hazel Doyle

Position: Conservation Ranger

Signed: Fiona Hickey

Position: DCJ

(Should be signed by DWO or RM or DRM)

Megan Morris (Housing)

From: Jim Cogley [REDACTED]
Sent: Wednesday 14 February 2024 08:38
To: Hazel Doyle (Housing)
Cc: Tony Murray (Housing)
Subject: Re: ARC Application Referral - Boulder Replacement Works

CAUTION: This eMail originated from outside your organisation and the BTS Managed Desktop service. Do not click on any links or open any attachments unless you recognise the sender or are expecting the email and know that the content is safe. If you are in any doubt, please contact the OGCIO IT Service Desk.

Yes, please go ahead with referral.

Regards

Jim C

On Tue, Feb 13, 2024 at 11:31 AM Hazel Doyle (Housing) [REDACTED] wrote:

Hi Jim,

Thanks for taking my call there and confirming a standard JCB type tractor digger with bucket is used for the boulder replacement works on Lady's Island Pilgrim Path. I will add this into the form if you don't mind as the method of how the works would be done was missing.

As discussed, we believe this comes under the remit of the Planning and Development Act and not an Activity Requiring Consent under the Birds and Natural Habitats Regulations (i.e. we believe it requires planning). As such, we can refer it on to An Bord Pleanála for their determination if you so wish. Or if you rather, you can submit an Application for Declaration of Exempted Development under Section 5 of the Planning & Development Act 2000 to Wexford County Council for them to decide if planning is required.

Can you please let me know how you wish to proceed?

Kind regards,

Hazel Doyle,

Conservation Ranger, South East Wexford.

Department of Housing, Local Government and Heritage.

National Parks & Wildlife Service, Wexford Wildfowl Reserve, North Slob, Co. Wexford, Y35 EY89.

Mobile: [REDACTED]

<https://www.npws.ie/>



An Roinn Tithíochta,
Rialtais Aifriail agus Oidhreachta
Department of Housing,
Local Government and Heritage