

Date: 9th April 2025 Our Ref: ED/1204.

Joe Heffernan, C/o Daniella O'Neill, Coyle Environmental Ltd, 1st & 2nd Floor, Kilmurray House, Main Street, Castlerea, Co. Roscommon

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at Tully East, Drumcree, Kilbern, Co. Kildare.

Dear Sir/Madam,

I refer to your correspondence received on 5th March 2025 in connection with the above.

Please find attached declaration made under Section 5 of Planning and Development Acts 2000 (as amended) in this regard.

Yours sincerely,

ve Officer, Planning Department.





Declaration of Development & Exempted Development under Section 5 of the Planning and Development Act 2000 (as amended).

ED/1204

WHEREAS a question has arisen as to whether the recontouring of circa 4.5 hectares of agricultural land by an average of 1.2 metres through importation of inert soil and stone at Tully East, Drumcree, Kilbern, Co. Kildare, is exempted development,

AS INDICATED on the plans and particulars received by the Planning Authority on 5th March 2025

AND WHEREAS Joe Heffernan requested a declaration on the said question from Kildare County Council,

AND WHEREAS Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended) and
- (b) Planning and Development Regulations 2001 (as amended); and
- (c) Documentation received with the application

AND WHEREAS Kildare County Council has concluded that the development comprises works to which the provisions of the following applies:

- (a) Sections 2, 3, of the Planning and Development Act 2000 (as amended);
- (b) Article 8C of the Planning and Development Regulations 2001(as amended);
- (c) The nature, extent and purpose of the works

NOW THEREFORE Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the recontouring of circa 4.5 hectares of agricultural land by an average of 1.2 metres through importation of inert soil and stone at Tully East, Drumcree, Kilbern, Co. Kildare *IS development and IS NOT EXEMPTED development pursuant to the Planning and Development Act as amended and Article 6, Article 8 and Article 9 of the Planning and Development Regulations as amended.*

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

9th April 2025

Officer. Planning Department.

Comhairle Contae Chill Dara, Áras Chill Dara, Páirc Uí Dhubhuí, An Nás, Co. Chill Dara, W91 X77F Kildare County Council, Áras Chill Dara, Devoy Park, Naas, Co. Kildare, W91 X77F T 045 980200 • Lasmuigh de Ghnáthuaireanta/Out of Hours T 1800 500 444 E customerservice@kildarecoco.ie • www.kildarecoco.ie @ @KildareCountyCouncil f./KildareCountyCouncil & @KildareCoCo in Kildare County Council Kildare County Council

Cláraigh d'fholáirimh téacs ag Register for text alerts at kildare.mapalerter.com/register

KILDARE COUNTY COUNCIL



PLANNING DEPARTMENT

Section 5 referral & declaration on development & exempted development

Planning & Development Act 2000 (as amended)

Reference No. ED/1204	
Name Of Applicant(s):	Joe Heffernan
Address Of Development:	Tully East, Drumcree, Kilbern, Co. Kildare
Development Description:	Recontouring of circa 4.5 hectares of agricultural land by an average of 1.2 metres through importation of inert soil and stone via the Article 27 process. Estimated approx. 9,000 tonnes of material imported over a 6-month period

Introduction

This is a request for a **DECLARATION** under Section 5(1) of the Planning and Development Act 2000 (as amended) to establish whether under Section 5 of the Act, the recontouring of 4.5 hectares of agricultural land is considered exempted development.

Description of Development

The declaration states that it is proposed to recontour circa 4.5 hectares of agricultural land by an average of 1.2metres through the importation of inert soil an stone. It is stated that the imported materials will not be waste and will be imported from local sites with the benefit of planning permission via the article 27 process. Any existing drainage ditches will be maintained and infilling will not be undertaken within 5 metres of any watercourse. It is estimated that approximately 9,000 tonnes of material will be imported over a 6 month period as materials become available. It is stated that this works out at approx. 3-5 trucks per day. A Food Risk Assessment and Appropriate Assessment Screening Report have been submitted with the declaration.

Site Location

The proposed development site is located approximately 3 km south of Kildare Town in the rural townland of Drumcree. The site is accessed via a narrow single lane local road to the west and by forestry lands to the south of the site. The general area is dominated by one off dwellings and low lying peaty lands. There is a watercourse approximately 250 north of the site. There is an existing dwelling centrally located within the Section 5 subject site.

Figs 1-2 Site Location and Context



Section 5 site is denoted by the orange colour.



Flood Risk

A site specific Flood Risk Assessment has been carried out and included with the declaration. The report concludes that Stages 1 and 2 of the flood risk assessment of

proposed site have indicated that the site is not subject to flooding in low, medium or high probability exceedance events up to 0.1%AEP (1 in 1000 chance in any given year) with 20% climate change factor applied from pluvial, coastal or groundwater sources as indicated on OPW Monaghan CFRAM Study Flood Extent Maps. Any potential pluvial flood risk would be accommodated by proposed site drainage and will not result in a loss / reduction of pluvial flood water storage on site. Fluvial flood risk is present at existing site. Proposed site works are levelling and lifting ground level by 0.8-1.5m. This would eliminate any risk of fluvial flooding as shown in Figures 10 and 11. Refer to Figures 6 for cross sections for level differences, drawings are also included in Appendix A. As per NIFM OPW mapping, flood level is estimated to 76.6m OD, proposed minimum lifted ground level is 76.8m OD, proposed maximum lifted ground level is 76.9m OD, this is providing 200 - 300mm of freeboard across the proposed infilled site. Proposed site is located within Flood Zone A. Proposed site is defined as Less Vulnerable Development as per OPW The Planning System and Flood Risk Management. It is concluded that the proposed site is not at the risk of flooding, will not obstruct or impede important flow paths, exacerbate flooding in the immediate vicinity or wider area and will not result in residual risk to the area

Planning History

Site immediately north of the site:

23/60081: Permission refused to Lorraine Deering for the construction of a single store part storey and a half type dwelling, new wastewater treatment system and polishing filter, new recessed entrance at location of existing entrance, detached domestic garage/shed and all ancillary works.

Permission refused for the following reasons:

1. The site is not considered suitable for a domestic wastewater treatment system as proposed on the grounds that:

a. it is highly likely, given past experience in this area, that the water table would be less than 500 mm below ground level during the winter months. Therefore At least 500mm depth of unsaturated self-draining sub-soil to the water table and/or bedrock beneath the proposed DWWTP may not be available as required in Section 6.4 table 6.3 of the EPA Code of Practice.

b. The proposals as indicated in the application have been noted however, a raised mound is not considered to be site improvement works and the presence of peat soils underlain by marl clay/chalk in the proposed percolation area are not suitable for the treatment or the disposal of treated waste water due to poor percolation and the consequent risk of pollution of waters and the risk to public health.

The proposal would therefore be prejudicial to human health, would be contrary to the provisions of Policy HO P27 of the Kildare County Development Plan 2023-2029 which requires applications to demonstrate, to the satisfaction of the Planning Authority that the proposed development site can accommodate an on-site wastewater treatment system in accordance with the EPA Code of Practice for Wastewater Treatment Systems for single houses (2021), the County Kildare Groundwater Protection Scheme, and any other relevant documents / legislation as may be introduced during

the Plan period and, would therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the details received with the application, the Planning Authority considers that the applicant has failed to adequately demonstrate an Economic or Social Need to reside in the area in accordance with the Council's Rural Housing Policy as provided for in the Kildare County Development Plan 2023-2029. The application form received with the application is based on the provisions of the previous Kildare County Development Plan 2017-2023 and is lacking appropriate supporting documentation required under the Council's current rural housing policy 2023-2029. The Planning Authority is not satisfied that the applicant has demonstrated a need for the dwelling in accordance with Table 3.4, Section 3.13.3 and Policy HO P11 of the Kildare County Development Plan 2023-2029. To permit the development would therefore be contrary to the proper planning and sustainable development of the area.

Site to the immediate south of the site:

18/650: Permission refused to Ray O'Brien & Marie Thorpe for a new single storey dwelling house, new vehicular entrance, effluent treatment system with percolation area and all associated site works.

Permission refused for the following reason:

1. The subject site is located in the Rural Housing Policy Zone 1, as per Map 4.4 of the Kildare County Development Plan 2017-2023. Having regard to the location of the site in an area under strong urban influence as identified in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005, where it is policy to distinguish between rural-generated housing need and urban-generated housing need, and in an area where housing is restricted to persons demonstrating local need in accordance with the current Kildare County Development Plan, given the location of the family home, it is considered that the applicant has not demonstrated compliance with the scope of the rural-generated housing need criteria as set out in the Guidelines, nor with the local need criteria set out in the Development Plan for a house at this rural location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

The following is of relevance in relation to An Bord Pleanála decisions regarding land reclamation for agricultural purposes and is relevant in this declaration.

ABP Ref. 316012-23- in April 2024 the Bord decided that, in the question as to whether:

- the importation and deposit of soil and/or subsoil from off-site into a number of heaps on the land,
- (b) the parking of an industrial vehicle bearing a large arm (or a type which can be used to distribute/move soil and/or subsoil) on this land and parking of commercial trucks on site,
- (c) the use of this property for non-agricultural external storage,
- (d) the erection of a circa 3.0-metre-tall timber fence on the land,
- (e) the sorting of soil and subsoil, the placing the sorted matter into bags and the transportation of these bags off the site, and
- (f) the use of a large barrel-vaulted structure which has been erected on the site for the sorting, bagging and dispatch of soil and subsoil,

all at Painestown, Kill, County Kildare is or is not development or is or is not exempted development,

The Bord decided that the importation of and deposit of soil and/or subsoil, the use of the shed and activities on site for sorting bagging of soil and/or subsoil and transportation off site, the parking of commercial vehicles, and the erection of a three metre high timber fences development and is not exempted development.

ABP Ref. RL2987 – in April 2013 the Board decided that, in the question of whether the importation of soils and overburden materials for spreading on agricultural land at Barntick, Clarecastle, Co. Clare is or is not development or is or is not exempted development:

o The importation of soils and spreading on agricultural land constituted development (Section 3, P&D Act, 2000, as amended),

o The soils and overburden materials to be imported to the farm holding constituted 'waste', and the activity, therefore, did not come within the scope of Article 8(c) of the Planning and Development Regulations, 2001, as amended.

ABP Ref. RL3034 – In May 2013 the Board decided that, in the question of whether land reclamation for agricultural purposes involving the re-contouring of land using soil as infill material at Bunnahowen, Belmullet, Co. Mayo is or is not development or is or is not exempted development:

o The importation of soil for infilling of land constitutes 'works' (Section 2(1) P&D Act 2000, as amended) and 'development' (section 3(1) P&D Act, 2000, as amended,

o Article 8C of the Planning and Development Regulations, 2001, as amended does not provide an exemption for the importation of soil from external sources to a farm holding for the purpose of re-contouring of land,

o It is not possible to state beyond reasonable doubt that the infilling of soil on this particular site would not have a significant negative impact on European sites. The act of works referred to therefore was determined to be development and not exempted development (Section 4(4) P&D Act 2000, as amended).

ABP Ref. RL3116 – In January 2014 the Board decided that, in the question of whether a waste recovery site involving the deposition, over a period of less than two years of less than 100,000 tonnes of fill consisting of clays and topsoil, at Woodford, Listowel, Co. Kerry, is or is not development or is or is not exempted development:

o The reclamation and re-contouring of land through deposition of fill constitutes an act of works and development (Sections 2 and 3 of the P&D Act 2000, as amended.

o Land reclamation coming within the scope of works referred to in the Land Reclamation Act, 1949, would normally constitute exempted development (Section 4(1)(I) P&D Act 2000, as amended),

o The deposition of a significant quantity of clays and topsoil alongside a stream that is directly connected to and in close proximity to an SAC would be likely to cause environmental pollution by way of siltation and it could not be excluded that the development would be likely to have a significant effect on a European site,

o The works also come within the scope of section 4(4)(a) of the Planning and Development Act, 2000 (as amended) and therefore do not constitute exempted development, and (e) for the avoidance of doubt, the fill material of clays and topsoil that are imported from outside the landholding constitutes waste, and the development, therefore does not come within the scope of article 8C of the Planning and Development Regulations, 2001, as amended.

The act of works referred to therefore was determined, therefore, to be development and not exempted development.

KCC Internal Reports

Transportation: Concerns regarding traffic safety. Report states that having consideration to the location, scale and nature of the above proposal and given the deficiencies of the existing road network, the additional HGV traffic generated by the proposal would negatively impact on the structural integrity, capacity, drainage and alignment of the public road network. The proposed development therefore also represents an endangerment to public safety, a traffic hazard to road users and that the Transportation Department would have serious concerns relating to the overall impact of such works.

Relevant Legislative Background

Section 2(1) of the Planning and Development Act 2000 (as amended) provides a definition of "works" in the Act:

"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) of the Planning and Development Act 2000 (as amended) defines development:

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 5(7) EIA Screening

The proposed development is not specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001(as amended). In any event, it is considered, having regard to nature, size and location, the proposed development would not be likely to have significant effects on the environment. Therefore, EIA is not required.

Planning and Development Regulations 2001 (as amended)

Article 8(C) states

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

Article 6 (1) of the Planning and Regulations 2001 (as amended) states as follows: '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 9 (1) (a) of the Planning and Regulations 2001 (as amended) sets out the instances where development, to which Article 6 relates, shall not be exempted development for the purposes of the Act if the carrying out of such development would:

- contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
- (iii) endanger public safety by reason of traffic hazard or obstruction or road users.

Appropriate Assessment Screening

A screening for Appropriate Assessment accompanies this report.

<u>Assessment</u>

Having regard to the statutory definition of the terms 'works' and 'development', referred to above, which define works as, amongst other things, any act or 'operation of construction' or 'alteration' and development as the 'carrying out of works on land', I would consider that the creation of new surface layer/s and the alteration of the

existing land form would comprise both 'works' and 'development', as defined in the Planning and Development Act, 2000 (as amended).

Article 8C, of the Planning and Development Regulations, 2001 (as amended) states "Land reclamation works consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding shall be exempted development."

An Bord Pleanala has traditionally held that the exemption provided by article 8C is confined to land reclamation works where soil is sourced from within the landholding (RL3034, RL3116 & ABP316012-23).

I note from the application form submitted with the declaration that it is stated that there will be importation of soil from local sites.

Consequently, as material would not be sourced within the land holding, the proposed development would be inconsistent with article 8C of the Regulations. Further, the Waste Management (Facility Permit and Registration) Regulations, 2007, as amended, define the recovery of natural materials (clay, silt, sand, gravel or stone) as a waste activity. It is noted that the declaration seeks importation of soil only and subject to an Article 27 licence.

Notwithstanding that soil is to be imported and not waste, it is not considered that the proposal complies with Article 8C of the Regulations.

Conclusion

Having regard to:

- Sections 2 & 3 of the Planning and Development Act 2000 (as amended);
- Articles 8C of the Planning and Development Regulations 2001 (as amended); and
- The nature, extent and purpose of the works;

it is considered that the recontouring of 4.5 hectares of agricultural land by an average of 1.2 metres through importation of inert soil and stone **constitutes development** as defined in Section 3(1) of the Planning and Development Act 2000 (as amended) and **is NOT exempted development** as defined by the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended) as it does not fit within the interpretation of Article 8C of the Planning and Development Regulations 2001 (as amended).

Recommendation

It is recommended that the applicant be advised that the development as described in the application **is development and is NOT exempted development.**

Signed:

g Elaine Donohoe Executive Planner

09/04/2025

Mart- 1

Martin Ryan Senior Executive Planner 09/04/2025

Declaration of Development & Exempted Development under

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

WHEREAS a question has arisen as to whether the recontouring of circa 4.5 hectares of agricultural land by an average of 1.2 metres through importation of inert soil and stone is exempted development.

AS INDICATED on the plans and particulars received by the Planning Authority on 05/03/2025

AND WHEREAS Joe Heffernan requested a declaration on the said question from Kildare County Council,

AND WHEREAS Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended); and
- (b) Planning and Development Regulations 2001 (as amended);

AND WHEREAS Kildare County Council has concluded that the proposal comprises of development to which the provisions of the following applies:

- (a) Sections 2, 3, of the Planning and Development Act 2000 (as amended);
- (b) Article 8C of the Planning and Development Regulations 2001(as amended):
- (c) The nature, extent and purpose of the works

NOW THEREFORE Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that -

recontouring of circa 4.5 hectares of agricultural land by an average of 1.2 metres through importation of inert soil and stone

IS development and IS NOT EXEMPTED development pursuant to the Planning and Development Act as amended and Article 6, Article 8 and Article 9 of the Planning and Development Regulations as amended.

Please note that any person issued with a declaration under Section 5 of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

Signed:

Appendix 1: AA Screening

APPROPRIATE ASSESSMENT SCREENING REPORT		
AND C	ONCLUSION STATEMENT	
(A) Project Details		
Section 5 Ref	ED1204	
Applicant name	Joe Heffernan	
Development Location	Tully East, Drumcree, Kilbern, Co. Kildare	
Site size	4.5Ha	
Application accompanied by an EIAR (Yes/NO)	No	
Distance from Natura 2000 site in km The nearest Natura 2000 site is the River Barrow/Nore which is located approximately 4.3k from the subject site.		
Description of the project/proposed development		
declaration for recontouring of lands		

(B) Identification of Natura 2000 sites which may be impacted by the development	e proposed
	Yes/No

			If answer is yes, identify list name of Natura 2000 site likely to be impacted.
1	Impacts on sites designated for freshwater habitats or species.	Is the development within a Special Area of Conservation whose qualifying interests include freshwater	
	<u>Sites to consider</u> : River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh lake	habitats and/or species, or in the catchment (upstream or downstream) of same?	NO
2	Impacts on sites designated for wetland habitats - bogs, fens, marshes and heath.	Is the development within a Special Area of Conservation whose qualifying interests include wetland habitats	
	<u>Sites to consider</u> : River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Mouds Bog, Ballynafagh Bog, Red Bog, Ballynafagh Lake	(bog, marsh, fen or heath), or within 1 km of same?	NO
3	Impacts on designated terrestrial habitats.	Is the development within a Special Area of	
	<u>Sites to consider</u> : River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh Lake	Conservation whose qualifying interests include woodlands, dunes or grasslands, or within 100m of same?	NO
4	Impacts on birds in SPAs	Is the development within a Special Protection Area, or within 5 km of	
	Sites to consider:	same?	
	Poulaphouca Reservoir		NO

Conclusion:

If the answer to all of the above is **No**, significant impacts can be ruled out for habitats and bird species.

No further assessment in relation to habitats or birds is required.

If the answer is **Yes** refer to the relevant sections of **C**.

(G) SCREENING CONCLUSION STATEMENT			
Selected relevant category for project assessed by ticking box.			
	0,	, , , , , , , , , , , , , , , , , , , ,	
	1		
1	AA is not required because the project is directly connected with/necessary to the conservation management of the site		
2	No potential significant affects/AA is not X required		
3	Significant effects are certain, likely or uncertain.		
	Seek a Natura Impact Statement		
	Reject proposal. (Reject if potentially damaging/inappropriate)		
Justify why it falls into relevant category above (based on information in above tables)			
Having regard to the scale and nature of the proposed works, the detail provided			
will be any impact on Natura 2000 network . However, further details are required			
in relation to surface water management.			
Name:	Elaine Donohoe		
Position Executive Planner			
Date: 09/04/2025			

COMHAIRLE CONTAE CHILL DARA



KILDARE COUNTY COUNCIL

Director of Services Order

I, Alan Dunney, Director of Services, am duly authorised and delegated by Chief Executive's Order number: CE48043 to make the following Order in accordance with Section 154 of the Local Government Act, 2001, as amended.

ORDER NO: DO57978 Section: Planning

SUBJECT: ED1204 Joe Heffernan, C/o Daniella O'Neill, Coyle Environmental Ltd, 1st & 2nd Floor, Kilmurray House, Main Street, Castlerea, Co. Roscommon. Exempt Development Application for recontouring of circa 4.5 hectares of agricultural land by an average of 1.2 metres through importation of inert soil and stone at Tully East, Drumcree, Kilbern, Co. Kildare

SUBMITTED: ED1204 with recommendation from the Senior Executive Planner and reports form the Council's Technical Officers.

ORDER: I hereby order the following Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended) hereby decides that the proposed development is development and is not exempted development.

MADE THIS _	QTH	DAY	
OF APRIL	Y	EAR <u>2025</u>	

SIGNED: Martin

DIRECTOR OF SERVICES

Kildare County Council Declaration of Exempt Development under Section 5, of the Planning and Development Act 2000 as amended

Incomplete application forms will be deemed invalid and returned



All responses must be in <u>block</u> <u>letters</u>

Section 1	Details of Applicants

1. Name of Applicant(s) A. Surname: HEFFERNAN

Phone No: Fax No: N/A

2. Address: TULLY EAST, DRUMCREE, KILBERN, CO, KILDARE

Section 2 Person/Agent acting on behalf of applicant (if applicable)

1. Name of Person/Agent: Surname: O' NEILL

Forenames: DANIELLA

Fax No: N/A

Forenames: JOE

Phone No: 086 842 7748

2. Address: COYLE ENVIRONMENTAL LTD, 1ST AND 2ND FLOOR, KILMURRAY HOUSE, MAIN STREET, CASTLEREA, CO. ROSCOMMON, F45DK58

PLEASE SEND ALL COMMUNICATIONS TO AGENT. daniella@coyleenv.ie

Section 3	Company Details (if applicable) N/A
1. Name of Com	pany
Phone No	Fax No
2. Company Reg	g. No
3. Address	

Section 4	Details of Site
-----------	------------------------

1. Planning History of Site: N/A

2. Location of Proposed Development: TULLY EAST, DRUMCREE, KILBERN, CO KILDARE

3. Ordnance Survey Sheet No: 3718 -C

4. Please state the Applicants interest in the site: OWNER

5. Please state the extent of the proposed development: RECONTOURING OF FARMLANDS FOR THE BENEFIT OF AGRICULTURE

6. Under what Section of the Planning and Development 2000 as amended and/or what provision of the Planning and Development Regulations 2001 as amended is exemption sought (*specific details required*):

SECTION 2, 3, 4 & 5 ARTICLE 8: 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;

7. Please give a detailed description of the Proposed Development (Use separate page if necessary)

IT IS PROPOSED TO RECONTOUR CIRCA 4.5 HECTARES OF AGRICULTURAL LAND BY AN AVERAGE OF 1.2 METRES THROUGH THE IMPORTATION OF INERT SOIL AND STONE.

THE IMPORTED MATERIALS WILL NOT BE WASTE AND WILL BE IMPORTED FROM LOCAL SITES WITH THE BENEFIT OF PLANNING PERMISSION, VIA THE ARTICLE 27 PROCESS.

ANY EXISTING DRAINAGE DITCHES WILL BE MAINTAINED, AND INFILLING WILL NOT BE UNDERTAKEN WITHIN FIVE METRES OF ANY WATERCOURSE.

IT IS ESTIMATED THAT APPROXIMATELY 9,000 TONNES OF MATERIAL WILL BE IMPORTED OVER A 6 MONTH PERIOD AS MATERIALS BECOME AVAILABLE.

THIS WORKS OUT AT APPROXIMATELY 3-5 TRUCKS PER DAY.

A FLOOD RISK ASSESSMENT AND APPROPRIATE ASSESSMENT SCREENING REPORT HAVE ALSO BEEN INCLUDED WITH THIS APPLICATION.

Section 5 The following must be submit		The following must be submitted for a valid application	
		(Please	Tick)
1.	Site Locat	ion Map (1:2500 Rural Areas) (1:1000 Urban Areas)	Х
2.	2.A Site Layout Plan (Scale 1:500) in full compliance with Article 23 of Planning and Development Regulations 2001 as amendedx		Х
3.	3. Drawings of the development (Scale 1:50) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended		Х
4.	4. All drawings to differentiate between the original building, all extensions and proposed development		X
5.	Fee of 80	Euro	Х

Section 6 De

I, DANIELLA O'NEILL (AGENT FOR JOE HEFFERNAN) certify that all of the above information is correct and I have submitted all the required documents as outlined at Section 6 above.

Deaner .

Signature: _____

Date: 27th FEBRUARY 2025



Comhairle Contae Chill Dara Kildare County Council

Data Protection Act 2018 PRIVACY STATEMENT

Who are we?

Kildare County Council (the Council) is the democratically elected unit of Local Government in County Kildare and is responsible for providing a range of services to meet the economic, social and cultural needs of the people of our County. In order to provide the most effective and targeted services to meet the needs of the citizens, communities and businesses of County Kildare we will be required to collect, process and use certain types of information about people and organisations. Depending on the service being offered, information sought may include 'personal data' as defined by the Data Protection Acts and the General Data Protection Regulation (GDPR) and may relate to current, past and future service users; past; current and prospective employees; suppliers; and members of the public who may engage in communications with our staff. In addition, staff may be required, from time to time, to collect process and use certain types of personal data to comply with regulatory or legislative requirements or to carry out functions in the public interest.

Why do we have a Privacy Statement?

This privacy statement has been created to demonstrate the Council's commitment that personal data you may be required to supply to us, to enable us to provide services, is;

- Obtained lawfully, fairly and in a transparent manner
- Obtained for only specified, identified and legitimate purposes
- Processed for purposes which we have identified or purposes compatible with the purposes that we have identified.
- Adequate, relevant and limited to what is necessary for purpose for which it was obtained
- Personal data collected and processed must be accurate and (where necessary) kept up to-date.
- Kept only for as long as is necessary for the purposes for which it was obtained.
- Processed in a manner that ensures the appropriate security of the personal data including protection against unauthorised or unlawful processing.

More detail is available in our Data Protection Policy at http://kildare.ie/CountyCouncil/DataProtection/ or you can request a hard copy at 045 980 200.

What is the activity referred to in this Privacy Statement?

Kildare County Council performs the role of Planning Authority for the County. The planning application process is a statutory requirement which allows for the relevant parties and public to participate in the proper development of the lands in the County.



What is the basis for making the processing of this personal data lawful?

Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in Kildare County Council in accordance with Article 6(1)(e) of the General Data Protection Regulation,2016. Specifically the lawful basis for this process is the Planning & Development Acts 2000- 2017 and the Planning and Development Regulations 2001 - 2017. In addition there are also certain delegated functions under the local Government Reform Act 2014.

We require contact details

In order to communicate with you, you will be asked for contact details. You do not have to provide all contact details but providing more, such as email, phone, address, makes it easier to communicate. Please note that to help protect your privacy, we take steps to verify your identity before granting access to personal data. These contact details may also be used to verify your identity.

What other types of personal data do we need to undertake this activity?

(a) Data subject - Name, address, contact number, copy of payment receipt, local needs information & supporting documentation which may include documents such as birth certificate, baptismal certificate, credit union details, copy of driving licence, copy of passport, school documentation etc.

(b) Third parties related to the land - name, address, land ownership

(c) Third parties - information related to submissions made to the Planning Authority (Elected Representatives)

Medical records and potentially other sensitive data can be processed under the rural housing local need aspect of this activity. This information is not requested; however it may be voluntarily submitted as part of the application.

What will happen if the personal data is not provided?

All information requested as part of the application process, (excluding the **rural housing** local need information) is mandatory as part of the application process and is required for the application to be considered valid. Any application deemed invalid will not proceed. If the local need information is not submitted, the planner may refuse or request further information on the file in order to satisfy the Planning Authority that the applicant is compliant with the Rural Housing policy of the Kildare County Development Plan 2017-2023

Am I the only source of this personal data?

In some instances to assist with the delivery of the activity or to comply with regulatory or legislative requirements personal data is sourced from a third party. This **may apply** to this activity.



Data may be sourced during the planning application process from public sources such as the Property Registration Authority and other publically available information that Kildare County Council may hold.

Is personal data submitted as part of this activity shared with other organisations?

The Council may, to fulfil statutory or regulatory obligations or in the public interest, from time to time, have to share personal data with other organisations or entities (in Ireland or abroad). Where this is required the Council shall have regard to your rights, to the security and integrity of the data and will minimise the data shared.

Sharing **APPLIES** to this activity.

As part of this process, the planning application data which is publicly available may be forwarded to external agencies/consultees such as ESB, Irish Rail, etc. to review and make a submission if they wish. If an application is to be appealed Kildare County Council are required under the Planning and Development Acts to give all details submitted as part of the planning application to An Bord Pleanála, who then become the joint data controller for the information they hold.

Data **IS NOT** transferred to another country.

Data is transferred to (if there are no countries listed, it is not intended to transfer the personal data abroad)

How long is my data kept for?

The Council has a detailed record retention policy which outlines time periods for which your personal data will be retained and what will happen to it after the required retention period has expired. A copy of Record Retention Policy can be accessed via the following link: http://www.lgma.ie/sites/default/files/2002 national retention policy for local authorit y records 2.pdf

Do you need to update your records?

Kildare County Council must take reasonable steps to ensure that personal data we have about our customers is correct and up to date.

In addition, if the data held by us is found to be inaccurate you have the right to rectify/correct this.

If you find that personal data we have about you is inaccurate or needs to be updated (for instance, you may have changed your name, address, contact details etc.) then please contact us so that we can correct it. You can do this by:



Writing to us at: Kildare County Council, Áras Chill Dara, Devoy Park, Naas, Co Kildare. W91 X77F

Emailing us at customercare@kildarecoco.ie

When making a request to update your record please provide evidence to support this - for example a copy of a document containing your new address – utility (Gas, Electricity, Phone) bill etc.

Your rights:

You have the right to obtain confirmation as to whether data concerning you exists, to request access to personal data held about you, to be informed of the content and source of data and check its accuracy.

If the data held by us is found to be inaccurate you have the right to rectify/correct this – see above on how to update your records.

You also, subject to certain conditions being met, have the right to object to or seek restriction of the processing of personal data and to request the erasure of personal data held by the Council.

Please note that to help protect your privacy, we take steps to verify your identity before granting access to personal data.

To exercise these rights logon to <u>http://kildare.ie/CountyCouncil/DataProtection/</u>, use one of the forms at our Counter or contact us.

Kildare County Council - Access to Information Officer

Phone	045 982 200
E-mail	dataprotection@kildarecoco.ie or customercare@kildarecoco.ie
Postal Address	Áras Chill Dara, Devoy Park, Naas, Co Kildare. W91 X77F.

Right of Complaint to the Data Protection Commissioner

If you are not satisfied with the outcome of the response received by the Council you are entitled to make a complaint to the Data Protection Commissioner who may investigate the matter for you. The Data Protection Commissioner's website is <u>www.dataprotection.ie</u> or you can contact their Office at:



Comhairle Contae Chill Dara Kildare County Council

1890 252 231
info@dataprotection.ie
Data Protection Commissioner Canal House Station Road Portarlington, Co. Laois. R32 AP23.

Changes to Privacy Statement

We may make changes to this Statement. If we make any changes they will be posted on this page and we will change the "Last Updated" date below.

Last Updated 25 May 2018.

Appropriate Assessment Screening Report for Exempted development at Tully East, Co. Kildare.



1st & 2nd Floor Kilmurry House, Main Street, Castlerea, Co. Roscommon, F45 DK58

Tel: 094 962 1258 Website: www.coyleenv.ie





About Coyle Environmental Ltd.

Coyle Environmental Ltd are a highly respected and progressive Environmental Monitoring & Consulting practice.

For over two decades, Coyle Environmental Ltd has been a trusted provider of professional Environmental Monitoring and Consulting Services throughout Ireland.

Our reputation is built on innovative work practices, cost-effective solutions, and unwavering client dedication.

Operating nationwide from our base in the West of Ireland we pride ourselves on delivering consistently high-quality services, ensuring that projects are completed on time and within budget. Our commitment to Continuous Professional Development (CPD) and investment in the latest technology keeps us at the forefront of the industry.

We deliver to our valued clients a consistently excellent quality of service.

We offer a specialist range of services comprising:

- Environmental Monitoring
- Environmental Consulting
- Environmental Project Management

Coyle Environmental Ltds ability to provide a costefficient professional service coupled with a proven track record on project completion and delivery ensures that we remain an industry leader in our areas of expertise.

Our progressive and innovative work practices, together with our commitment to CPD (Continuous Professional Development) ensure that our workforce are consistently upgrading their professional skills and that the company is constantly investing in the most recent technology and equipment.



Tel: 094 962 1258 Web: www.coyleenv.ie ENVIRONMENTAL • MONITORING • CONSULTING



Document Control

Project Title:	Appropriate Assessment Screening Report for an Exempted Development at Tully East, Co. Kildare	
Project Reference No:	25-010	
Project Description:	Appropriate Assessment Screening Report for an Exempted Development at Tully East, Co. Kildare	
Status:	FINAL	
Client Details:	Joe Heffernan	
Issued By:	Coyle Environmental Ltd., 1st & 2nd Floor Kilmurry House, Castlerea, Co. Roscommon F45 DK58.	

Document Production & Approval							
	Name	Date	Position				
Prepared by:	Catherine Howarth	11/02/25	Ecological Consultant				
Approved by	Daniella O'Neill	21/02/25	Environmental Consultant				

Revision History					
Rev	Status	Date			
0	Draft	21/02/25			
1	Final	28/02/25			

Coyle Environmental Limited disclaims any responsibility to the Client and others in respect of any matters outside the scope of the report. The report has been prepared with reasonable skill, care and diligence within the terms of the Contract with the client. The report is confidential to the Client and Coyle Environmental Limited accepts no responsibility of whatsoever nature to third parties to whom this report or any part thereof is made known. Any such party relies upon the report at their own risk.

Appropriate Assessment Screening J. Heffernan. Tully East. February 2025.



TABLE OF CONTENTS

1. Introduction	. 1
1.1. Background	. 1
1.2. Legislative Context	. 1
1.3. The Appropriate Assessment Process	. 2
2. Methodology	. 4
2.1. Legislation and Guidance Documents	. 4
2.2. Statement of Competency	. 5
2.3. Desk Studies & Consultation	. 5
2.4. Assessment Methodology	. 6
3. Screening for Appropriate Assessment	. 7
3.1. Development Description	. 7
3.2. Site Location and Surrounding Environment	. 7
3.3. Natura 2000 Sites Identified	.10
3.4. Impact Assessment	.21
3.5. Finding of No Significant Effects	.22
4. Appropriate Assessment Conclusion	24



TABLE OF FIGURES

	Figures	. 8
	Figure 1 – Site map (Land Registry).	. 7
	Figure 2 – Site Location Map with Site Pinned (NPWS)	. 8
	Figure 3 - Site Location Map	. 8
	Figure 4 – Site Topographical Map (afds.ie)	. 9
	Figure 5 – Aerial Photograph of the Site Outlined in Red and surrounding habitats. (EPA Maps)	. 9
	Figure 6 – The Application Site in relation to the Natura 2000 Sites within 15km (Red Hatching)	11
	Figure 7 – The Application Site in relation to the closest watercourses (EPA Maps)	13
	Figure 8 – The Application Site in red with NIFM River Flood Extents at Medium (1%) Probability (Flood Maps).	14
Та	ibles	11
	Table 1 – Natura 2000 sites within 15km of the site	11

Table 1 – Natura 2000 sites within 15km of the site.11Table 2 – The SSCOs of the River Barrow and River Nore SAC16



1. Introduction

1.1. Background

All plans and projects are required to be screened for potential impacts upon Special Areas of Conservation (SACs) or Special Protection Areas (SPAs) under Article 6 of the EU Habitat's Directive (Council Directive 92/43/EEC). The aim of this screening process is to establish whether a full Appropriate Assessment of the plan or project is necessary.

The development in Tully East, Drumcree, Kilbern, Co. Kildare is within 15km of several sites designated under European Law. A comprehensive assessment of the potential significant effects of the project on all European sites was carried out in February 2025 by Catherine Howarth. This screening exercise for Appropriate Assessment was carried out to identify whether any significant impacts on designated sites are likely, in accordance with Article 6(3) of the EU Habitat's Directive (Council Directive 92/43/EEC).

It will allow Kildare County Council, as the Competent Authority, to conduct an Appropriate Assessment as required under Article 6(3) of the Habitats Directive and determine the appropriateness of the project, in the context of the conservation status of the Nature 2000 designated sites.

1.2. Legislative Context

The EU Habitats Directive (92/43/EEC) provides legal protection for habitats and species of European importance. It sets up the Natura 2000 network, a European network of important ecological sites comprising of Special Areas of Conservation (SACs) designated under Member States under this directive and Special Protection Areas (SPAs) classified under the Birds Directive (Directive2009/147/EC).

The Birds Directive seeks to conserve all wild birds, protecting birds, their eggs, nests, and habitats. The Directive (Directive2009/147/EC) requires that Member States take measures to classify the most suitable areas as Special Protection Areas (SPAs) for the conversation of bird species listed in Annex 1 of the Directive. SPAs are selected for threatened and migratory bird species (listed in Annex I of the Birds Directive). SPA areas are of international importance for these migratory birds.

The EU Habitats Directive (92/43/EEC) also requires that protection be given to sites (Special Areas of Conservation) which are made up of, or support, particular habitats and species listed in annexes to this Directive.

To protect this network, Articles 6(3) and 6(4) of this Directive also call for the undertaking of an Appropriate Assessment on any plan or project, not directly connected or necessary for the management of which is likely to have a significant effect on any European designated sites in view of the conservation objectives.

Articles 6(3) and 6(4) of the Habitats Directive sets out the decision-making tests for plans or projects affecting Natura 2000 sites. Article 6(3) establishes the requirement for Appropriate Assessment:

"Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of



paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public."

Article 6(4) deals with the steps that should be taken when it is determined, as a result of appropriate assessment, that a plan/project will adversely affect a European site. Issues dealing with alternative solutions, imperative reasons of overriding public interest and compensatory measures need to be addressed in this case.

Article 6(4) states:

"If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member States shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission to other imperative reasons of overriding public interest."

The Water Framework Directive (WFD) (2000/60/EC) aims to ensure that Member States achieve water quality at least *Good Status* in rivers, lakes, groundwater, estuaries, and coastal waters by 2027 and that status does not deteriorate in any waters. The WFD was transposed into Irish law by the European Communities (Water Policy) Regulations 2003 (S.I. 722 of 2003). Water quality must be protected and highly impacts species diversity as such it is an important factor to consider in Appropriate Assessment.

1.3. The Appropriate Assessment Process

Appropriate Assessment (AA) is a four-stage process carried out by the competent authority to assess the implications of a proposal in respect to a designated site's conservation objectives, which confirms whether the plan or project in combination with other plans and projects will have an adverse impact on the integrity of a European site.

Guidance on the AA process was produced by the European Commission (EC, 2001; 2018) which was used to produce the guidance documents Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DEHLG, 2009) and Office of the Planning Regulator; Appropriate Assessment Screening for Development Management (2021).

One of primary principals the EC Guidance sets out is 'the precautionary principle' which requires that the conservation objectives of Natura 2000 should prevail where there is uncertainty. As such emphasis for assessment should be on objectively demonstrating with supporting evidence that:

- There will be no significant effects on a Natura 2000 site.
- There will be no adverse effects on the integrity of a Natura 2000 site.
- There is an absence of alternatives to the project or plan that is likely to have an adverse effect on the integrity of a Natura 2000 site.



• There are compensation measures that maintain or enhance the overall coherence of Natura 2000.

There are four stages to complete the AA, and the EC Guidance states that "the outcome at each successive stage determines whether a further stage in the process is required". Consequently, the Council may not need to proceed through all four stages in undertaking the Appropriate Assessment.

The stages outlined below are taken from the document Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (2009).

Stage 1. Screening for Appropriate Assessment

'Stage 1. Screening for Appropriate Assessment is the process that addresses and records the reasoning and conclusions in relation to the first two tests of Article 6(3): i) whether a plan or project is directly connected to or necessary for the management of the site, and ii) whether a plan or project, alone or in combination with other plans and projects, is likely to have significant effects on a Natura 2000 site in view of its conservation objectives. If the effects are deemed to be significant, potentially significant, or uncertain, or it the screening process becomes overly complicated, then the process must proceed to Stage 2 (AA). Screening should be undertaken without the inclusion of mitigation, unless potential impacts clearly can be avoided through the modification or redesign of the plan or project, in which case the screening process is repeated on the altered plan. The greatest level of evidence and justification will be needed in circumstances when the process ends at screening stage on grounds of no impact.'

Screening for Appropriate Assessment shall be carried out by the competent authority as set out in Section 177U (1) and (2) of the Planning and Development Act 2000 (as amended) as follows:

'(1) A screening for appropriate assessment of a draft Land use plan or application for consent for development shall be carried out by the competent authority to assess, in view of best scientific knowledge, if that Land use plan or development, individually or in combination with another plan or project is likely to have a significant effect on the European site.

(2) A competent authority shall carry out a screening for appropriate assessment under subsection (1) before—

(a) a Land use plan is made including, where appropriate, before a decision on appeal in relation to a draft strategic development zone is made, or

(b) consent for a development is given.'

Stage 2. Appropriate Assessment

'This stage considers whether the plan or project, alone or in combination with other projects or plans, will have adverse effects on the integrity of a Natura 2000 site, and includes any mitigation measures necessary to avoid, reduce or offset negative effects. The proponent of the plan or project will be required to submit a Natura Impact Statement, i.e. the report of a targeted professional scientific examination of the plan or project and the relevant Natura 2000 sites, to identify and characterise any possible implications for the site in view of the site's conservation objectives, taking account of in combination effects. This should provide information to enable the competent authority to carry out the appropriate assessment. If the assessment is negative, i.e. adverse effects on the integrity of a site cannot be excluded, then the process must proceed to Stage 4, or



the plan or project should be abandoned. The AA is carried out by the competent authority and is supported by the NIS.'

Stage 3. Alternative Solutions

'This stage examines any alternative solutions or options that could enable the plan or project to proceed without adverse effects on the integrity of a Natura 2000 site. The process must return to Stage 2 as alternatives will require appropriate assessment in order to proceed. Demonstrating that all reasonable alternatives have been considered and assessed, and that the least damaging option has been selected, is necessary to progress to Stage 4.'

Stage 4. Imperative Reasons of Overriding Public Interest (IROPI)/Derogation

'Stage 4 is the main derogation process of Article 6(4) which examines whether there are imperative reasons of overriding public interest (IROPI) for allowing a plan or project that will have adverse effects on the integrity of a Natura 2000 site to proceed in cases where it has been established that no less damaging alternative solution exists.

The extra protection measures for Annex I priority habitats come into effect when making the IROPI case18. Compensatory measures must be and assessed. The Commission must be informed of the compensatory measures. Compensatory measures must be practical, implementable, likely to succeed, proportionate and enforceable, and they must be approved by the Minister.'

2. Methodology

2.1. Legislation and Guidance Documents

This Statement of Screening for Appropriate Assessment (Stage 1) has been prepared with reference to the following:

- European Commission (2018). Managing Natura 2000 Sites: The Provisions of Article 6 of the 'Habitats' Directive 92/43/EEC.
- European Commission (2021). Assessment of plans and projects in relation to Natura 2000 sites Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC European Commission (2021).
- European Commission (2006). Nature and Biodiversity Cases: Ruling of the European Court of Justice.
- European Commission (2007). Clarification of the Concepts of: Alternative Solution, Imperative Reasons of Overriding Public Interest, Compensatory Measures, Overall Coherence, Opinion of the Commission.
- Department of Environment, Heritage and Local Government (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities.
- Office of the Planning Regulator (2021). Appropriate Assessment Screening for Development Management.
- NPWS (2019). The Status of EU Protected Habitats and Species in Ireland.



• CIEEM (2018) Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine version 1.2. Chartered Institute of Ecology and Environmental Management, Winchester.

The AA has also been undertaken in consideration of the European Union (CJEU) judgment on Case C323/17 (People over Wind, Peter Sweetman v Coillte Teoranta) and the CJEU Case C-721/21 (Eco-Advocacy). Other caselaw relevant to Screening are Waddenzee (C127/02), Holohan and Others v An Bord Pleanála (C461/17) and Court of Appeal case C1/2009/0041/QBACF Citation No [2009] EWCA Civ. 1061.

In complying with the obligations set out in Articles 6(3) and following the guidelines described above, this screening statement has been structured as a stage-by-stage approach as follows:

- Description of the project.
- Identification of the Natura 2000 sites close to the development.
- Identification and description of any individual and cumulative impacts on the Natura 2000 sites likely to result from the project.
- Assessment of the significance of the impacts identified above on the site integrity. Exclusion of sites where it can be objectively concluded that there will be no significant effects.

2.2. Statement of Competency

This AA Screening report was conducted by Catherine Howarth, Ecological Consultant with Coyle Environmental Ltd. Catherine has a BSc Hons. Conservation Biology and Ecology from the University of Exeter and a Certificate in Ecological Consultancy. Catherine Howarth has over 16 years' experience in habitat monitoring and surveying.

2.3. Desk Studies & Consultation

- A desk study was carried out to collate information on European sites in the vicinity of the development. The following data sources were accessed to complete a thorough examination of potential impacts prior to the completion of this statement:
- National Parks and Wildlife Service Aerial photographs and maps of designated sites, information on habitats and species within these sites and information on protected plant or animal species, conservation objectives, site synopses and standard data forms for relevant designated sites.
- Environmental Protection Agency (EPA)- Information pertaining to water quality, geology and licensed facilities within the area.
- Myplan.ie Mapped based information.
- National Biodiversity Data Centre (NBDC) Information pertaining to protected plant and animal species within the study area.
- Google Street View High quality aerials and street images.
- Kildare County Council Information on planning history in the area for the assessment of cumulative impacts.



2.4. Assessment Methodology

The development was assessed to identify any potential ecological impacts and its 'Zone of Influence' (Zol). The zone of influence of a development is the geographical area over which it could affect the receiving environment in a manner that could have significant effects on the Qualifying Interests of a European site.

For significant effects to arise there must be a potential impact from a Source, i.e., a development, to a Receptor, i.e., a European site via an Ecological pathway e.g., a water course. If there is no ecological pathway or functional link between the development and the European site, there is no potential for impact and the project can be screened out.

Based on the potential impacts and their ZoI, the Natura 2000 sites potentially at risk from direct, indirect, or in-combination impacts were identified. The assessment considered all potential impact sources and pathways connecting the development to Natura 2000 sites, in view of the conservation objectives supporting the favourable conservation condition of the site's Qualifying Interests (QIs) or Special Conservation Interests (SCIs).

The conservation objectives relating to each Natura 2000 site and its QIs/SCIs are cited generally for SACs as "to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or Annex II species for which the SAC has been selected", and for SPAs "to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA".

The conservation status of a habitat is defined in Article 1 of the Directive. The conservation status of a natural habitat will be taken as favourable when:

- Its natural range and area that it covers within that range is stable or increasing.
- 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.
- The conservation status of its typical species is favourable.
- The favourable conservation status of a species is achieved when:
- The population dynamics data on the species concerned indicate that it is maintaining itself on a longterm basis as a viable component of its natural habitats.
- The natural range of the species is neither being reduced nor is it likely to be reduced for the foreseeable future.
- There is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

A distance of 15km is a baseline used for plans with regard to Zol according to CIEEM 2018 Guidance, however the Zol will vary for different ecological features depending on their sensitivity to an environmental change, therefore this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, the sensitivities of the ecological receptors and the potential for in-combination effects. Where site-specific conservation objectives (SSCOs) have been prepared for a European site, these include a series of specific attributes and targets against which effects on conservation condition, or integrity, can be measured. Where potential significant effects are identified, then these SSCOs should be considered in detail.


3. Screening for Appropriate Assessment

3.1. Development Description

Joe Heffernan is applying to Kildare County Council for exempted development for the recontouring of farmlands for the benefit of agriculture via the importation of clean inert soil and stone using Article 27 mechanism at Tully East, Drumcree, Kilbern, Co. Kildare. The site map can be seen in Figure 1.



Figure 1 – Site map (Land Registry).

3.2. Site Location and Surrounding Environment

The site in question is approximately 2.2 hectares and is located in Tully East, Drumcree in the townland of Kilbern, a settlement located approx. 3km south of Kildare Town, (Grid Ref. N 73085 09014). The site is located on Tully Road, which runs parallel to the R415.

The surrounding land use is primarily agricultural fields, with some forestry and peat bog. The landscape at and in the vicinity of the works is rural in nature. The land use classification within the site, as defined by the 2018 CORINE landcover dataset, is classified as 'Agricultural Areas' while the bedrock of the site is 'Milford Foundation'.

Site location and topo maps are shown in Figures 2,3 and 4, whilst an aerial photograph of the site and its surrounding habitats are shown in Figure 5.





Figure 2 – Site Location Map with Site Pinned (NPWS)



Figure 3 - Site Location Map





Figure 4 – Site Topographical Map (afds.ie)



Figure 5 – Aerial Photograph of the Site Outlined in Red and surrounding habitats. (EPA Maps).



3.2.1. Habitats and Notable Species

No part of the development site lies within an area that has been designated for nature conservation purposes. The habitats within the site are described in greater detail below.

The main habitat on the site is agricultural grassland. The site boundaries are comprised of hedgerow and tree lines. The tree lines are dominated by mature ash (*Fraxinus excelsior*) and hawthorn (*Crataegus monogyna*) with some ivy (*Hedera helix*).

3.2.2. Water Features and Quality

The application site is located within the Barrow Catchment (14), and the Barrow Sub-Catchment (14_18). The site is within the Curragh Gravels West Groundwater Body and the status of this groundwater body is good. The closest watercourse is Tully West (IE_SE_14T020499), which is 220m north of the site and flows into Tully Stream (IE_SE_14T02049), 700m to the west. Tully Stream has a Poor WFD status and moderate Q values. There are drainage ditches on site which run along the boundary of the forestry block to the south.

There are drainage ditches on site and along the boundaries. Following CIRIA 523 (2001) Control of Water Pollution for Sites and Inland Fisheries Ireland (2016) best practice, a 5m buffer zone and silt fencing will be implemented between the infilling activities and the drainage ditches. During operation, only clean surface water will be discharged to local watercourses. As per the ruling of *CJEC Case C-721/21 (Eco-Advocacy)* in 2021, it is permitted to include standard features such as best practice measures in any development that are an integral part of a development without considering them as mitigation for the protection of any European site.

These best practice measures included are standard and are not included for the protection of any designated site and they are <u>not</u> considered mitigation for the prevention or offsetting of significant effects upon any designated site in terms of Appropriate Assessment.

3.3. Natura 2000 Sites Identified

In accordance with the guidelines issued by the Department of the Environment and Local Government, a list of Natura 2000 sites within 15km of the development have been identified and described according to their site synopses, qualifying interests and conservation objectives. In addition, any other sites further than this, but potentially within its zone of interest were also considered. The zone of impact may be determined by an assessment of the connectivity between the application site and the designated areas by virtue of hydrological connectivity, atmospheric emissions, flight paths, ecological corridors etc.

The site works are within 15km of three SACs that have been designated under the EU Habitats Directive and the EU Birds Directive. A map showing the locations of Natura 2000 sites relative to the application site is shown in Figure 6. These designated areas, their closest points to the development and QIs are outlined in Table 1. A full description of these sites can be read on the website of the National Parks and Wildlife Service (npws.ie).





Figure 6 – The Application Site in relation to the Natura 2000 Sites within 15km (Red Hatching)

Site Name & Code	Distance	Qualifying Interests	Screened In / Out
River Barrow and River Nore SAC SAC 002162	4.31km	Habitats1130 Estuaries1140 Mudflats and sandflats not covered byseawater at low tide1170 Reefs1310 Salicornia and other annuals colonisingmud and sand1330 Atlantic salt meadows (Glauco-Puccinellietalia maritimae)1410 Mediterranean salt meadows(Juncetalia maritimi) 3260 Water courses ofplain to montane levels with the Ranunculionfluitantis and Callitricho-Batrachionvegetation4030 European dry heaths6430 Hydrophilous tall herb fringecommunities of plains and of the montane toalpine levels	Screened Out – There is no consistent direct source- pathway-receptor linkage between the application site and this SAC. Consideration has been given to the NIFM River Flood Event data for the site at a 1% probability. The site if flooded may have a limited, short-term hydrological connectivity to the River Barrow SAC and River Nore SAC 10.5km downstream. As such the QIs of this Natura 2000 site have been

Table 1 – Natura 2000 sites within 15km of the site.



Site Name & Code	Distance	Qualifying Interests	Screened In / Out
		 7220 Petrifying springs with tufa formation (Cratoneurion)* 91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles 91E0 Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)* Species 1016 Desmoulin's Whorl Snail (Vertigo moulinsiana) 1029 Freshwater Pearl Mussel (Margaritifera margaritifera) 1092 White-clawed Crayfish (Austropotamobius pallipes) 1095 Sea Lamprey (Petromyzon marinus) 1096 Brook Lamprey (Lampetra planeri) 1099 River Lamprey (Lampetra fluviatilis) 1103 Twaite Shad (Alosa fallax fallax) 1106 Salmon (Salmo salar) 1355 Otter (Lutra lutra) 1421 Killarney Fern (Trichomanes speciosum) 	examined in more detail below.
Pollardstown Fen SAC SAC 000396	7.59km	Habitats7210 Calcareous fens with Cladium mariscusand species of the Caricion davallianae*7220 Petrifying springs with tufa formation(Cratoneurion)*7230 Alkaline fens Species1013 Geyer's Whorl Snail (Vertigo geyeri)1014 Narrow-mouthed Whorl Snail (Vertigoangustior)1016 Desmoulin's Whorl Snail (Vertigomoulinsiana)	Screened Out – There is no direct source-pathway- receptor linkage between the application site and this SAC.
Mouds Bog SAC SAC 002331	10.06km	Habitats 7110 Active raised bogs* 7120 Degraded raised bogs still capable of natural regeneration 7150 Depressions on peat substrates of the Rhynchosporion	Screened Out – Despite the proximity of this SAC to the application site. The SAC is upstream of the site, as such there is no hydrological connectivity, nor is there ecological connectivity between the application site and this SAC, and significant effects upon this SAC will not arise.



3.3.1 Further consideration of Natura 2000 site Qualifying Interests

The NIFM River Flood Event data for the site at Medium (1%) probability, shows flooding on the proposed site, see Figure 8. If flooded, the exempted development site may have a limited, short-term hydrological connectivity to the River Barrow SAC and River Nore SAC 10.5km downstream. As such the QIs of this Natura 2000 site have been examined in more detail below.



Figure 7 – The Application Site in relation to the closest watercourses (EPA Maps).





Figure 8 – The Application Site in red with NIFM River Flood Extents at Medium (1%) Probability (Flood Maps).

There are no expected impacts from the completed works on the other designated sites listed in Table 1 as there are no consistent direct hydrological connections or the distance is deemed far enough away that any disturbance emanating from the works would be both temporary and on a negligible scale so as not to have an impact. Accordingly, these sites will not be discussed regarding potential impact.

The River Barrow and River Nore SAC (002162)

The River Barrow and River Nore SAC consists of the freshwater stretches of the Barrow and Nore River catchments as far upstream as the Slieve Bloom Mountains, and it also includes the tidal elements and estuary as far downstream as Creadun Head in Waterford. The site passes through eight counties – Offaly, Kildare, Laois, Carlow, Kilkenny, Tipperary, Wexford and Waterford.

Both rivers rise in the Old Red Sandstone of the Slieve Bloom Mountains before passing through a band of Carboniferous shales and sandstones. The Nore, for a large part of its course, traverses limestone plains and then Old Red Sandstone for a short stretch below Thomastown. Before joining the Barrow it runs over intrusive rocks poor in silica. The upper reaches of the Barrow also run through limestone. The middle reaches and many of the eastern tributaries, sourced in the Blackstairs Mountains, run through Leinster Granite. The southern end, like the Nore runs over intrusive rocks poor in silica. Waterford Harbour is a deep valley excavated by glacial floodwaters when the sea level was lower than today. The coast shelves quite rapidly along much of the shore.

Floating river vegetation is well represented in the Barrow and in the many tributaries of the site. In the Barrow the species found include water-starworts (*Callitriche spp.*), Canadian Pondweed (*Elodea canadensis*), Bulbous Rush (*Juncus bulbosus*), water-milfoils (*Myriophyllum spp.*), Broad-leaved Pondweed (*P. natans*),



Fennel Pondweed (*P. pectinatus*), Perfoliated Pondweed (*P. perfoliatus*) and crowfoots (*Ranunculus spp.*). The water quality of the Barrow has improved since the vegetation survey was carried out (EPA, 1996).

Other habitats which occur throughout the site include wet grassland, marsh, reed swamp, improved grassland, arable land, quarries, coniferous plantations, deciduous woodland, scrub and ponds.

The site is very important for the presence of a number of E.U. Habitats Directive Annex II animal species including Freshwater Pearl Mussel (*Margaritifera margaritifera*), White-clawed Crayfish, Salmon, Twaite Shad, three lamprey species – Sea Lamprey, Brook Lamprey and River Lamprey, the tiny whorl snail (*Vertigo moulinsiana*) and Otter. This is one of only a handful of spawning grounds in the country for Twaite Shad. The freshwater stretches of the River Nore main channel is a designated salmonid river. The Barrow/Nore is mainly a grilse fishery though spring salmon fishing is good in the vicinity of Thomastown and Inistioge on the Nore. The upper stretches of the Barrow and Nore, particularly the Owenass River, are very important for spawning.

The site supports many other important animal species. Those which are listed in the Irish Red Data Book include Daubenton's Bat, Badger, Irish Hare and Common Frog. The rare Red Data Book fish species Smelt (*Osmerus eperlanus*) occurs in estuarine stretches of the site. In addition to the Freshwater Pearl Mussel, the site also supports two other freshwater mussel species, *Anodonta anatina* and *A. cygnea*.

Land use at the site consists mainly of agricultural activities – mostly intensive in nature and principally grazing and silage production. Slurry is spread over much of Version date: 03.04.2024 7 of 7 002162_rev24.docx the area. Arable crops are also grown. The spreading of slurry and fertiliser poses a threat to the water quality of the salmonid river and to the populations of E.U. Habitats Directive Annex II animal species within the site. Many of the woodlands along the rivers belong to old estates and support many non-native species. Little active woodland management occurs. Fishing is a main tourist attraction along stretches of the main rivers and their tributaries and there are a number of Angler Associations, some with a number of beats. Fishing stands and styles have been erected in places. Both commercial and leisure fishing takes place on the rivers. There is net fishing in the estuary and a mussel bed also.

Other recreational activities such as boating, golfing and walking, particularly along the Barrow towpath, are also popular. There is a golf course on the banks of the Nore at Mount Juliet and GAA pitches on the banks at Inistioge and Thomastown. There are active and disused sand and gravel pits throughout the site. Several industrial developments, which discharge into the river, border the site. New Ross is an important shipping port. Shipping to and from Waterford and Belview ports also passes through the estuary.

The main threats to the site and current damaging activities include high inputs of nutrients into the river system from agricultural run-off and several sewage plants, over-grazing within the woodland areas, and invasion by non-native species, for example Cherry Laurel (Prunus laurocerasus) and Rhododendron (Rhododendron ponticum). The water quality of the site remains vulnerable. Good quality water is necessary to maintain the populations of the Annex II animal species listed above. Good quality is dependent on controlling fertilisation of the grasslands, particularly along the Nore. It also requires that sewage be properly treated before discharge. Drainage activities in the catchment can lead to flash floods which can damage the many Annex II species present. Capital and maintenance dredging within the lower reaches of the system pose a threat to migrating fish species such as lamprey and shad. Land reclamation also poses a threat to the salt meadows and the populations of legally protected species therein.

Overall, the site is of considerable conservation significance for the occurrence of good examples of habitats and of populations of plant and animal species that are listed on Annexes I and II of the E.U. Habitats



Directive. Furthermore it is of high conservation value for the populations of bird species that use it. The occurrence of several Red Data Book plant species including three rare plants in the salt meadows add further interest to this site.

In 2011, the NPWS published Site Specific Conservation Objectives (SSCOs) for the River Barrow and River Nore SAC. These SSCOs can be downloaded on the NPWS website.

Qualifying Interests of the River Barrow and River Nore SAC

River Barrow and River Nore SAC (002162) is a large, complex and varied site. Certain qualifying interests of these sites will not be potentially impacted upon from this development, either due to the distance involved or because they are features that are outside of the Zone of Influence of the site. In considering these QI features, the SSCOs of the site were referred to, along with the most recent Article 17 Reports on the status of protected habitats and species in Ireland (NPWS, 2019). These features and the reason for the Site-specific Conservation Objectives (SSCOs) are listed in Table 6.

Habitat Name [Code]	Attributes	Conservation Objective
Desmoulin's whorl snail <i>Vertigo moulinsiana</i> [1016]	Distribution: Occupied sites Population size: Adults Population Density Area of Occupancy Habitat quality: Vegetation Habitat quality: Soil moisture levels	To <i>maintain</i> the favourable conservation condition of this species in the SAC
Freshwater Pearl Mussel <i>Margaritifera Margaritifera</i> [1029]	The status of the freshwater pearl mussel (<i>Margaritifera margaritifera</i>) as a qualifying Annex II species for the River Barrow and River Nore SAC is currently under review. The outcome of this review will determine whether a site-specific conservation objective is set for this species	
White-clawed Crayfish <i>Austropotamobius pallipes</i> [1092]	Distribution Population Structure: Recruitment Negative Indicator Species Disease Water Quality Habitat Quality: Heterogeneity	To <i>maintain</i> the favourable conservation condition of this species in the SAC
Sea Lamprey <i>Petromyzon marinus</i> [1095]	Distribution: Extent of Anadromy Population Structure of Juveniles Juvenile Density in Fine Sediment Extent and Distribution of Spawning Habitats Availability of Juvenile Habitat	To <i>restore</i> the favourable conservation condition of this species in the SAC
Brook Lamprey <i>Lampetra planeri</i> [1096]	Distribution Population Structure of Juveniles Juvenile Density in Fine Sediment Extent and Distribution of Spawning Habitats	To <i>restore</i> the favourable conservation condition of this species in the SAC

Table 2 – The SSCOs of the River Barrow and River Nore SAC



Habitat Name [Code]	Attributes	Conservation Objective
	Availability of Juvenile Habitat	
River Lamprey <i>Lampetra fluviatilis</i> [1099]	Distribution: Extent of Anadromy Population Structure of Juveniles Juvenile Density in Fine Sediment Extent and Distribution of Spawning Habitats Availability of Juvenile Habitat	To <i>restore</i> the favourable conservation condition of this species in the SAC
Twaite shad <i>Alosa fallax</i> [1103]	Distribution: Extent of Anadromy Population Structure: age classes Extent and Distribution of Spawning Habitats Water Quality: Oxygen Levels Spawning Habitat Quality: Filamentous algae; Macrophytes; Sediment	To <i>restore</i> the favourable conservation condition of this species in the SAC
Atlantic Salmon <i>Salmo salar</i> [1106] (only in freshwater)	Distribution: Extent of Anadromy Adult Spawning Fish Salmon Fry Abundance Out-Migrating Smolt Abundance Number and Distribution of Redds Water Quality	To <i>restore</i> the favourable conservation condition of this species in the SAC
Otter Lutra lutra [1355]	Distribution Extent of Terrestrial Habitats Extent of Marine Habitats Extent of Freshwater (River) Habitats Couching sites and holts Fish biomass available	To <i>restore</i> the favourable conservation condition of this species in the SAC
Killarney fern <i>Trichomanes</i> <i>speciosum</i> [1421]	Distribution Population Size Population Structure: Juvenile Fronds Habitat Extent Hydrological Conditions: Visible water Hydrological Conditions: Humidity Light Levels: Shading Invasive Species	To <i>maintain</i> the favourable conservation condition of this species in the SAC
Nore freshwater pearl mussel <i>Margaritifera durrovensis</i> [1990]	Distribution Population Size: Adult Mussels Population Structure: Recruitment Population Structure: Adult Mortality Habitat Extent Water Quality: Macroinvertebrates Substratum Quality: Filamentous Algae, Macrophytes Substratum Quality: Sediment Substratum Quality: Oxygen Availability Hydrological Regime: Flow availability Host fish	To <i>restore</i> the favourable conservation condition of this species in the SAC



Habitat Name [Code]	Attributes	Conservation Objective	
Estuaries [1130]	Habitat Area Community Distribution Community Extent	To <i>maintain</i> the favourable conservation condition of this habitat in the SAC	
Mudflats and sandflats not covered by seawater at low tide [1140]	Habitat Area Community Distribution	To <i>maintain</i> the favourable conservation condition of this habitat in the SAC	
<i>Salicornia</i> and other annuals colonising mud and sand [1310]	Habitat Area Habitat Distribution Physical Structure: Sediment supply Physical Structure: Flooding regime Physical Structure: Creeks and Pans Vegetation Structure: Zonation Vegetation Structure: Vegetation Height Vegetation Structure: Vegetation cover Vegetation Composition: Typical species and sub-communities Vegetation Structure: Negative indicator species <i>Spartina anglica</i>	To <i>maintain</i> the favourable conservation condition of this habitat in the SAC	
Atlantic Salt Meadows (<i>Glauco-Puccinellietalia</i> <i>maritimae</i>) [1330]	Habitat Area Habitat Distribution Physical Structure: Sediment supply Physical Structure: Flooding regime Physical Structure: Creeks and Pans Vegetation Structure: Zonation Vegetation Structure: Vegetation Height Vegetation Structure: Vegetation cover Vegetation Composition: Typical species and sub-communities Vegetation Structure: Negative indicator species <i>Spartina anglica</i>	To <i>restore</i> the favourable conservation condition of this habitat in the SAC	
Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]	Habitat Area Habitat Distribution Physical Structure: Sediment supply Physical Structure: Flooding regime Physical Structure: Creeks and Pans Vegetation Structure: Zonation Vegetation Structure: Vegetation Height Vegetation Structure: Vegetation cover Vegetation Composition: Typical species and sub-communities Vegetation Structure: Negative indicator species <i>Spartina anglica</i>	To <i>restore</i> the favourable conservation condition of this habitat in the SAC	
Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260]	Habitat Area Habitat Distribution Hydrological Regime: River Flow Hydrological Regime: Groundwater Discharge	To <i>maintain</i> the favourable conservation condition of this habitat in the SAC	



Habitat Name [Code]	Attributes	Conservation Objective
	Substratum Composition: Particle Size Range Water Chemistry: Minerals Water Quality: Suspended sediment Water Quality: Nutrients Vegetation Composition: Typical Species Floodplain Connectivity	
European Dry Heaths [4030]	Habitat Area Habitat Distribution Physical Structure Vegetation Structure: Sub-shrub Indicator Species Vegetation Structure: Senescent Gorse Vegetation Structure: Browsing Vegetation Structure: Native trees and Shrubs Vegetation Composition: Positive indicator species Vegetation Structure: Positive indicator species Vegetation composition: bryophyte and non- crustose lichen species Vegetation composition: bracken (Pteridium aquilinum) Vegetation structure: weedy negative indicator species Vegetation composition: non- native species Vegetation composition: non- native species Vegetation composition: rare/scarce heath species Vegetation structure: disturbed bare ground Vegetation structure: burning	To <i>maintain</i> the favourable conservation condition of this habitat in the SAC
Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]	Habitat Area Habitat Distribution Hydrological regime: Flooding depth/height of water table Vegetation structure: Sward height Vegetation Composition: Broadleaf herb:grass ratio Vegetation composition: typical species Vegetation composition: negative indicator species	To <i>maintain</i> the favourable conservation condition of this habitat in the SAC
Petrifying springs with tufa formation (Cratoneurion)* [7220]	Habitat Area Habitat Distribution Hydrological Regime: Height of water table; water flow Water Quality Vegetation Composition: Typical Species	To <i>maintain</i> the favourable conservation condition of this habitat in the SAC



Habitat Name [Code]	Attributes	Conservation Objective
Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	Habitat Area Habitat Distribution Woodland Size Woodland Structure: Cover and Height Woodland Structure: community diversity and extent Woodland Structure: natural regeneration Woodland Structure: dead wood Woodland Structure: veteran trees Woodland Structure: indicators of local distinctiveness Vegetation Composition: native tree cover Vegetation Composition: Typical species Vegetation Composition: Negative indicator species	To <i>restore</i> the favourable conservation condition of this habitat in the SAC
* Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]	Habitat Area Habitat Distribution Woodland Size Woodland Structure: Cover and Height Woodland Structure: community diversity and extent Woodland Structure: natural regeneration Hydrological regime: Flooding depth/height of water table Woodland Structure: dead wood Woodland Structure: veteran trees Woodland Structure: indicators of local distinctiveness Vegetation Composition: native tree cover Vegetation Composition: Typical species Vegetation Composition: Negative indicator species	To <i>restore</i> the favourable conservation condition of this habitat in the SAC

3.3.3. Potential Effects upon the QIS of the River Barrow and River Nore SAC (002162)

The potential significant effects of the development at Tully East on the River Barrow and River Nore SAC (002162) have been assessed considering the QIs and the SSCOs that have been set. It is considered that there are no significant risks of pollution to the water dependent habitats of the SAC resulting from the works due to the lack of significant potential pollution pathways (source-pathway-receptor linkages) and distance between the application location and the SAC.

There is no loss or fragmentation of any of the QI habitats of this SAC arising from the development and there will be no effects upon any species arising from deteriorations in water quality.

Overall, it can be concluded that the activity from this development and its operation will have no significant or long-term effects upon the QIs of the River Barrow and River Nore SAC (002162) or the attributes and targets that are required to either maintain or restore the favourable conservation condition of these QIs within the SAC.



3.4. Impact Assessment

The potential significant effects of the development on the Natura 2000 sites identified above are described below.

Describe the individual elements of the project (either alone or in combination with other plans or projects) likely to give rise to impacts on nearby Natura 2000 site:

The works at Tully East, Kilbern will have no significant effects upon the designated sites identified. There are no individual elements of the project that give rise to negative impacts or effects on these sites. There are no significant source-pathway-receptor linkages between the application site and the SAC, therefore any negative effects upon the Qualifying Interests of the SAC are unlikely to arise. There will be no habitat loss or fragmentation in the River Barrow and River Nore SAC or other designated sites within 15km and site-specific mitigation measures are not required to offset or reduce significant effects on these sites.

Describe any likely direct, indirect or secondary impacts of the project (either alone or in combination with other plans or projects) on the nearby Natura 2000 sites by virtue of:

Size and scale: Having regards to the size and scale of the development in relation to the overall size of the Natura 2000 site identified and distance, the likelihood of any direct, indirect or cumulative impacts upon the River Barrow and River Nore SAC and other designated sites is low.

Land-take: There will be no land-take from the River Barrow and River Nore SAC or other designated sites. There will be no interference with the boundaries of any designated site. There will be no loss of any undesignated priority habitats.

Distance from Natura 2000 site or key features of the site: There are 3 Natura 2000 sites within 15km of the application site. The closest site is the River Barrow and River Nore SAC (002162) and is 4.3km south and west of the application site. In this instance, having regards to the lack of connectivity and nature of the development, these distances are sufficient to ensure that significant effects do not arise.

Resource requirements (water abstraction etc.): No resources will be taken from the River Barrow and River Nore SAC or other designated sites and there are no resource requirements that will impact upon and designated site.

Emissions: The in-filling of the development site will not result in any emissions to the River Barrow and River Nore SAC or other Natura 2000 site. There will be no run-off from the site directly to any SAC or SPA. During operation, there should be no emissions released.

Transportation requirements: There will be no significant additional transportation requirements resulting from the application and associated works that will have any impact upon the Natura 2000 sites identified.

In-Combination / Cumulative Impacts: An examination of the planning portal on the website of Kildare County Council was undertaken for information pertaining to other recent or pending planning applications in the local area. Since 2015 19 developments have been granted planning permission in the Tully East area. Where necessary, these applications were assessed under Article 6(3). In the future, any application that has the potential to impact upon the SAC will be subjected to Appropriate Assessment as required under Articles 6(3) of the Habitats Directive.



The works at Tully East will have no cumulative effects upon any designated site when considered incombination with other developments that have been screened for AA or where an NIS has been carried out and mitigation measures included.

Describe any likely changes to the nearby Natura 2000 sites arising because of:

Reduction of habitat area: The works lie outside the boundaries of the River Barrow and River Nore SAC. There will be no reduction of designated habitat area. There will be no interference with the boundaries of any designated site. There will be no direct, indirect or cumulative impacts upon the habitat qualifying interests of the River Barrow and River Nore SAC (002162) or any other designated site.

Disturbance to key species: There are no likely disturbances to any key species arising from this development.

Habitat or species fragmentation: There will be no habitat or species fragmentation within the River Barrow and River Nore SAC or other designated sites. No ecological corridors between the development and designated site will be impacted upon.

Reduction in species density: There will be no reduction in species density in any designated site.

Changes in key indicators of conservation value (water quality etc.): There will be no deteriorations in surface or groundwater quality.

Describe any likely impacts on the nearby Natura 2000 sites in terms of:

Interference with the key relationships that define the structure or function of the site: It is not considered likely that there will be any significant impacts on the key relationships that define the structure or function of the Natura 2000 sites identified.

Provide indicators of significance because of the identification of effects set out above in terms of:

Loss - Estimated percentage of lost area of habitat: None

Fragmentation: None

Disruption & disturbance: None

Change to key elements of the site (e.g. water quality etc.): None

3.5. Finding of No Significant Effects

Finding of No Significant Effects Report Matrix		
Name of project	Exempted development for agricultural farmland at Tully East, Drumcree, Kilbern, Co. Kildare.	



Finding of No Significant Effects Report Matrix			
Name and location of Natura 2000 site	There are 3 Natura 2000 sites within 15km of the application site. The closest site is the River Barrow and River Nore SAC (002162) and is 4.3km south and west of the development.		
Is the project directly connected with or necessary to the management of the site?	No		
Are there other projects or plans that together with project being assessed could affect the site?	No		
The Assessment of Significance of Effect	its		
Describe how the project is likely to affect the Natura 2000 site	Having regard to the location, nature and scale of the development, it is considered that there is no potential for significant effects either from the works on its own or in combination with other plans and projects.		
Explain why these effects are not considered significant	Not applicable as there is no potential for negative impacts		
Describe how the project is likely to affect species designated under Annex II of the Habitats Directive.	No impacts likely		
Data Collected to Conduct the Assessme	ent		
Who carried out the assessment	Catherine Howarth. Consultant Ecologist		
Sources of data	NPWS, EPA, National Biodiversity Data Centre, Kildare County Council		
Level of assessment completed	Stage1 Appropriate Assessment Screening		
Where can the full results of the assessment be accessed and viewed	Full results included		



4. Appropriate Assessment Conclusion

In accordance with Article 6(3) of the Habitats Directive, the relevant case law established best practice and the precautionary principle, this AA Screening Report has examined the details of the project in relation to the relevant Natura 2000 sites within 15km of the application site.

At this stage of the AA process, it is for the competent authority, i.e., Kildare County Council, to carry out the screening for AA and to reach one of the following determinations:

a) AA of the development is required if it cannot be excluded, on the basis of objective information, that the development, individually or in combination with other plans or projects, will not have a significant effect on any European sites;

b) AA of the development is *not* required if it can be excluded, on the basis of objective information, that the development, individually or in combination with other plans or projects, will not have a significant effect on any European sites.

This Screening for Appropriate Assessment report is based on the best available scientific information. It is of the opinion of the author that an AA of the development is not required as it can be excluded, based on objective information provided in this report, that the development, individually or in combination with other plans or projects, will not have a significant effect on any European sites.

Catherine Howarth. BSc Hons. Consultant Ecologist. COYLE ENVIRONMENTAL LTD.

Flood Risk Assessment Report for Joe Heffernan Proposed at Tully East, Drumcree, Kilbern, County Kildare.



1_{st} & 2_{nd} Floor Kilmurry House, Main Street, Castlerea, Co. Roscommon, F45 DK58

Tel: 094 962 1258 Website: www.coyleenv.ie





About Coyle Environmental Ltd.

Coyle Environmental Ltd are a highly respected and progressive Environmental Monitoring & Consulting practice.

For over two decades, Coyle Environmental Ltd has been a trusted provider of professional Environmental Monitoring and Consulting Services throughout Ireland.

Our reputation is built on innovative work practices, cost-effective solutions, and unwavering client dedication.

Operating nationwide from our base in the West of Ireland we pride ourselves on delivering consistently high-quality services, ensuring that projects are completed on time and within budget. Our commitment to Continuous Professional Development (CPD) and investment in the latest technology keeps us at the forefront of the industry.

We deliver to our valued clients a consistently excellent quality of service.

We offer a specialist range of services comprising:

- Environmental Monitoring
- Environmental Consulting
- Environmental Project Management

Coyle Environmental Ltds ability to provide a costefficient professional service coupled with a proven track record on project completion and delivery ensures that we remain an industry leader in our areas of expertise.

Our progressive and innovative work practices, together with our commitment to CPD (Continuous Professional Development) ensure that our workforce are consistently upgrading their professional skills and that the company is constantly investing in the most recent technology and equipment.





Document Control		
Project Title:	Flood Risk Assessment Report for Joe Heffernan at Tully East, Drumcree, Kilbern, County Kildare.	
Project Reference No:	25-010	
Project Description:	Flood Risk Assessment Report for a Proposed Lands Leveling for Agricultural Purposes at Tully East, Drumcree, Kilbern, County Kildare.	
Status:	FINAL	
Client Details:	Joe Heffernan	
Issued By:	Coyle Environmental Ltd., 1st & 2nd Floor Kilmurry House, Castlerea, Co. Roscommon F45 DK58.	

Document Production	& Approval
----------------------------	------------

	Name	Date	Position
Prepared by:	Martin Jancek	27/02/25	Flood Risk Engineer
Approved by	Daniella O'Neill	27/02/25	Environmental Consultant

Revision History			
Rev	Status	Date	
0	Draft	27/02/25	
1	Final	05/03/25	

Coyle Environmental Limited disclaims any responsibility to the Client and others in respect of any matters outside the scope of the report. The report has been prepared with reasonable skill, care and diligence within the terms of the Contract with the client. The report is confidential to the Client and Coyle Environmental Limited accepts no responsibility of whatsoever nature to third parties to whom this report or any part thereof is made known. Any such party relies upon the report at their own risk.



TABLE OF CONTENTS

1. IN	TRODUCTION	1
2. ME	ETHODOLOGY	1
2.1.	Introduction	1
2.2.	Definition of Flood Risk	1
2.3.	Likelihood of Flooding	2
2.4.	Definition of Flood Zones	2
2.5.	Objectives and Principles of the Planning Guidelines	5
2.6.	The Sequential Approach and Justification Test	5
3. ST	UDY AREA	7
4. ST	AGE 1 – FLOOD RISK IDENTIFICATION	11
4.1.	General	11
4.2.	Information Sources Consulted	11
5. ST	AGE 2 – INITIAL FLOOD RISK ASSESSMENT	17
5.1.	General	17
5.2.	Sources of Flooding	17
5.3.	Conclusion of Stage 2 FRA	18
6. ST	AGE 3 – DETAILED FLOOD RISK ASSESSMENT	18
6.1.	Conclusion of Stage 3 FRA	18
6.2.	Compliance with Flood Risk Management Guidelines	19
6.3.	Land Use Zoning Objectives	19
6.4.	Justification Test	21
7. CC	ONCLUSIONS	23



TABLE OF FIGURES

TABLES

13

Table 1. Correlation between return period and AEP 2
Table 2. Matrix of vulnerability versus flood zone to illustrate appropriate development and that required to meet the Justification Test (Source: The Planning System and Flood Risk Management)
Table 3. Information Sources Consulted11
Table 4. Justification Test



1. INTRODUCTION

Coyle Environmental Ltd. has been engaged to carry out a Flood Risk Assessment for a proposed Lands Leveling for Agricultural Purposes at Tully East, Drumcree, Kilbern, County Kildare.

This report has been prepared to assess the existing flood risk to the site.

2. METHODOLOGY

2.1. Introduction

This report has been prepared in accordance with 'The Planning System and Flood Risk Management Guidelines for Planning Authorities' herein referred to as 'The Guidelines' as published by the Office of Public Works (OPW) and Department of Environment, Heritage and Local Government (DoHLG) in 2009.

2.2. Definition of Flood Risk

Flood risk is a combination of the likelihood of a flood event occurring and the potential consequences arising from that flood event and is then normally expressed in terms of the following relationship:

Flood risk = Likelihood of flooding x Consequences of flooding.

To fully assess flood risk an understanding of where the water comes from (i.e. the source), how and where it flows (i.e. the pathways) and the people and assets affected by it (i.e. the receptors) is required. Figure 1 below shows a source-pathway-receptor model.



Figure 1. Source-Pathway-Receptor Model

The principal sources of flooding are rainfall or higher than normal sea levels. The principal pathways are rivers, drains, sewers, overland flow and river and coastal floodplains. The receptors can include people, their property and the environment. All three elements as wellas the vulnerability and exposure of receptors must be examined to determine the potential consequences.

The guidelines set out a staged approach to the assessment of flood risk with each stage carried out only as needed. The stages are listed below:



Stage I Flood Risk Identification – to identify whether there may be any flooding or surface water management issues.

Stage II Initial Flood Risk Assessment – to confirm sources of flooding that may affect an area or proposed development, to appraise the adequacy of existing information and to scope the extent of the risk of flooding which may involve preparing indicative flood zone maps.

Stage III Detailed Flood Risk Assessment – to assess flood risk issues in sufficient detail and to provide a quantitative appraisal of potential flood risk to a proposed or existing development or land to be zoned, of its potential impact on flood risk elsewhere and of the effectiveness of any proposed mitigation measures.

2.3. Likelihood of Flooding

The Guidelines define the likelihood of flooding as the percentage probability of a flood of a given magnitude or severity occurring or being exceeded in any given year. It is generally expressed as a return period or annual exceedance probability (AEP). A 1% AEP flood indicates a flood event that will be equalled or exceeded on average once every hundred years and has a return period of 1 in 100 years. Annual Exceedance Probability is the inverseof return period as shown in Table 1 below.

Return Period (years)	Annual Exceedance Probability (%)
1	100
10	10
50	2
100	1
200	0.5
1000	0.1

Table 1. Correlation between return period and AEP

2.4. Definition of Flood Zones

Flood zones are geographical areas within which the likelihood of flooding is in a particular range and are split into three categories in The Guidelines:

2.4.1. Flood Zone A

Flood Zone A where the probability of flooding from rivers and the sea is highest (greater than 1% or 1 in 100 for river flooding or 0.5% or 1 in 200 for coastal flooding);

Most types of development would be considered inappropriate in this zone. Development in this zone should be avoided and/or only considered in exceptional circumstances, such as in city and town centres, or in the case of essential infrastructure that cannot be located elsewhere, and where the Justification Test has been applied. Only water-compatible development, such as docks and marinas, dockside activities that require a waterside location, amenity open space, outdoor sports and recreation, would be considered appropriate in this zone.

2.4.2. Flood Zone B

Flood Zone B where the probability of flooding from rivers and the sea is moderate (between 0.1% or



1 in 1000 and 1% or 1 in 100 for river flooding and between 0.1% or 1 in

1000 or 0.5% or 1 in 200 for coastal flooding);

Highly vulnerable development, such as hospitals, residential care homes, Garda, fire and ambulance stations, dwelling houses and primary strategic transport and utilities infrastructure, would generally be considered inappropriate in this zone, unless the requirements of the Justification Test can be met. Less vulnerable development, such as retail, commercial and industrial uses, sites used for short-let for caravans and camping and secondary strategic transport and utilities infrastructure, and water-compatible development might be considered appropriate in this zone. In general, however, less vulnerable development should only be considered in this zone if adequate lands or sites are not available in Zone C and subject to a flood risk assessment to the appropriate level of detail to demonstrate that flood risk to and from the development can or will adequately be managed.

2.4.3. Flood Zone C

Flood Zone C where the probability of flooding from rivers and the sea is low (less than 0.1% or 1 in 1000 for both river and coastal flooding. Flood Zone C covers all plan areaswhich are not in zones A or B.

Development in this zone is appropriate from a flood risk perspective (subject to assessment of flood hazard from sources other than rivers and the coast) but would need to meet the normal range of other proper planning and sustainable development considerations.

It is important to note that when determining flood zones the presence of flood protection structures should be ignored. This is because areas protected by flood defences still carry a residual risk from overtopping or breach of defences and the fact that there is no guarantee that the defences will be maintained in perpetuity.



Vulnerability class	Land uses and types of development which include*:
Highly vulnerable development (including essential infrastructure)	Garda, ambulance and fire stations and command centres required to be operational during flooding; Hospitals; Emergency access and egress points; Schools; Dwelling houses, student halls of residence and hostels; Residential institutions such as residential care homes, children's homes and social services homes; Caravans and mobile home parks; Dwelling houses designed, constructed or adapted for the elderly or, other people with impaired mobility; and Essential infrastructure, such as primary transport and utilities distribution, including electricity generating power stations and sub-stations, water and sewage treatment, and potential significant sources of pollution (SEVESO
Less vulnerable development	sites, IPPC sites, etc.) in the event of flooding. Buildings used for: retail, leisure, warehousing, commercial, industrial and non-residential institutions; Land and buildings used for holiday or short-let caravans and camping, subject to specific warning and evacuation plans; Land and buildings used for agriculture and forestry; Waste treatment (except landfill and hazardous waste); Mineral working and processing; and Local transport infrastructure.
Water- compatible development	Flood control infrastructure; Docks, marinas and wharves; Navigation facilities; Ship building, repairing and dismantling, dockside fish processing and refrigeration and compatible activities requiring a waterside location; Water-based recreation and tourism (excluding sleeping accommodation); Lifeguard and coastguard stations; Amenity open space, outdoor sports and recreation and essential facilities such as changing rooms; and Essential ancillary sleeping or residential accommodation for staff required by uses in this category (subject to a specific warning and evacuation plan).

Figure 2. OPW The Planning System and Flood Risk Management, Classification of vulnerability of different types of development



2.5. Objectives and Principles of the Planning Guidelines

The principle actions when considering flood risk are set out in the planning guidelines and are summarised below:

- "Flood hazard and potential risk should be determined at the earliest stage of the planning process..."
- "Development should preferentially be located in areas with little or no flood hazard thereby avoiding or minimising the risk."
- "Development should only be permitted in areas at risk of flooding when there are no alternative, reasonable sites available."
- "Where development is necessary in areas at risk of flooding an appropriate land use should be selected"
- A precautionary approach should be applied, where necessary, to reflect uncertainties in flooding datasets and risk assessment techniques. "
- "Land required for current and future flood management... should be pro-actively identified "
- "Flood risk to, and arising from, new development should be managed through location, layout and design incorporating Sustainable Drainage Systems (SuDS) and compensation for any loss of floodplain "
- Strategic environmental assessment (SEA) of regional planning guidelines, development plans and local area plans should include flood risk as one of the key environmental criteria "

2.6. The Sequential Approach and Justification Test

The Guidelines outline the sequential approach that is to be applied to all levels of the planning process. This approach should also be used in the design and layout of a development and the broad philosophy is shown in Figure 3 below. In general, development in areas with a high risk of flooding should be avoided as per the sequential approach. However, this is not always possible as many town and city centres are within flood zones and are targeted for development.





Figure 3.Sequential Approaches (Source: The Planning System and Flood Risk Management)

The Justification Test has been designed to rigorously assess the appropriateness, or otherwise, of developments that are being considered in areas of moderate or high flood risk. The test comprises the following two processes.

The first is the Plan-making Justification Test and is used at the plan preparation and adoption stage where it is intended to zone or otherwise designate land which is at moderate or high risk of flooding.

The second is the Development Management Justification Test and is used at the planning application stage where it is intended to develop land at moderate or high risk of flooding for uses or development vulnerable to flooding that would generally be inappropriate for that land.

Table 2 below illustrates the types of development that would be required to meet the Justification Test.

	Flood Zone A	Flood Zone B	Flood Zone C
Highly vulnerable development (including essential infrastructure)	Justification Test	Justification Test	Appropriate
Less vulnerable development	Justification Test	Appropriate	Appropriate
Water-compatible development	Appropriate	Appropriate	Appropriate

Table 2. Matrix of vulnerability versus flood zone to illustrate appropriate development and that required to meet the Justification Test (Source: The Planning System and Flood Risk Management)



3. STUDY AREA

The proposed development consists of an Lands Leveling for Agricultural Purposes at Tully East, Drumcree, Kilbern, County Kildare.

Site Location is shown in Figures 4 & 5, proposed Site Layout is shown in Figure 6. Full Site Layout drawings are shown in Appendix A, site location: 53.126777, -6.908965.





Figure 4. Site Location (Google Maps)





Figure 5. Site Layout and extent of proposed works.



ENVIRONMENTAL



Figure 6. Site cross sections

VIRONMENTAL



4. STAGE 1 – FLOOD RISK IDENTIFICATION

4.1. General

This Stage I Flood Risk Identification includes a review of the existing information and the identification of any flooding or surface water management issues in the vicinity of the proposed site.

4.2. Information Sources Consulted

The following information sources were consulted as part of the Stage I Flood Risk Identification:

Source	Comments	
OPW Flood Info maps	Fluvial, Pluvial, Coastal and Groundwater flooding examined;	
consulted	http://www.floodinfo.ie/map/floodplans/	
Catchment Flood Risk Assessmentand Management Study (CFRAM)	https://www.floodinfo.ie/map/floodmaps/	
OPW flood records	www.floodmaps.ie,	
Geological Survey of Ireland (GSI)Maps	GSI Teagasc subsoils map consulted to identify if alluvium ispresent at development site that may indicate the presenceof a watercourse and floodplain	

Table 3	Information	Sources	Consulted
Table J.	monnation	0001003	Consulted

4.2.1. Previous Flood Risk Assessments and Predictive Flood Maps

Preliminary Flood Risk Assessment

The PFRA is a national screening exercise, based on available and readily-derivable information, to identify areas where there may be a significant risk associated with flooding (referred to as Areas for Further Assessment or AFA's). As part of the PFRA study, maps of the country were produced showing the indicative fluvial, coastal, pluvial and groundwater flood extents.

The OPW Preliminary Flood Risk Assessment Maps, (PFRA) are now retired and replaced by National Indicative Fluvial Mapping (NIFM) at floodinfo.ie web page.

Pluvial flooding at retired PFRA mapping are indicative and are not decisive for site Flood Zone categorization. Fluvial and Coastal flooding are decisive for site Flood Risk categorization as per Table 2.

4.2.2. Catchment Flood Risk Assessment and Management Study

The CFRAM program led by the OPW are not available for study location.

Evidence of estimated flooding within or in the vicinity of the site is shown below at Figure 7., information is not available for site location.



Figure 7. CFRAM Flood Extent – All Probabilities

The Mid-Range Future Scenario extents where generated taking in the potential effects of climate change using an increase in rainfall of 20% and sea level rise of 500mm.

Evidence of estimated flooding within or in the vicinity of the site is shown below at Figures 8., information is not available for site location.



Figure 8. CFRAM Flood Extent – Mid-Range Future Scenario – All Probabilities

Evidence of estimated CFRAM Pluvial Flooding within or in the vicinity of the site is shown below at Figure 9., information is not available for site location.





Figure 9. CFRAM Pluvial Flood Extent – All Probabilities

4.2.3. National Indicative Fluvial Mapping (NIFM) River Flood Extent

This data shows the modelled extent of land that might be flooded by rivers (fluvial flooding) during a theoretical or 'design' flood event with an estimated probability of occurrence, rather than information for actual floods that have occurred in the past.

The Present Day Scenario is also referred to as the Current Scenario. Present Day Scenario data was generated using methodologies based on historic flood data, without taking account of potential changes due to climate change. The potential effects of climate change have been separately modelled and reported on.

Data has been produced for catchments greater than 5km2 in areas for which flood maps were not produced under the National CFRAM Programme and should be read in this context. River reaches that have been modelled are indicated by the NIFM Modelled River Centrelines dataset.

Flooding from other reaches of river may occur, but has not been mapped, and so areas that are not shown as being within a flood extent may therefore be at risk of flooding from unmodelled rivers (as well as from other sources).

Evidence of estimated flooding within or in the vicinity of the site is shown below at Figure 10.






Figure 10. National Indicative Fluvial Mapping – Present Day, Low and Medium Probability.

The Mid-Range Future Scenario extents where generated taking in the potential effects of climate change using an increase in rainfall of 20%.

Evidence of estimated flooding within or in the vicinity of the site is shown below at Figure 11.





Figure 11. National Indicative Fluvial Mapping – Mid-Range Future Scenario, Low and Medium Probability (0.1% AEP with 20% increase).



4.2.4. Arterial Drainage Scheme Channels

Arterial Drainage Schemes were carried out under the Arterial Drainage Act, 1945 to improve land for agriculture and to mitigate flooding. Rivers, lakes weirs and bridges were modified to enhance conveyance, embankments were built to control the movement offlood water and various other work was carried out under Part II of the Arterial Drainage Act, 1945. The purpose of the schemes was to improve land for agriculture, to ensure that the 3 – year flood was retained in bank this was achieved by lowering water levels during the growing season to reduce waterlogging on the land beside watercourses known as callows.

Flood protection in the benefiting lands was increased as a result of the Arterial Drainage Schemes.

Evidence of ADS Channels within vicinity of the site is shown below at Figure 12.



Figure 12. Arterial Drainage Scheme (ADS)

4.2.5. Past Flood Events

A Past Flood Event is defined as the occurrence of recorded flooding at a given location on a given date or on a recurring basis. The event is derived from available flood information documentation including flood event reports, news articles, archive information and photos.

Past flood events are represented on the map in three different ways. Where the boundary of a flood has been mapped, the flood is shown as a shaded area with a blue border defining the extent of the flood. Most floods cannot be shown in this way because the extent of the flood was not mapped at the time. Therefore, floods without extent information are represented with a point symbol at the approximate location of the flood. A flood point symbol is placed at any location mentioned in a report giving details of a flood event. Where more than one flood has occurred in the same location, and to denote a location with recurring flooding, a multiple flood point symbol is used.



Flood boundary marks the approximate extent of past flood.

The Flood Point symbol marks the approximate location of a past flood.

A Multiple / Recurring Flood Point symbol marks the approximate location of an areathat has been affected by more than one Flood Event.

Evidence of past flood events within or in the vicinity of the site is shown below at Figure 13.



Figure 13. Past Flood Events

4.2.6. Geological Survey Ireland Groundwater Flooding

Groundwater is the water that soaks into the ground from rain and can be stored beneath the ground. Groundwater floods occur when the water stored beneath the ground rises above the land surface.

Geological Survey Ireland have developed Groundwater Flood Maps for the Republic of Ireland. The maps were developed in as part of the 2016-2019 GWFlood project in collaboration with Trinity College Dublin and the Institute of Technology Carlow.

Evidence of Groundwater flood events within or in the vicinity of the site is shown below at Figure 14.





Figure 14. Groundwater Flood Events

5. STAGE 2 – INITIAL FLOOD RISK ASSESSMENT

5.1. General

A Stage 2 FRA (initial flood risk assessment) was undertaken to:

- Confirm the sources of flooding that may affect the subject site;
- Appraise the adequacy of existing information as identified by the Stage 1 FRA

5.2. Sources of Flooding

Groundwater Flooding

Ground water flooding is a result of upwelling in occurrences where the water table or confined aquifer rises above the ground surface. This tends to occur after long periods of sustained rainfall and/or very high tides. High volumes of rainfall and subsequent infiltration ground will result in a rising of the water table. Groundwater flooding tends to occur in low - lying areas, where with additional groundwater flowing towards these areas, the watertable can rise to the surface causing groundwater flooding.

The sources consulted such as the CFRAM mapping are not available for this location, available GSI records show no indication that the proposed site location is subject to Groundwater derived flooding.

The proposed site is not considered to require a detailed flood risk assessment with respect to groundwater flooding.

Pluvial Flood Risk

Pluvial flooding results from heavy rainfall that exceeds ground infiltration capacity or more commonly in Ireland where the ground is already saturated from previous rainfall events. This causes ponding and flooding at localized depressions. Pluvial flooding is commonly a result of changes to the natural flow regime such as the implementation of hard surfacing and improper drainage design.

The sources consulted such as the OPW Flood Maps and OPW Rainfall Flood Plans mapping show no indication that the proposed site is subject to pluvial derived flooding.



Any potential pluvial flood risk would be accommodated by proposed site drainage a will not result in a loss / reduction of pluvial flood water storage on site

Fluvial Flood Risk

A fluvial, or river flood, occurs when the water level in a river, lake or stream rises and overflows onto the surrounding banks, shores and neighboring land. The water level rise could be due to excessive rain or snowmelt.

The sources consulted such as the CFRAM, OPW Flood Maps and OPW Flood Plans mapping show indication that the site is subject to fluvial derived flooding at 1% or 0.1% AEP return period with or without the 20% climate charge factor applied as indicated on National Indicative Fluvial Mapping.

Proposed site works are leveling and lifting ground level by 0.8-1.5m. This would eliminate any risk of fluvial flooding as shown in Figures 10 and 11. Refer to Figures 6 for cross sections for level differences, drawings are also included in Appendix A. As per NIFM OPW mapping, flood level is estimated to 76.6 mOD, proposed minimum lifted ground level is 76.8 mOD, proposed maximum lifted ground level is 76.9 mOD, this is providing 200 – 300mm of freeboard across the proposed infilled site.

Coastal Flood Risk

Coastal flooding is the inundation of land areas along the coast by seawater. Common causes of coastal flooding are intense windstorm events occurring at the same time as high tide (storm surge), and tsunamis.

Storm surge is created when high winds from a windstorm force water onshore — this is the leading cause of coastal flooding and often the greatest threat associated with a windstorm. The effects increase depending on the tide - windstorms that occur during high tide result in devastating storm surge floods. In this type of flood, water overwhelms low-lying land and often causes devastating loss of life and property.

The sources consulted such as the OPW Flood Maps and OPW Flood Plans mapping show no indication that the site location is subject to coastal derived.

Based on above information and extent of proposed works site would be allocated as Flood Zone A.

5.3. Conclusion of Stage 2 FRA

The information provided in this section identifies that there are no potentially elevated levels of pluvial, fluvial, coastal and groundwater flood risk.

6. STAGE 3 – DETAILED FLOOD RISK ASSESSMENT

6.1. Conclusion of Stage 3 FRA

Stages 1 and 2 of the flood risk assessment of proposed site have indicated that the site is not subject to flooding in low, medium or high probability exceedance events up to 0.1%AEP (1 in 1000 chance in any given year) with 20% climate change factor applied from pluvial, coastal or groundwater sources as indicated on OPW Monaghan CFRAM Study Flood Extent Maps.

Any potential pluvial flood risk would be accommodated by proposed site drainage a will not result in a loss / reduction of pluvial flood water storage on site.



Fluvial flood risk is present at existing site. Proposed site works are leveling and lifting ground level by 0.8-1.5m. This would eliminate any risk of fluvial flooding as shown in Figures 10 and 11. Refer to Figures 6 for cross sections for level differences, drawings are also included in Appendix A. As per NIFM OPW mapping, flood level is estimated to 76.6 mOD, proposed minimum lifted ground level is 76.8 mOD, proposed maximum lifted ground level is 76.9 mOD, this is providing 200 – 300mm of freeboard across the proposed infilled site.

Proposed site is located within **Flood Zone A** as per Table 2. Proposed site is defined as **Less Vulnerable Development** as per OPW The Planning System and Flood Risk Management, Figure 2. Site requires a **Justification Test** as per Table 2.

6.2. Compliance with Flood Risk Management Guidelines

Chapter 5 of "The Planning System and Flood Risk Management – Guidelines for Planning Authorities" outlines the approach to be taken regarding development in and in the vicinity of flood risk areas.

Section 5.28:" Assessment of Minor Proposals in Areas of Flood Risk" states that "Applicants for minor developments... are unlikely to raise significant additional flood issues, unless they obstruct important flow paths, introduce significant additional number of people into flood risk areas or entail the storage of hazardous substances". It is deemed that application should be acceptable in this section.

6.3. Land Use Zoning Objectives

The lands in question are currently not zoned by Local Authority.





Figure 15. Zoning Record

The vulnerability of the uses which are generally permitted or open to consideration on the various land use zonings (as per Land Use Zoning Matrix) considered in conjunction with the Flood Zone in which the particular area of land is located guides the need for the application of the Justification Test.

Figure 2.2 set out the various land use zoning objectives and the respective vulnerabilities of each zone having regard to the land uses which are generally permitted and open for consideration as per the Land Use Zoning Matrix.

There were areas within the site, such as rear gardens which were located within Flood Zone B without zoning to accommodate highly vulnerable and less venerable land uses having regard to existing patterns of development and existing land uses.



These areas were subjected to the Justification Test, where development did not pass the Justification Test responses which had to be considered included.

- Removal of the zoning objective.
- Rezoning to a less venerable or water compatible uses.
- Development of specific objectives to address the issues.
- Phasing of development within zoned areas.

6.4. Justification Test

Whereas part of the preparation and adoption of a Development Plan, a Planning Authority is considering the future development of areas in an urban settlement that are at moderate or high risk of flooding, for uses or development vulnerable to flooding that would generally be inappropriate as set out in the Guidelines, the "Justification Test for Development Plans" must be satisfied.

It also the policy of the Kildare County Council Development Plan 2023-2029 to implement the "Planning System and Flood Risk Management – Guidelines for Planning Authorities".



Table 4. Justification Test

Site subject to assessment: Tully East, Drumcree, Kilbern,	County Kildare					
Justification Test Criteria	Criteria Satisfied	Comments				
 The urban settlement is targeted for growth und National Spatial Strategy, Regional Planning Gui statutory plans as defined above or under the P Guidelines or Planning Directives provisions of t Planning and Development Act 2000 (as amended) 	der the V delines, lanning he ed)	The Kildare County Development Plan 2023- 2029 distinguishes the Metropolitan area from the Hinterland area with distinct development strategies for each area. Tully East, Drumcree, Kilbern, County Kildare is not located inside of Generalised Zone Types.				
 The zoning or designation of the lands for the pa use or development type is required to achieve proper and sustainable planning of the urban se and in particular: 	articular √ the ttlement	The lands in question are currently not zoned as per Kildere County Development Plan 2023-2029.				
 Is essential to facilitate regeneration and/or exp of the centre of the urban settlement; 	ansion V					
ii. Comprises significant previously developed and, under-utilised lands;	∕or v	-				
iii. Is within or adjoining the core of an established designated urban settlement;	or V					
iv. Will be essential in achieving compact or sustair urban growth;	able V					
v. There are no suitable alternative lands for the p use or development type, in areas at lower risk of flooding or adjoining the core of the urban settlement.	articular √ g within					
3. A flood risk assessment to an appropriate level of has been carried out as part of the Strategic Environmental Assessment as part of the develop plan preparation process, which demonstrates the risk to the development can be adequately man and the use or development of the lands will no unacceptable adverse impacts elsewhere	of detail V opment hat flood aged t cause	In addition to this Flood Risk Assessment any development proposals which provide for new buildings etc on the subject lands will be required to be supported by a Site Specific Flood Risk Assessment.				
Note: The acceptability or otherwise of levels of any residual risk should be made with consideration for the proposed development						

and the local context and should be described in the relevant flood risk assessment.



7. CONCLUSIONS

Stages 1 and 2 of the flood risk assessment of proposed site have indicated that the site is not subject to flooding in low, medium or high probability exceedance events up to 0.1%AEP (1 in 1000 chance in any given year) with 20% climate change factor applied from pluvial, coastal or groundwater sources as indicated on OPW Monaghan CFRAM Study Flood Extent Maps.

Any potential pluvial flood risk would be accommodated by proposed site drainage a will not result in a loss / reduction of pluvial flood water storage on site.

Fluvial flood risk is present at existing site. Proposed site works are leveling and lifting ground level by 0.8-1.5m. This would eliminate any risk of fluvial flooding as shown in Figures 10 and 11. Refer to Figures 6 for cross sections for level differences, drawings are also included in Appendix A. As per NIFM OPW mapping, flood level is estimated to 76.6 mOD, proposed minimum lifted ground level is 76.8 mOD, proposed maximum lifted ground level is 76.9 mOD, this is providing 200 – 300mm of freeboard across the proposed infilled site.

Proposed site is located within **Flood Zone A** as per Table 2. Proposed site is defined as **Less Vulnerable Development** as per OPW The Planning System and Flood Risk Management, Figure 2. Site requires a **Justification Test** as per Table 2. Justification Test is provided at Table 4.

Proposed site is not at the risk of flooding, will not obstruct or impede important flow paths, exacerbate flooding in the immediate vicinity or wider area and will not result in residual risk to the area.

Internal Memo



Kildare County Council Strategic Project and Public Realm, Housing and Regeneration Department, Aras Chill Dara, Devoy Park, Naas, Co. Kildare.

То:	Planning
From:	Annette Keaveney, Senior Executive Engineer Roads Planning
Date:	25 th March 2025
Re:	ED 1204 Exempted development at Tully East, Drumcree, Kilbern, Co. Kildare.

Background:

Recontouring of circa 4.5 hectares of agricultural land by an average of 1.2 metres through the importation of inert stone and soil. The imported materials will not be waste and will be imported from local sites with the benefit of planning permission.

It is estimated that approximately 9,000 tonnes of material will be imported over a 6-month period as materials become available. This would entail approximately 3-5 trucks per day.

Recommendation:

Having consideration to the location, scale and nature of the above proposal and given the deficiencies of the existing road network, the additional HGV traffic generated by the proposal would negatively impact on the structural integrity, capacity, drainage and alignment of the public road network.

The proposed development therefore also represents an endangerment to public safety, a traffic hazard to road users and this Department would have serious concerns relating to the overall impact of such Works.

Annette Keaveney Senior Executive Engineer Roads, Transportation & Public Safety Department ED1204

				in the second	
BOIHSR	365 COYLE ENVIRON	80.00	BANK 181572	7 1 0	05/03/2025