

CUNNANE STRATTON REYNOLDS

CSR Ref: 96601/KW/24032022

Planning Department,
Clare County Council,
New Road,
Ennis,
Co Clare.
V95 DXP2

28th March 2022

Online Submission

**Re: Submission on the Clare Draft County Development Plan 2023-2029
Creation of an Access Channel at Lands identified as TOUR 2, Killaloe, Co. Clare**

Dear Sir / Madam

We make this submission on behalf of Mr Michael McHale, Killaloe, Co. Clare on the Clare Draft County Development Plan 2023 - 2029 as it refers to lands designated TOU2 on the zoning map for Killaloe, Co. Clare.

Our client is requesting that Clare County Council include in the emerging County Development Plan an objective indicating consideration will be given to the provision of a shared access channel at our client's site located on the northern shores of the River Shannon just south of Killaloe town in Co. Clare.

This shared access channel would follow an existing boundary ditch between our client's land and the land to the west of our client's site with the works taking place on our client's side of the ditch i.e. where his land correlates with the ditch. The location of this shared access within the Draft Development Plan is illustrated in Figure 1 below:

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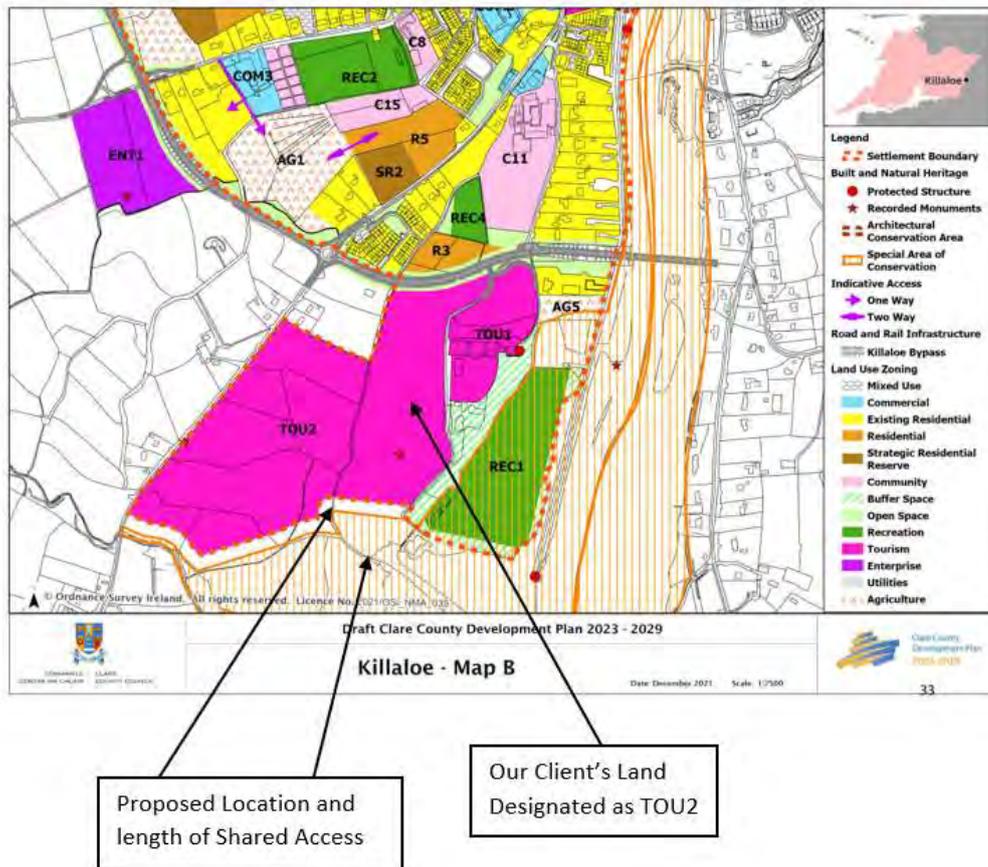


Figure 1- Proposed Location of shared access and our client's land from Clare Draft Development Plan 2023-2029

A shared access would allow our client to have a small boat channel which would raise the channel up from the water and be able to link up with his land designated as TOU 2 in the Draft Plan. This would enable our client to be able carry out tourism-based activities including Marine Based Tourism which is consistent with Objective TOU2. These enabling works would therefore facilitate the implementation and delivery of that important TOU2 objective. This access would also assist in the broader achievement of contributing to tourism in the town as outlined in Chapter 3 of the Draft County Development Plan (the "Core Strategy Chapter as a "Small Town". One of the main general objectives is to:

- To promote the development of the commercial, tourism and retail sector in the town;

Furthermore, this channel would link up to our client's lands designated as TOU2 and would offer further linkages with the River Shannon and thus would contribute to further growing Killaloe's strong economic base associated with tourism.

Location and Context:

The lands are located on the northern shores of the River Shannon just south of Killaloe town in Co. Clare. Our client's land the subject of this submission falls within the lower River Shannon cSAC boundary as illustrated in figure 2 below. We are aware that this provides significant obstacles to development proceeding that might impact negatively on this or any other European Designated Site.



Figure 2- Our Client's Proposal within Designated cSAC site from Natura 2000 Network Viewer

In the vicinity of the subject site, the River Shannon is not tidally influenced and is deep with strong flow. The banks on the eastern side appear steeper and more modified while the banks on the western side are gently sloping with a fringe of wet and marginal aquatic vegetation. Adjacent lands on the eastern bank in the vicinity of the lands in question, are characterised mainly by woodland with some agricultural lands and on the western banks are characterised by agricultural lands with mature hedgerows/treelines and the amenity area of the Clarisford Community Group.

In the vicinity of our client lands and running in parallel to the Clarisford Community Group's lands, there is a historic canal which allows vessels bypass the existing town bridge and re-joins the River Shannon at Moy's Lough adjacent to the Clarisford Community Group's amenity lands. The canal is heavily lined with mature treelines/hedgerows on both sides.

The nature and course of the River Shannon in this area has changed significantly over time as can be seen from historic mapping. It is likely to change further as is the general environment within which our client's land is located.

The Special Area of Conservation

Part 15.2.2 of the Clare County Draft Development Plan 2023-2029 defines Special Areas of Conservation as:

'Sites that are for the conservation and protection of plants, animals (other than birds) and wildlife habitats that are of importance to the EU. The sites are designated for habitats and species listed in Annex I and Annex II of the EU Habitats Directive (1992) respectively.'

cSACs and SPAs are designated under the EC Bird and Habitats Directives (92/43/EEC and 2009/147/EC) as amended, as transposed into Irish law. The legislation requires the protection of certain habitats (listed on Annex 1 of the Habitats Directive) and/ or species (listed on Annex II Habitats Directives and Annex I of the Birds directive as well as other regularly occurring populations of migratory bird species) as well as the habitat of those species, through amongst other measures the designation of cSACs and SPAs.

Furthermore, Chapter 12 of the County Draft Development Plan recognizes the importance of this cSAC and development should facilitate and maximise its potential for various forms of development whilst also managing the estuarine and natural environment in full compliance with all relevant EU Directives. Chapter 12 of the Draft Plan describes the cSAC as follows:

'The cSAC namely the Lower River Shannon cSAC, this is a wildlife conservation area considered to be of national and European importance. The vast intertidal mudflats exposed at low tide together with a diversity of other wetland habitats.'

Chapter 15 of the draft development plan outlines the importance of the county protecting and enhancing its unique natural heritage and biodiversity whilst also recognising the potential for sustainable green infrastructure development, while promoting and developing its cultural, educational and eco-tourism potential in a sustainable manner. Furthermore Chapter 15 describes how in regard to European Designated Sites the EU Habitats and Birds Directive provides for:

'The conservation, protection and, in some cases, restoration of habitats and species (plants and animals) of European importance which may be rare, threatened or in danger of disappearance in the EU (as listed in various annexes of the Directives). The Directives also seek to establish 'Natura 2000' sites, which form a network of protected areas throughout Europe.'

As our reference point for development within the cSAC, an Ecological Options Assessment was carried out in 2014 by Scott Cawley for a proposed access for marina development at this site for a similar shared access channel to what our client is proposing in the upcoming development plan. This assessment lists all protected sites within 15km of the lands in question listed in the Table 1 below and all cSACs and SPAs

within 10m are further detailed in table below. Table 2 below provides more detail on those which are closest to the site (i.e. within 10km). Furthermore, Table 2 also details the main criteria as to why this location was designated as cSAC.

Table 1 Protected Sites within 15km of the Lands in Question	
cSACs	SPAs
Lower River Shannon	Lough Derg (Shannon)
Slieve Bernagh Bog	Slievefelim to Silvermines Mountains
Glenomra Wood	
Silvermines Mountains West	
Silvermine Mountain	
Keeper Hill	
Clare Glen	
NHAs	pNHAs
Gortacullin Bog	Lough Derg
Doon Lough	Lough O'Grady
Bleanbeg Bog	Glenomra Wood
	Silvermines Mountains
	Keeper Hill
	Derrygareen Heath
	Clare Glen
	Castleconnell (Domestic Dwelling, Occupied)
	Cloonlara House
	Glenstal Wood

Table 1- Protected Sites within 15km of client's site from 2014 Ecological Options Assessment



Figure 3- cSACs and SPAs within 15km of client's site from 2014 Ecological Options Assessment

Table 2 Analysis of European sites within 10km.			
Site name and code	Distance from Lands in Question (approximate)	Reasons for designation ² (*= Priority Habitat) (Sourced from NPWS online Conservation Objectives Generic Version 3.0 for cSACs and 4.0 for SPAs, unless otherwise stated).	Source-pathway-receptor links ³ between proposed development and European site
Candidate Special Areas of Conservation			
Lower River Shannon cSAC (002165)	Within the boundary	<p>Conservation Objectives Version 1.0 (07/08/12)</p> <p>Annex I habitats:</p> <ul style="list-style-type: none"> • Sandbanks which are slightly covered by sea water all the time [1110] • Estuaries [1130] • Mudflats and sandflats not covered by seawater at low tide [1140] • *Coastal lagoons [1150] • Large shallow inlets and bays [1160] • Reefs [1170] • Perennial vegetation of stony banks [1220] • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] • <i>Salicornia</i> and other annuals colonizing mud and sand [1310] • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] 	<p>Habitats</p> <p>There is no source-pathway-receptor link for most habitats listed which are marine and therefore are not relevant as:</p> <ul style="list-style-type: none"> • they will not be directly impacted by works/development in this area which is not tidally influenced and therefore does not support marine habitats; and • they will not be indirectly impacted due to the scale, nature and significant distance at which the proposed developments are located upstream of the marine environment supporting these habitats. <p>There is a potential source-pathway-receptor link for the three non-marine habitat types, indicated in bold. The previous study (EirEco Environmental Consultants, Draft November 2013) indicated that <i>Molinia</i> meadow habitat type 6410 may occur</p>

Table 2 Analysis of European sites within 10km.			
		<ul style="list-style-type: none"> • <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410] • *Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0] <p>Annex II species:</p> <ul style="list-style-type: none"> • Freshwater Pearl Mussel <i>Margaritifera margaritifera</i> [1029] • Sea Lamprey <i>Petromyzon marinus</i> [1095] • Brook Lamprey <i>Lampetra planeri</i> [1096] • River Lamprey <i>Lampetra fluviatilis</i> [1099] • Atlantic Salmon <i>Salmo salar</i> (only in fresh water) [1106] • Bottlenose Dolphin <i>Tursiops truncatus</i> [1349] • Otter <i>Lutra lutra</i> [1355] 	<p>within the Murphy/Adlee lands. The two other non-marine habitat types could occur either in the immediate vicinity of the proposed developments or in proximity downstream. The alluvial forest habitat type *91E0 was recorded approximately 500m north of the proposed development sites as part of work undertaken for the Killaloe Bypass (Roughan O'Donovan, 2012a, b & c).</p> <p>Species</p> <p>There is no source-pathway-receptor link for either Freshwater Pearl Mussel or Bottlenose Dolphin. Bottlenose Dolphin does not occur in the vicinity of the proposed development locations and are limited to the Shannon River Estuary below Limerick city. The cSAC is designated for the population of Freshwater Pearl Mussel in the Cloon River catchment, north of the Shannon Estuary. There is no linkage between this catchment and the proposed development sites. According to work undertaken for the Killaloe Bypass, there are no records of this species within 5km of the proposed Killaloe Bypass (Roughan O'Donovan, 2012b).</p> <p>There is a source-pathway-receptor link for all other species, indicated in bold.</p> <p>The Otter is common and widespread along the River Shannon in the vicinity of the proposed development sites and the River Shannon and Lough Derg provide ideal conditions for the species in terms of good water quality, abundant prey, suitable bankside cover and generally low levels of human disturbance. Evidence of their presence</p>

Table 2 Analysis of European sites within 10km.			
			<p>was recorded during work undertaken for the Killaloe Bypass (Roughan O'Donovan, 2012a, b & c) including a potential Otter holt on the island separating the Shannon and canal along its western shore (precise location not given but likely to be within a few hundred metres of the proposed development sites).</p> <p>The River Shannon system supports an internationally important population of salmon and also supports all three lamprey species (all Habitats Directive Annex II listed species). The Shannon hydroelectric scheme at Ardnacrusa acts as a significant barrier to the migration of salmon and lamprey species, however some numbers of all species do manage passage through the scheme and all species are known to occur upstream of Ardnacrusa in the vicinity, both up and downstream, of the proposed development sites. There is believed to be a land-locked population of River Lamprey in Lough Derg which is unlikely to be a relict population but rather a result of the construction of Parteen Weir and Ardnacrusa Dam.</p> <p>According to work undertaken for the Killaloe Bypass, the habitat in the vicinity of the proposed develop sites is not suitable for spawning by salmon or any lamprey species (Roughan O'Donovan, 2012a, b & c). There are however soft sediments in the vicinity which the larval stage of lampreys may burrow into (Roughan O'Donovan, 2012a, b & c) and suitable lamprey juvenile habitat occurs extensively in the Shannon upstream of</p>

Table 2 Analysis of European sites within 10km.			
			Parteen Weir (ref. letter from the Development Applications Unit of 29th March 2012 in connection with the Killaloe Bypass scheme). Although breeding sites for salmon and lamprey species would not be affected by the proposed developments, other stages of the lifecycles could be indirectly impacted by the proposed developments.
Slieve Bernagh Bog cSAC (002312)	ca. 4.3km	Conservation Objectives Generic Version 3.0 (18/07/11) Annex I Habitats <ul style="list-style-type: none"> Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] European dry heaths [4030] Blanket bogs (* if active only) [7130] 	There is no source-pathway-receptor link for the habitats listed as due to the significant distance at which the proposed developments are located from these habitats they fall outside of their hydrological and hydrogeological zones of influence.
Glenomra Wood cSAC (001013)	ca. 9.5km	Generic Conservation Objectives Version 3.0 (18/07/11) Annex I Habitats <ul style="list-style-type: none"> Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] 	There is no source-pathway-receptor link between the proposed developments and this site.
Silvermines Mountains West cSAC (002258)	ca. 9km	Generic Conservation Objectives Version 3.0 (18/07/11) Annex I Habitats <ul style="list-style-type: none"> Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] European dry heaths [4030] 	There is no source-pathway-receptor link for the habitats listed as due to the significant distance at which the proposed developments are located from these habitats, they fall outside of their hydrological and hydrogeological zones of influence.
Special Protection Areas			
Lough Derg	ca. 2.8km	Conservation Objectives Generic Version 4.0 (16/04/12) <ul style="list-style-type: none"> Tufted Duck (<i>Aythya fuligula</i>) [A061] 	There is no potential for direct, or indirect water quality, impacts on this site given its location

Table 2 Analysis of European sites within 10km.				
(Shannon) SPA (004058)			<ul style="list-style-type: none"> • Goldeneye (<i>Bucephala clangula</i>) [A067] • Cormorant (<i>Phalacrocorax carbo</i>) [A017] (breeding) • Common Tern (<i>Sterna hirundo</i>) [A193] (breeding) • Wetlands and Waterbirds 	<p>upstream of the proposed developments.</p> <p>Indirect impacts on the two wintering and two breeding if occasionally foraging in the vicinity of the proposed development sites remote from the SPA, would not be significant as these species if disturbed by works would readily relocate to other areas of which there is extensive alternative suitable habitat in the area.</p>
Slievefelim to Silvermines Mountains SPA (004165)	ca. 7.5km		<p>Conservation Objectives Generic Version 4.0 (16/04/12)</p> <ul style="list-style-type: none"> • Hen Harrier (<i>Circus cyaneus</i>) [A082] 	<p>There is no potential for direct impacts to this site given its significant distance from the proposed development sites and lack of any hydrological or other connection. There is no suitable breeding habitat for this species within the proposed development sites. It is possible that Hen Harrier could forage along reedbeds and wet grasslands within the proposed development sites during winter months when they would range more widely outside of the SPA boundary. It is not deemed that removal of small areas of suitable foraging habitat for a proposed access channel would have any significant impact on this species ability to forage in the wider area. Furthermore it is not expected that a site so close to urban development of Killaloe would be an important location for this species.</p>

Table 2- Analysis of European Sites within 10km of client's site from 2014 Ecological Options Assessment

The above assessment undertaken in 2014 indicates that there may an indirect impact on Shannon SPA and an indirect impact on the Lower River Shannon cSAC. The Ecological Options previously identified the impact of shared access involving access along the existing boundary ditch which would involve retaining the western boundary towards neighbouring lands to the west. This would mean retaining the stone wall, bank and mature vegetation and confining development to the eastern edge of the ditch which contains little or no mature vegetation and no stone wall. Our client is in favour of this proposal and would like to carry out works that would have no impact on that western boundary. Thus, the works for this access would all take place on the eastern edge.

Crucially, the ecological assessment, admittedly undertaken a number of years ago, outlines that an access channel which would retain the western boundary vegetation, bank and stone will overall have a negligible impact on this cSAC as that proposal would have a low level of ecological impact as it will involve dredging of an existing channel. This will therefore give rise to much lesser impacts on water quality due to far lesser volumes being dredged. The dredging of the eastern along the eastern edge of the ditch which contains little or no mature vegetation and no stone wall.

Thus, the above necessary steps to mitigate on impact on a CSAC shows that this proposal would be compliant with Objective 15.3 of the Clare Draft County Development Plan outlining how Clare County Council protects designating European Sites for development. Objective 15.3 states that the County Council will seek to:

'a) To afford the highest level of protection to all designated European sites in accordance with the relevant Directives and legislation on such matters;

b) To require all planning applications for development that may have (or cannot rule out) likely significant effects on European Sites in view of the site's Conservation Objectives, either in isolation or in combination with other plans or projects, to submit a Natura Impact Statement in accordance with the requirements of the EU Habitats Directive and the Planning and Development Act, 2000 (as amended); and

c) To recognise and afford appropriate protection to any new or modified SPAs or SACs that are identified during the lifetime of this Development Plan through the planning application process bearing in mind proposals for development outside of a European site may also have an indirect effect'.

Additionally, the core strategy does point out that development is possible within the cSAC and points to the example of the Clarisford Recreation Area which is located in close proximity to our client's site. It states that this attractive area has now been developed as an intergenerational community sports facility including hall, dressing rooms, playing pitches, all weather pitches, training areas, running trail and parkland. That development took into consideration its location within the Lower River Shannon cSAC in accordance with established policy criteria.

Our Requested Objective for Inclusion in the Draft Plan

We seek the inclusion of an objective, specific to the location identified above, indicating that :

'The County Council will assess proposals in respect of access to the existing channel at Lands Zoned as TOU2 from the eastern water's edge in the context of impact on the Lower River Shannon cSAC and other European Designated Sites. As a minimum requirement a Natura Impact Assessment will be required to be submitted with any such planning application. Other technical reports will also be required to enable the County Council to consider the acceptability and impact of such proposals.'

Please note that the suggested wording does not state that such a proposal will be successful or will be favourably considered but rather that a proposal will be considered on its planning merits and will be assessed in particular for its impact on ecology, the marine environment and impact on any European Designated Site including, but not confined to, the Lower River Shannon cSAC. We believe that this requested objective does not rule out development per se as a matter of principle but indicates that it will be very carefully considered for impact.

We ask that we are included on any mailing list that is created to provide updated on the plan making process ccostello@csrlandplan.ie.

We trust the above will be taken into account in your further deliberations on the emerging County Draft Development Plan.

If further elaboration is required, please do not hesitate to contact us.

Yours sincerely,

A handwritten signature in black ink that reads "Killian Whyte". The signature is written in a cursive style and is positioned above a horizontal line.

Killian Whyte

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