

Comhairle Contae Chorcaí Cork County Council

Jerry Horgan,
c/o KB Engineering & Design Services,
Kilbarry,
Lissarda,
Co. Cork.

14th Augst, 2024

REF: D/248/24
LOCATION: Ballymichael, Lissarda, Co. Cork

**RE: DECLARATION OF EXEMPTED DEVELOPMENT UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000**

Dear Sir,

On the basis of the information and plans submitted by you on 18th July, 2024 the Planning Authority having considered whether the recontouring of a field utilising soil and stone, within a farm holding at **Ballymichael, Lissarda, Co. Cork** is or is not development and is or is not exempted development has declared that it is **not exempted development**.

Reason for Decision

The Planning Authority in considering this referral had particular regard to:

- The particulars received by the Planning Authority on 18th July, 2024,
- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- Articles 6, 8 and 9 of the Planning and Development Regulations 2001 (as amended)

And Whereas the Planning Authority hereby concludes that:

The proposed development constitutes "development" for the purposes of the Act but does not constitute "exempted development" as the provisions of Article 8(c) only apply to re-contouring of land, including infilling of soil (but not waste material) within a farm holding and does not authorise the importation of externally sourced material to lands.

The Planning Authority therefore determines that the said works involved are development and are **not exempted development**.

Please note that under Section 5 Subsection 3(a) where a declaration is issued under this section, any person issued with a declaration under subsection 2(a) may, on payment to

Pleanáil agus Forbairt,
Halla an Chontae,
Bóthar Charraig Ruacháin,
Corcaigh T12 R2NC.
Fón: (021) 4276891
R-phost: planninginfo@corkcoco.ie
Suíomh Gréasáin: www.corkcoco.ie
Planning & Development,
County Hall,
Carrigrohane Road, Cork T12 R2NC.
Tel (021) 4276891
Email: planninginfo@corkcoco.ie
Web: www.corkcoco.ie



the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Yours faithfully,


KEVIN O' REGAN,
SENIOR EXECUTIVE OFFICER
PLANNING DEPARTMENT

In order to process your query, it may be necessary for Cork County Council to collect Personal information from you. Such information will be processed in line with our privacy statement which is available to view at <https://www.corkcoco.ie/privacy-statement-cork-county-council>

D/248/24 – Section 5 Declaration

A Section 5 declaration is sought by KB Engineering and Design Services on behalf of Jerry Horgan at Ballymichael Lissarada as to whether the recontouring of his field utilising soil and stone, within a farm holding is development and is or is not exempted development.

Applicant is querying whether proposed land reclamation at the above address is considered to be “Exempted Development” for the purposes of the Act. The site measures approx 3.6ha. Applicant is seeking to raise the level of the land through the deposition of stone and soil material with the intention to improve the agricultural output. The applicant has indicated that approx 59,470m³ of soil and stone will be required. All soil and stone to be accepted at the site will be classified as a by product in line with Article 27 of the European Communities Regulations 2011. The average depth of proposed filling is 1.9m, with filling proposed from 0.75 to approx. 4.8 metres maximum. The proposed timeframe for filling is anticipated to be upto five years.

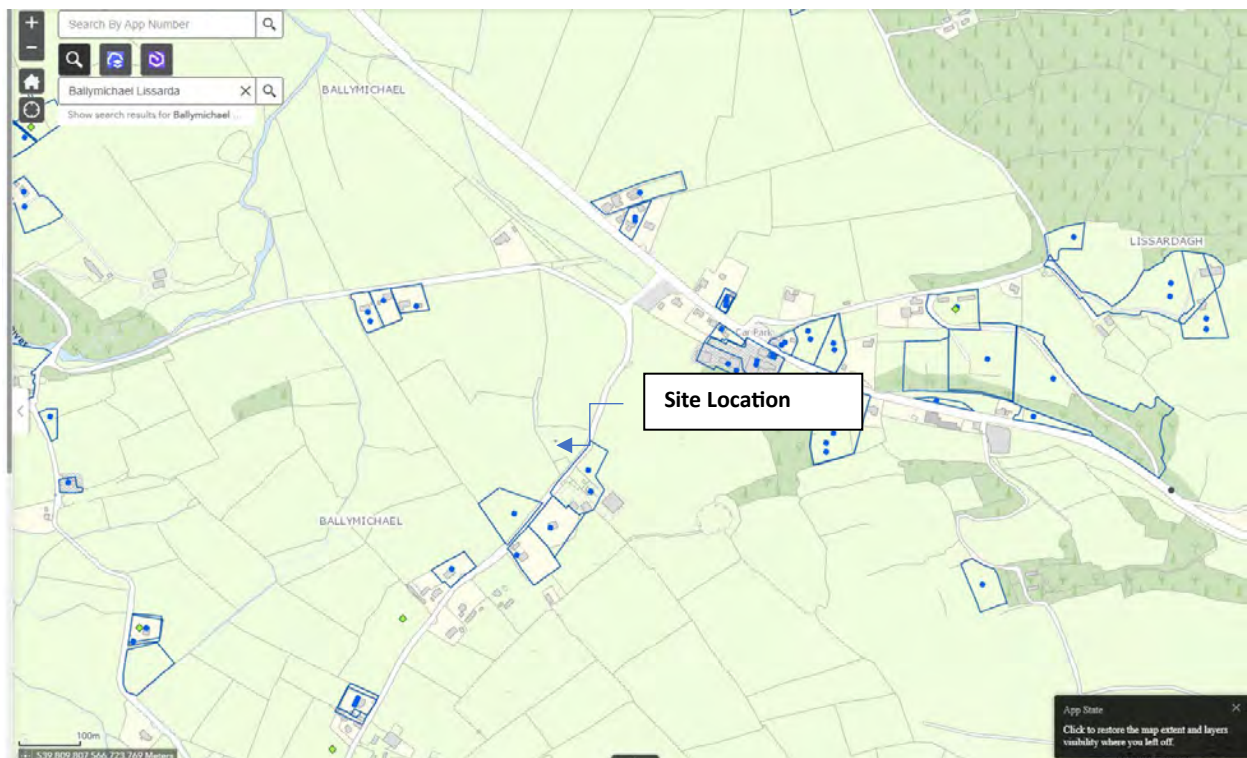


Figure 1 Subject site location

Planning History

On site

None.

South west of site

14/4874 Permission granted to Martin Horgan and Jodi Lynch for a Dwelling house and effluent treatment system. (Not constructed).

1. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Planning and Development Act 2000, as amended

Section 2(1) states as follows:-

“In this Act, except where the context otherwise requires – ‘development’ has the meaning assigned to it by Section 3 ...”

Section 3 (1) states as follows:-

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

Section 4(1) identifies what may be considered as exempted development for the purposes of the Act, and Section 4(2) of the Act provides that the Minister, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations, 2001.

Planning and Development Regulations, 2001 as amended

Article 6(1) of the Planning & Development 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) of the Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development.

Article 8 of the Planning & Development Regulations, 2001 as amended states as follows:-

Works specified in a drainage scheme 8.

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

8C. Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development.

Assessment

The proposal constitutes “development” as set out under S3 of the Planning and Development Act 2000 insofar as it constitutes the carrying out of “works” on lands. The proposal to be considered rests on whether or not same constitutes “Exempted Development” for the purposes of the Act.

The main reference to “land reclamation” occurs under Article 8C of the Planning and Development Regulations 2001 (as amended by S.I 454 &464/2011) This permits “land reclamation works (other than the reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development”. The applicant is claiming the provisions of this exemption to justify the current proposal.

The three main considerations that arise under article 8C are the following-

1. Could the subject lands be classed as wetlands?
2. Is the material proposed to be used for the infilling deemed to be “waste” material
3. The issue of “within a farm holding”

Taking the three items as follows-

1. The applicant has made no reference to the lands being wetlands”. Article 5 of the P&D Regs 2001 (amended by S.I 454/2011) defines “Wetlands” as “natural or artificial areas where biogeochemical functions depend notably on constant or periodic shallow inundation, or saturation, by standing or flowing fresh, brackish or saline water”

Consequently, the main consideration in this instance is whether or not the lands in question can be considered to be “wetlands” for the purposes of the definition under Article 5. This definition stresses that a “wetland” depends on “constant or periodic shallow inundation” to achieve a “biogeochemical function”.

Having reviewed the flood mapping, the subject lands do not appear to be “liable to flooding” (periodic shallow inundation) and while there would appear to be drainage issues on the site, the lands do not appear to meet the definition of the “wetland” for the purposes of Article 5. In addition, the Area Engineer and Environment has not raised any concerns/questions in relation to this matter

2. The applicant has made a self declaration re: the waste question and is asserting that no “waste” (as per the definition as outlined under A27 of the *European Communities (Waste Directive), Regulations, 2011*) will be brought into the site. Please note the environment section has reviewed the proposal and did not raise any issues in relation to the stone and soil classified as a by product in line with Article 27 of the European Communities (Waste Directive) Regulations 2011.
3. The more fundamental question is as to whether or not the phrasing of Article 8(c) allows any external material to be utilised for infilling in the first instance. It has been the interpretation of the planning authority that where land reclamation is undertaken in accordance with this article, it is entirely “**within a farm holding**” as part of normal farming/agricultural practice. As such it would be expected that the work and all fill material required for the land reclamation (not waste) would be derived from within the farm holding and not transported to the site using trucks on the surrounding road network. CCC has had many planning applications for such development and the impact of the reclamation on the surrounding road network is often a crucial and determining factor. If the proposed development were to be deemed as meeting the requirement of Article 8(c), it would mean that road considerations could not be taken into consideration (the article 9 restrictions do not apply to the categories of development set out under Article 8-see further below). Judged on this basis, it gives further credence to the interpretation that the article 8(c) exemption is only available for material “within the farm holding” and that importation of external material is not permissible under the terms of this article. On this basis, the proposed development does not meet the terms of Article 8(c)

Restrictions on Exemption Listed under Article 9

Article 9 (1) of the Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development. The development to which article 6 relates are the categories listed in column 1 of Part 1 of Schedule 2. As noted above, the article 9 restrictions do not apply to the categories of Development set out under Article 8.

AA Screening

Applicant has provided AA screening as part of this proposal. The Nearest Natura 2000 sites is the Gearagh SAC which is c6km from the proposed development site. Screening assessment concludes that given no European sites have been identified occurring within

the zone of influence of the project, it can be concluded that the project is not likely alone or in combination with other plans or projects, to have any significant effect on any European sites.

Conclusion

A question has arisen as to whether or not “land reclamation” or recontouring of an agricultural field utilising soil and stone, at Ballymichael, Lissarda is development and is or is not exempted development for the purposes of the Act

Having regard to the provisions of S2, S3 and S4 of the Planning and Development Act 2000 (as amended)

And having regard to the provision of Article 6, 8 and 9 of the Planning and Development Act 2001 (as amended)

It is the conclusion of the Planning Authority that the proposed development constitutes “development” for the purposes of the Act but does not constitute “exempted development” as the provisions of Article 8(c) only apply to re-contouring of land, including infilling of soil (but not waste material) within a farm holding and does not authorise the importation of externally sourced material to lands.



Carol Dunne
Executive Planner

14.08.2024

I have reviewed this report and agree with the recommended conclusion.

A handwritten signature in black ink, appearing to read "Susan Henry". The signature is written in a cursive style with a prominent loop at the end.

14/08/2024

Application for Planning Exemption

Reference: D/248/24

Applicant: Jerry Horgan

Address Ballymichael, Lissarda, Co. Cork

Date: 11th August '24

By: Kevin Murphy

Details of Application

The application for planning exemption relates to the importation of 59,470m³ of soil and stone onto a 3.6ha grassland site at Ballymichael, Lissarda, Co. Cork for the purpose of improving the agricultural quality of the land.

The Application includes:

- an agricultural report which “confirms the need for land improvement works”.
- Contour map and sections of the proposed change in levels.
- A statement that all the soil and stone accepted at the site will be classified as a by-product in line with Article 27 of the European Communities (Waste Directive) Regulations 2011.

The proposed timeframe for the fill works is anticipated to be up to 5 years but is dependent on the availability of suitable material.

Assessment of Application

The agricultural report identifies the 3.6ha site as poor-quality grassland underlain by clay/loam stating that previous attempts of drainage works have been largely ineffective. Supporting information consists of photos showing some localised saturated areas and tyre damage to the surface of the land. Further to the application, I visited the site on 31/07/24. Whilst acknowledging that my inspection was carried out in the summer, there were no obvious indicators that the land is prone to waterlogging.

It is proposed to import 59,470m³ of soil and stone for the purpose of recontouring the site. Levels are to be adjusted upwards by up to 4.8m so that there will be a constant fall from the top to the bottom of the field of the approx. 270m long field. The duration of the works is dependent on the availability of suitable material.

Whilst the purpose of the works is purported to be to improve drainage and the agricultural quality of the land, little detail has been provided as to how that is to be achieved. Specifically, no detail has been provided regarding:

- The properties required in “suitable material” to ensure the imported material is better than that already on site.
- The way the material is to be placed and compacted.
- Subsurface drainage.

- Prevention of runoff of surface water, and any landspread farm effluents, from the entire field to the bottom of the site.
- Plant and equipment to be used on the site or details for the refuelling and maintenance of the plant so as to minimise the risk to waters.
- Welfare, wheelwash and other facilities to be provided on the site.
- Measures to minimise the impact on the environment and on third parties during the 5-yr operational phase of the facility.

The nearest watercourse is more than 130m from the proposed works.

The nearest third-party dwelling is on the opposite side of the public road at approx. 30m from the site.

Conclusions

I have concerns that the proposed works, which will include the importation of 59,470m³ of reclassified waste material and significant on-site earthworks over a 5-yr period, will not be subject to any oversight if the application for planning exemption is approved.

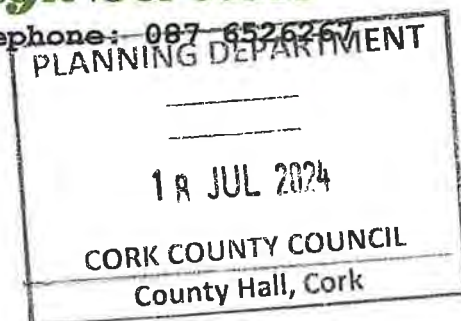
It is my opinion the Applicant has not demonstrated any requirement for land improvement works or how such works are to be carried out to ensure the land will be better for agricultural purposes at the conclusion of the works.

The proposed works have the potential for a significant impact on the environment, third parties and the road network. The Applicant should be required to submit details of mitigation measures for the approval of the LA.

END

KB Engineering & Design Services

Kilbarry, Lissarda, Co. Cork. Telephone: 087 6526267



To whom it may concern,
Planning Department,
Cork County Council,
County Hall,
Cork.

16th July 2024.

Re: The re-contouring of his field utilising soil & stone that is classified as a by-product in line with the attached documents and drawings is exempted development as per Article 8C, Part 2 Exempted Development of the Planning & Development Regulations 2001 (as amended) - reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development.

To whom it may concern,

The attached submission is seeking confirmation from the Planning Authority that the re-contouring of his field utilising soil & stone that is classified as a by-product in line with the attached documents and drawings is exempted development as per Article 8C, Part 2 Exempted Development of the Planning & Development Regulations 2001 (as amended) - reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development.

The applicant is Mr. Jerry Horgan, the owner of the site.

The proposed timeframe for filling is anticipated to be up to five years. However, this is dependent of the availability of suitable material.

It is proposed to raise the level of the land using 59,470 m³ of material. All the soil & stone accepted at the site will be classified as a by-product in line with article 27 of the European Communities (Waste Directive) Regulations 2011. No waste material will be accepted.

A copy of an agricultural report is attached to the application. The agricultural report confirms the need for the land improvement works.

In addition, the proposal has been discussed with the Area Engineer. 59,092m³ equates to approximately 5900 loads. This equates to an average of 23 loads per week if the site is improved over a 5 year period. The applicant will stagger trucks accessing the site to ensure that trucks will not need to pass each other. The landowner plans to carry out the land improvement works during normal working hours – 8am-6pm (Monday to Friday) and 8am-2pm (Saturday). It is not intended carry out works on Sundays or public holidays.

Please note that no fuel oil is to be stored on site.

Kathleen Barrett C. Eng. Tech, Katelyn Barrett B.E. MIEI
P.I.Insurance No. AP10002442

The landowner will take adequate precautions to prevent undue noise, fumes, dust, grit, untidiness and other nuisances during the course of the works that would result in an impairment of a significant interference with amenities or the environment beyond the site boundary. The permit holder will ensure that a mechanical road sweeper is available while the site is in operation as required.

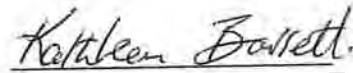
The soiled water runoff proposals include the earthen bund and a buffer from the water features. They cover the entire site as the flow of any possible soiled water is in the direction of the soiled water containment measures. Please note that additional measures can be provided if required. Please also note that a fence will also delineate the buffer zone.

Please be advised that there are no environmental designations pertaining to the site. The site does not form part of any Natural Heritage Area, Special Protection Area, Special Area of Conservation, Statutory Nature Reserve or National Park.

Please note that the OPW Flood Maps (www.floodinfo.ie) confirms that the site does not form part of any flood extent.

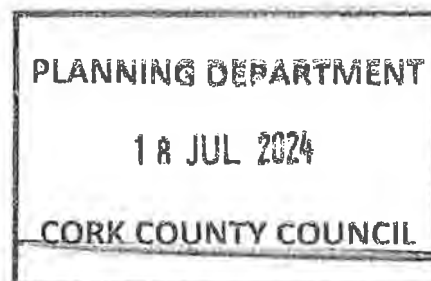
If you have any queries, please do not hesitate to contact me.

Yours sincerely,



KATHLEEN BARRETT.

C. Eng. Tech.



Kathleen Barrett C. Eng. Tech, Katelyn Barrett B.E. MIEI
P.I.Insurance No. AP10002442



CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST

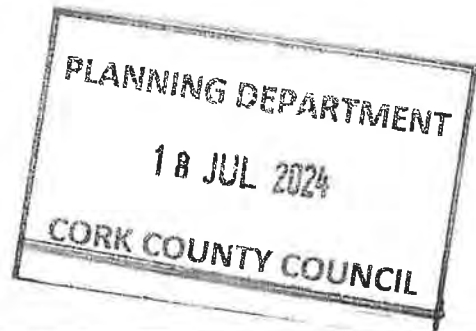
(Please tick ✓)

- 4 No. Copies of Application Form:
- 1 No. Copy of Contact Details:
- 4 No. Copies 6" O.S. Maps:
- 4 No. Copies 25" O.S. Maps:
- 4 No. Copies of Site Layout Plan:
- 4 No. Copies Scaled Drawings of Development:
- €80 Application Fee:

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>

FOR OFFICE USE ONLY

Receipt No.	PLG0044 893
Cash/Cheque/ Credit Card	CARD
Date	18/7/24
Declaration Ref. No.	D/248/24



DATE STAMP HERE

You should make sure that you are satisfied that any information/documentation that you submit is appropriate to be viewed by the public. Please do not submit any information that you do not want 3rd parties to view.

In the case of a Declaration of Exemption for Land Reclamation, the following additional information is required:

- A copy of the details submitted to the Council's Environment Department (Inniscarra) for a Waste Licence Permit
- Correspondence from Teagasc (detailing how the land reclamation would benefit the land in question for agricultural purposes)
- Details of existing and proposed levels
- Details of fill material and duration of fill.

DATA PROTECTION

The planning process is an open and public one. In that context, all applications for Declarations of Exemption are made available for public inspection.

Personal information collected by Cork County Council is done so in order for us to process your application for a Section 5 Declaration of Exemption. Legally we can process this information as it is necessary for us to comply with our statutory/legal obligations. The protection of our personal data is a key priority for the Council and your data will be processed in line with our Privacy policy which is available at <http://www.corkcoco.ie/Privacy-Policy> or hardcopy from our offices at County Hall, Carrigrohane Road, Cork, Ireland. Should you have any questions about our privacy policy or the information we hold about you, please contact us by email to dpo@corkcoco.ie or write to us at Data Protection Officer, Cork County Council, County Hall, Carrigrohane Road, Cork, Ireland.

1. NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QUESTION A – CONTACT DETAILS)

Jerry Horgan

2. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION OF EXEMPTION IS SOUGHT:

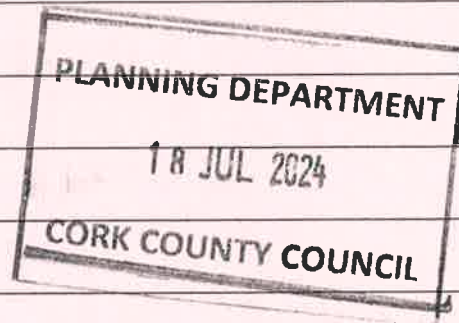
Ballymichael, Lissarda, Co. Cork

3. QUESTION/DECLARATION DETAILS:

Please state the specific question for which a Declaration of Exemption is sought

Note: Only works listed and described under this section will be assessed under the Section 5 Declaration of Exemption

Mr. Horgan is seeking confirmation that the re-contouring of his field utilising soil & stone that is classified as a by-product in line with the attached documents and drawings is exempted development as per Article 8C, Part 2 Exempted Development of the Planning & Development Regulations 2001 (as amended) - and 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.



4. APPLICATION DETAILS:

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square metres (m²)

(a) Floor area of existing/proposed structure(s):	N/a
(b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1 st October, 1964 (including those for which planning permission has been obtained):	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide floor areas (m ²) and previous planning reference(s) where applicable:
(c) If a change of use of land and/or building(s) is proposed, please state the following: Existing/previous use Agricultural field	Proposed use Agricultural field
(d) Are you aware of any enforcement proceedings connected to this site?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please state relevant reference number(s):

5. LEGAL INTEREST OF APPLICANT IN THE LAND/STRUCTURE:

Please tick appropriate box to show applicant's legal interest in the land or structure:	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is "Other", please state your interest in the land/structure:		
If you are not the legal owner, please state the name of the owner/s (address to be supplied at Question C in Contact Details):		

6. PROTECTED STRUCTURE DETAILS / ARCHITECTURAL CONSERVATION AREA:

Is this a Protected Structure/Proposed Protected Structure or within the curtilage of a Protected Structure: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority: Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, please state relevant reference No. _____
Is this site located within an Architectural Conservation Area (ACA), as designated in the County Development Plan? Yes <input type="checkbox"/> No <input type="checkbox"/>

7. APPROPRIATE ASSESSMENT:

Would the proposed development require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes No

8. DATA PROTECTION DECLARATION:

In order for the Planning Authority to process the personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at <http://www.corkcoco.ie/privacy-statement-cork-county-council> or in hardcopy from any Council office; and to having your information processed for the following purposes:

Processing of your Declaration of Exemption application by the Planning Authority

I give permission for my personal information to be processed for the purpose stated above

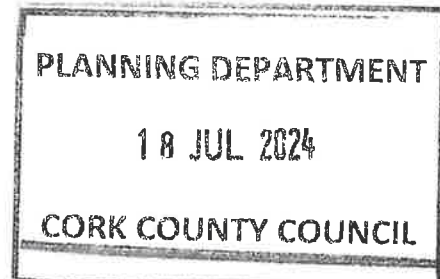
Signed (By Applicant Only)	JERRY HOFGAM
Date	8th July 2024

GDPR Special Categories of data / Sensitive Personal data - Explicit Consent

Where Special Categories of personal data / sensitive personal data are provided as part of / in support of a declaration application, **explicit consent** to the processing of the special categories of data must be given by the person to whom the data refers, namely the Data Subject.

Special Categories of data / Sensitive Personal data include:

- Race
- Ethnic origin
- Political opinions
- Religion
- Philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data
- Health data
- Concerning a natural person's sex life
- Sexual orientation



In order for the Planning Authority to process the sensitive personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at <https://www.corkcoco.ie/privacy-statement-cork-county-council> or in hardcopy from any Council office; and to having your information processed for the following purposes:

Sensitive personal data being submitted in support of Declaration of Exemption Application

I give permission for my sensitive personal data submitted to the Planning Authority to be processed for the purpose stated above.

Signed	JERRY HOFGAM
Date	8th July 2024

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: planninginfo@corkcoco.ie or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: westcorkplanninginfo@corkcoco.ie However if consent to the use of personal data is withdrawn during the declaration of exemption decision-making process this information cannot be considered as part of the decision making process. Once a decision has been made, an applicant is not entitled to withdraw consent, as the right of erasure does not apply to a situation where processing is required for compliance with a legal obligation or for the performance of a task carried out in the public interest.

Please note that all information / supporting documentation submitted will be available publicly to view at the Planning Authority offices.

ADVISORY NOTES:

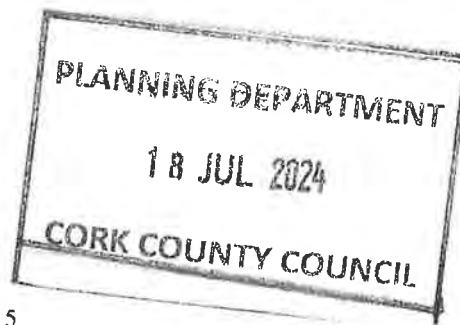
The application must be accompanied by the required fee of €80
The application must be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.
Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.
The application should be sent to the following address:
The Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

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

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

9. I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the Planning and Development Acts 2000, as amended and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	JERRY HOGAN
Date	8 th July 2024





Consultants in Agriculture

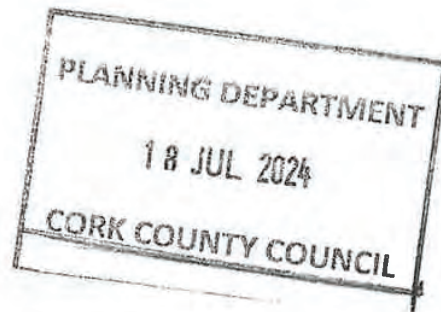
Barleyfield, Kilbriain, Co. Cork

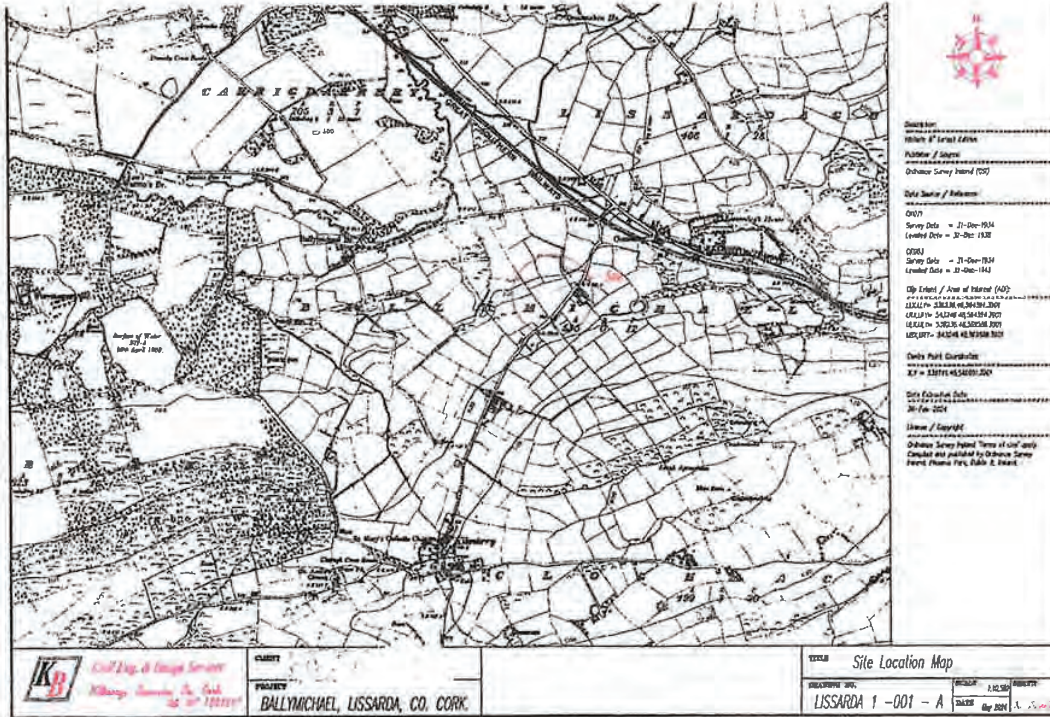
Phone: 023 8849000

Mobile: 087 2804202

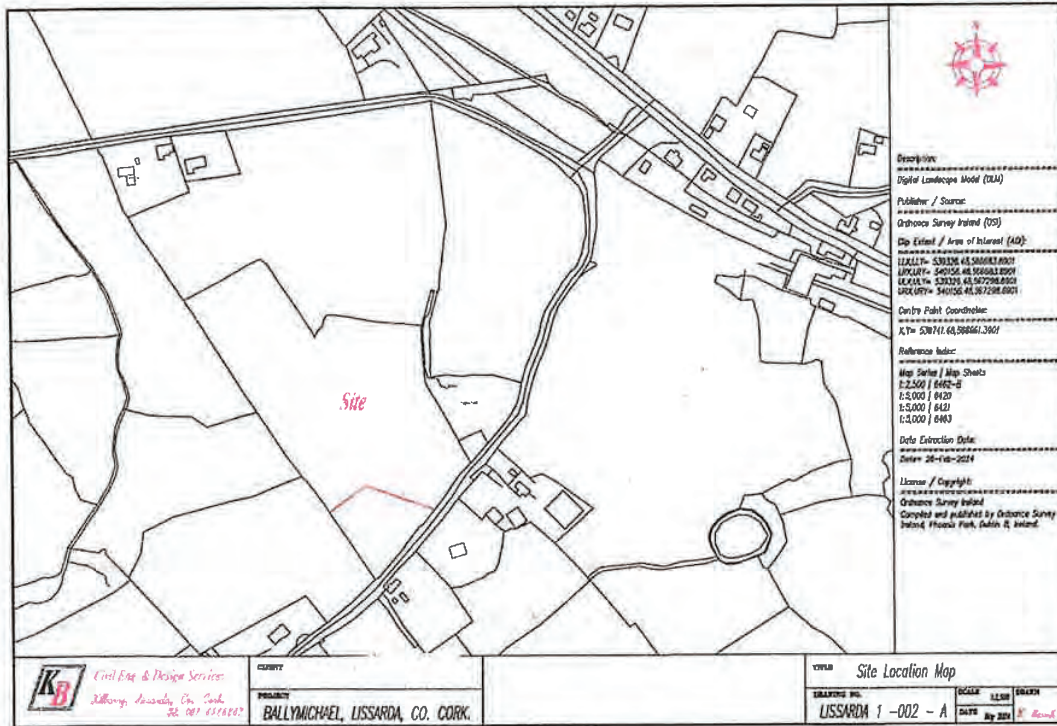
Email: info@ceres.ie

Appendix 1 – Location & Site Maps



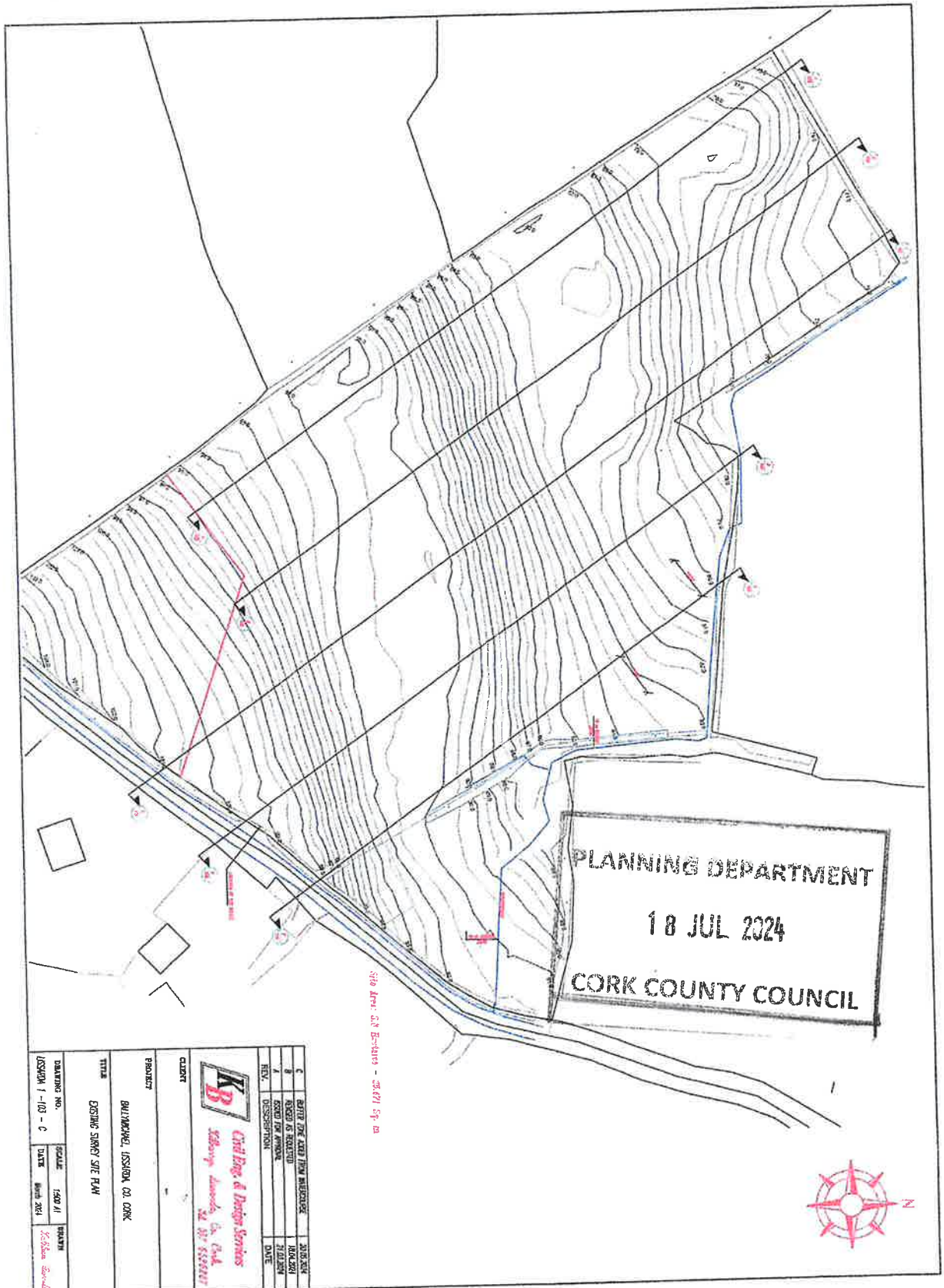


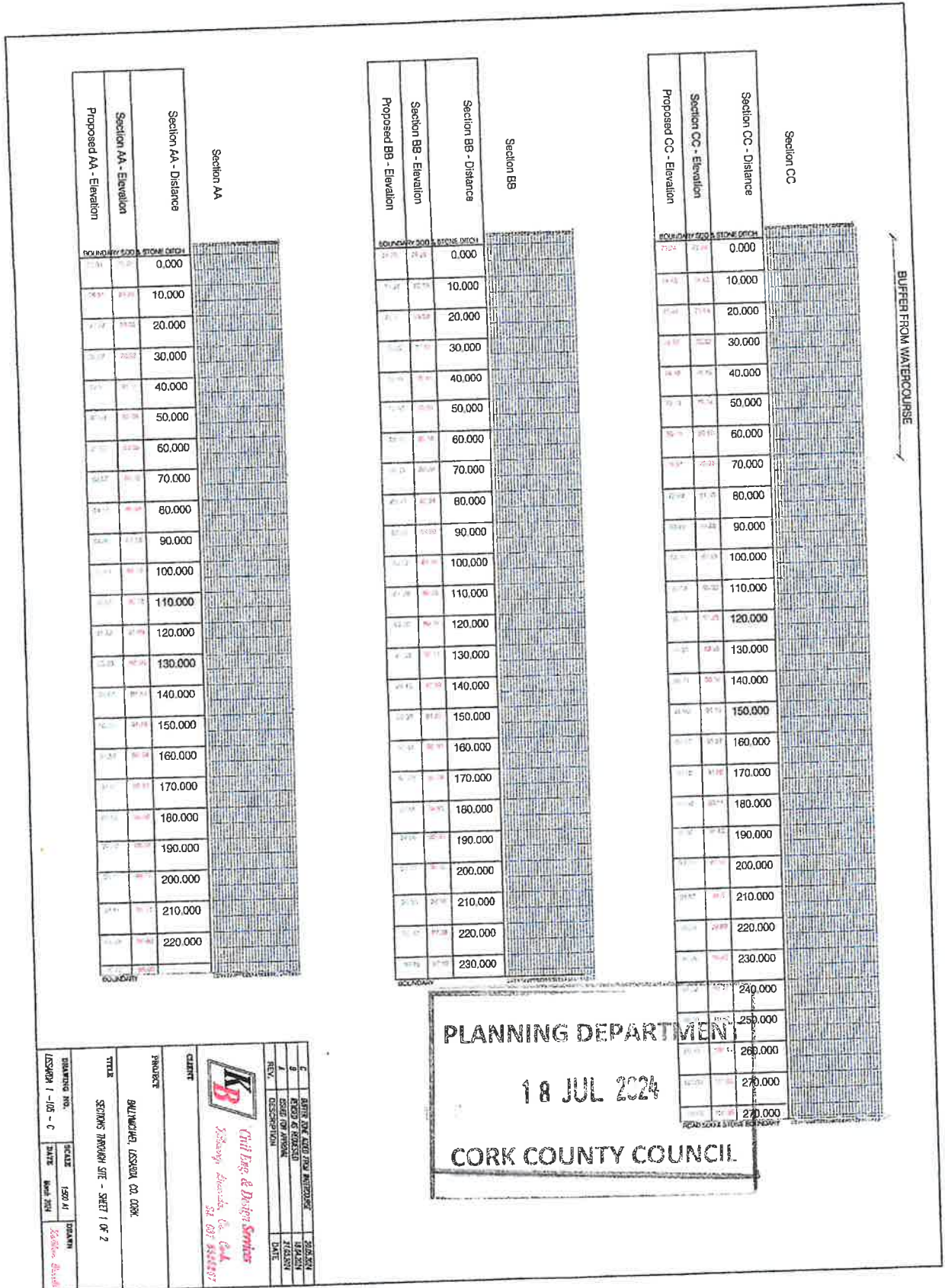
PLANNING DEPARTMENT
18 JUL 2024
CORK COUNTY COUNCIL

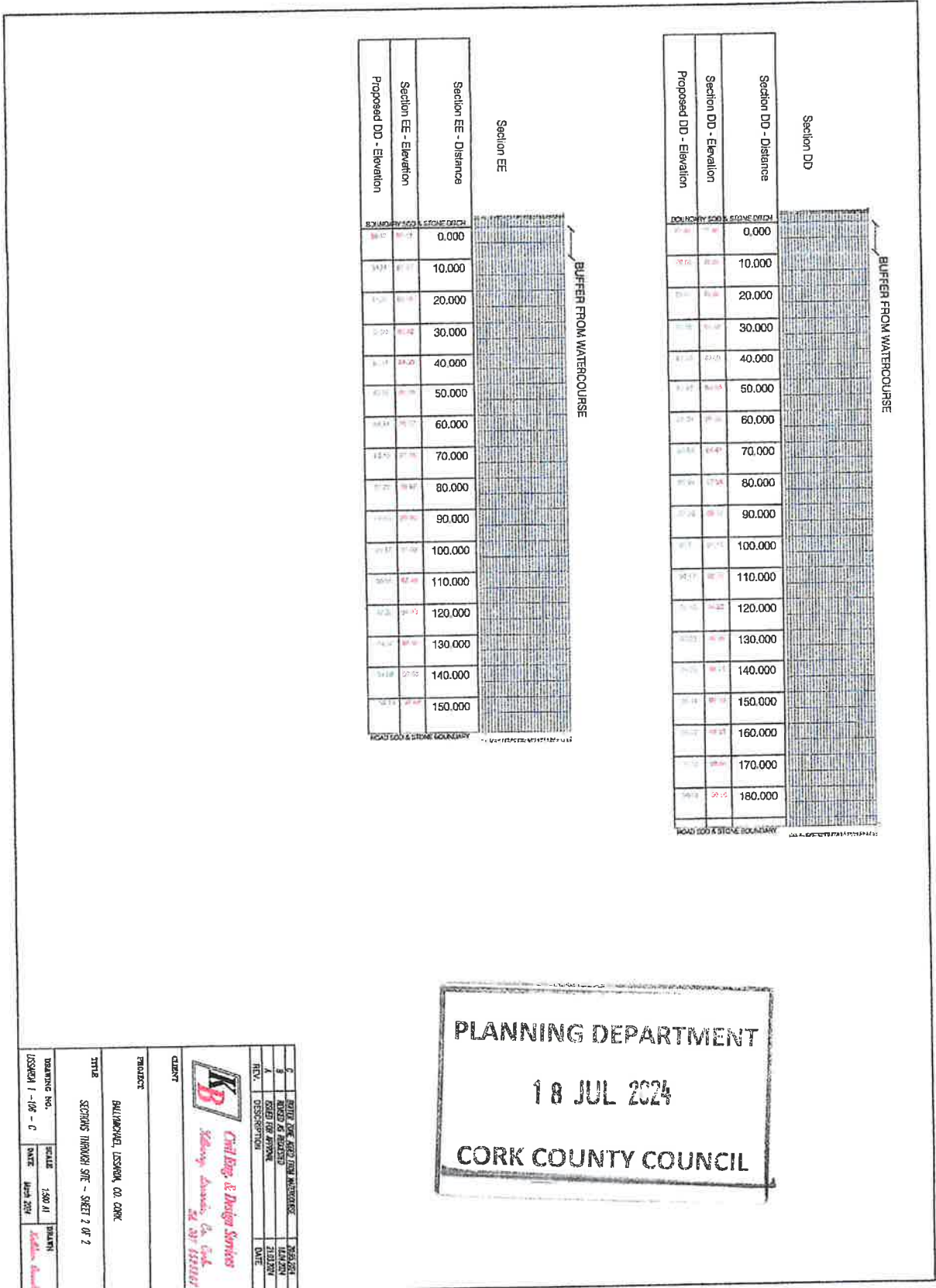


Appendix 2 – Site Drawings









PLANNING DEPARTMENT
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REV. 5	DATE FOR APPROVAL	18/07/2024
REV. 4	DESIGNED BY	18/07/2024
REV. 3	CHECKED BY	18/07/2024
REV. 2	DATE	18/07/2024
REV. 1	DESCRIPTION	

Client: *Chillberg & Design Services*
Kilbrannigan, Donaghadee, Co. Cork

Project: BALLINACREWEL, LISVICK, CO. CORK

Title: SECTIONS THROUGH SITE - SHEET 2 OF 2

Drawing No.: 1500/II
Scale: 1:500
Date: 18/07/2024

Appendix 3 – Photographs of the current situation on site





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18 JUL 2024
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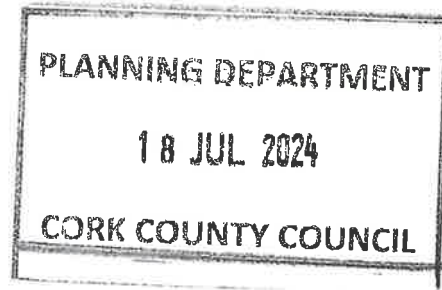
Consultants in Agriculture

Barleyfield, Kilbrittain, Co. Cork

Phone: 023 8849000

Mobile: 087 2804202

Email: info@ceres.ie



APPENDIX I: AGRICULTURAL REPORT

PLANNING DEPARTMENT
18 JUL 2024
CORK COUNTY COUNCIL

Site Assessment Report

**Jerry Horgan
Ballymichael
Lissarda
Co. Cork**



Ricky Roycroft - BSc. Agri. Bus. (Hons.)

Date: 05/06/2024



Site Details:

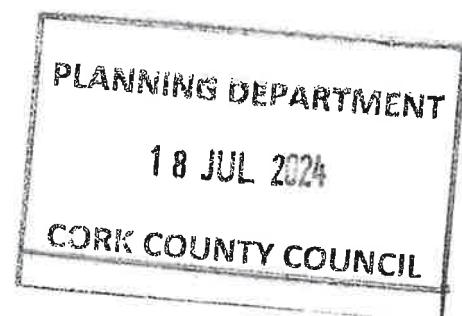
Site Address:	Ballymichael, Lissarda, Co. Cork
Nature of Site:	Poor quality grassland
Site Area:	3.6 ha
Fill Area:	3.04ha
Soil Type:	Clay / Loam
Current land use:	Extensive Grazing
Drainage details:	Previous attempts of drainage works have proved largely ineffective.
Slope:	As per drawings supplied separately
Depth to rock:	Unknown
Depth to groundwater:	Unknown

Appendices:

Appendix 1 - Location and site maps.

Appendix 2 - Site drawings.

Appendix 3 - Photographs of the current situation on site.



Details of how site shall be prepared prior to proposed activity; removal and storage location for topsoil, bunding of watercourses, protection of hedgerows, trees, etc.:

Any existing topsoil of suitable quality should be removed from the surface and stored at least 10m from any watercourse. If possible, topsoil should be covered during the recovery process to prevent run-off. Stone should be imported, using the largest pieces initially before moving to smaller stone, sub-soil and finishing with top-soil.

Details of material to be introduced; source, type and volume of materials. In the event that construction and demolition waste (conforming with EWC 17 0 I 07) is proposed to be recovered at the site the report shall demonstrate the requirement of such a waste on the site:

Inert Soil and Stone - for general land improvement (all material will be classed as a by product under article 27).

(Note instructions re: fill process below)

Confirmation that the materials to be introduced are free of any contaminants which would affect humans, waters, the soil, crops to be grown on the lands, or animals to be kept on the lands:

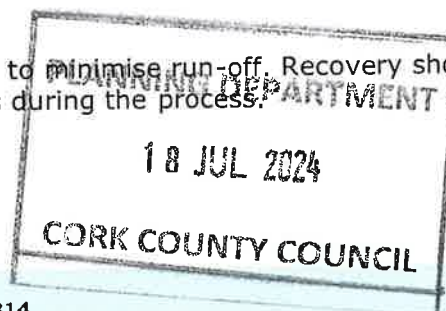
Proposed recovery materials should be free from contaminants on their introduction, in which case, then there is no reason to suspect that these are potential hazards. Author of this report accepts no responsibility for materials brought on site as they are outside of his control.

Details of site drainage following development, what measures shall be taken to prevent erosion and/or run-off from lands to adjoining watercourses:

Site should be reinspected prior to topsoil being laid/relaid to ascertain if supplementary drainage is required. Given the nature of the site and adjacent land I envisage that it is unlikely to be required.

Details of measures to prevent discharge of silt and soil from site to waters during recovery process:

Stone rather than soil and silt should be laid initially to minimise run-off. Recovery should be in stages rather than as one to minimise exposed areas during the process.



Company - Ceres Consulting
Contact Details - Barleyfield, Kilbriain, Co. Cork, Ireland. P72W314
Phone: +353 23 8849000 Email: info@ceres.ie

DISCLAIMER: Please note that this report is based on specific information, instructions and information from our client and their associates and therefore should not be relied on by third parties. This report is based on the date of site inspection quoted and the author shall not be responsible for any change of circumstances thereafter. Any opinion expressed in this report is limited to the site itself having regard to all available and foreseeable data and information at the date of inspection only. The party who has engaged us to complete this report should read the basis upon which it has been carried out and be aware of the potential for variations due to factors that are unforeseen at the date of inspection. We do not accept liability for any potential losses arising from this report either to the party to who engages us to complete it or any other person or entity thereafter.

A minimum of a 10m buffer zone is required between all watercourses and the proposed fill:

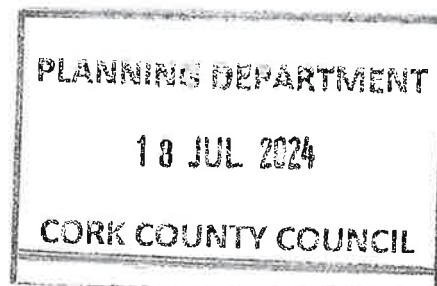
Buffer Zone and bund are included as per drawings attached.

Details of how the site shall be finished following recovery of soil and stone; depth of topsoil to be provided, drainage if any to be installed, measures to be taken to control soil/subsoil compaction, crop to be sown:

Site should be reassessed prior to topsoil being laid however I believe additional drainage requirements to be unlikely. Minimum of 0.5 metres of subsoil and 0.3 metres of topsoil is required and area is to be treated with moleplough / ripper to depth of 0.8m prior to sowing. Grass to be sown in the first 2 years post recovery preferably and any crop thereafter.

Landscaping proposals for finished site:

Retain all existing site boundary vegetation, with the exception of works required for site entrance and sightlines. Any trees or shrubs removed for this purpose to be replaced on completion of works.



Details of current land use restrictions due to nature of site, levels, etc.:

Land has limited agricultural use at present and needs major improvement to bring it into greater agricultural production as is typical in the locality.

Details of archaeological features on or adjacent to site and proposals to protect same:

There are no visible archaeological features on or adjacent to the site.

Details of wildlife habitats on or adjacent to site and proposals to protect same :

No conventional wildlife habitats or sites of that nature were evident in the recovery area on inspection and therefore will not be directly affected by the recovery process.

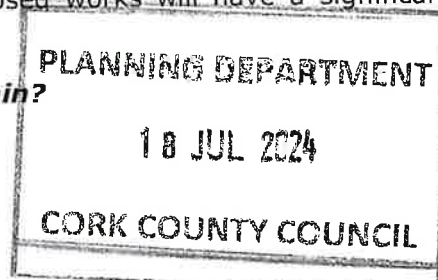
Potential Impacts of Proposed Works:

Shall the proposed activity have an impact on adjoining lands in terms of drainage?

From inspection, I do not believe that the proposed works will have a significant impact on drainage on adjoining lands.

Shall the proposed activity affect the floodplain?

N/A



Details of Proposed Works:

Level by which lands shall be raised and justification for this depth of material ie certification that this is the minimum amount of material that will achieve the required improvement:

Raising of land levels and incorporation of slope as per attached drawings will be required to provide adequate material to give the required drainage and increased productivity. Average fill depth of 1.9m ranging from 0.075 to a max of 4.8m will be required. This will result in a total fill volume of 59,470 cubic metres.

Details of how proposed recovery of soil and stone on the site shall improve agricultural quality of site, its production potential, drainage characteristics, etc.:

Recovery with Soil and Stone will provide greater underlying soil structure and adjust the slope sufficiently to allow for greater and safer agricultural use. Post-recovery, lands should be in good conventional working order, as would be expected in the locality and are evident in adjoining lands.

APPENDIX II: SCREENING REPORT

PLANNING DEPARTMENT
18 JUL 2024
CORK COUNTY COUNCIL

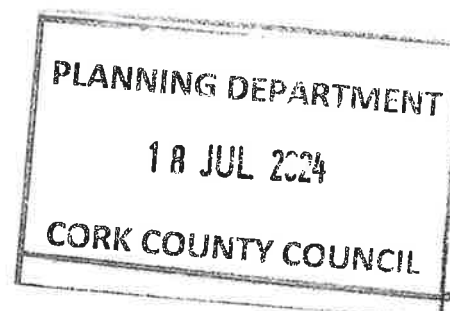


Kilmurry Land Improvement

Screening Report for Appropriate Assessment

Doherty Environmental Consultants Ltd

05/07/2024



Kilmurry Land Improvement

Screening Report for Appropriate Assessment

Document Stage	Document Version	Prepared by
Final	1	Pat Doherty MSc, MCIEEM

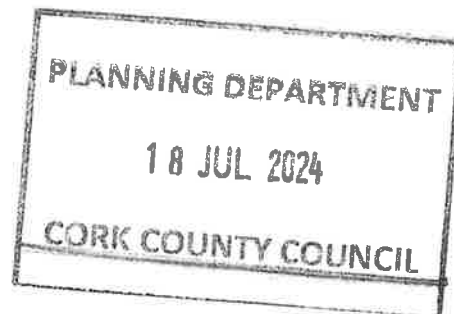
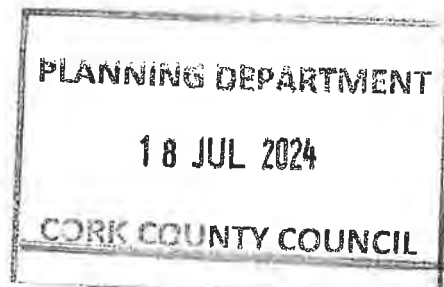


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1.0 INTRODUCTION

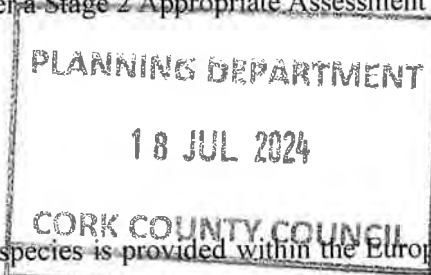
Doherty Environmental Consultants (DEC) Ltd. has been commissioned by Jerry Horgan to undertake a Screening Report for Appropriate Assessment (AA), under Article 6 of the EU Habitats Directive, for a proposed land improvement (the project) at site in the townland of Ballymichael, Kilmurry, Co. Cork (see Figure 1.1 for site location and Figure 1.2 for site aerial).

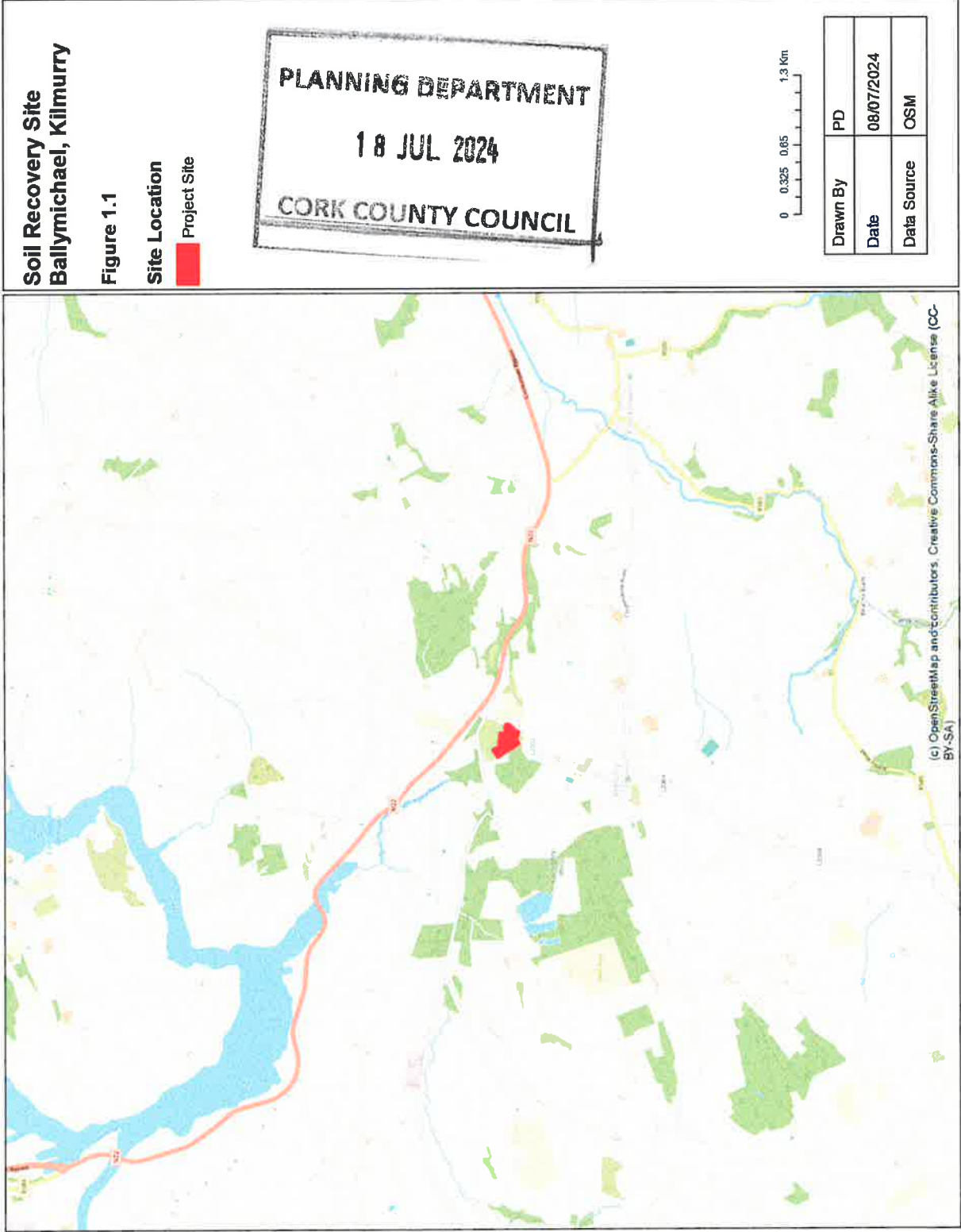
This Screening Report for Appropriate Assessment forms Stage 1 of the Habitats Directive Assessment process and is being undertaken in order to comply with the requirements of the Habitats Directive Article 6(3). The function of this Screening Report is to determine if it can or cannot be excluded, on the basis of objective information, that the project, individually or in combination with other plans or projects, will have a significant effect on a European Site. This Screening Report has been prepared to provide information to the competent authority to assist them in their determination as to whether a Stage 2 Appropriate Assessment is required for the project.

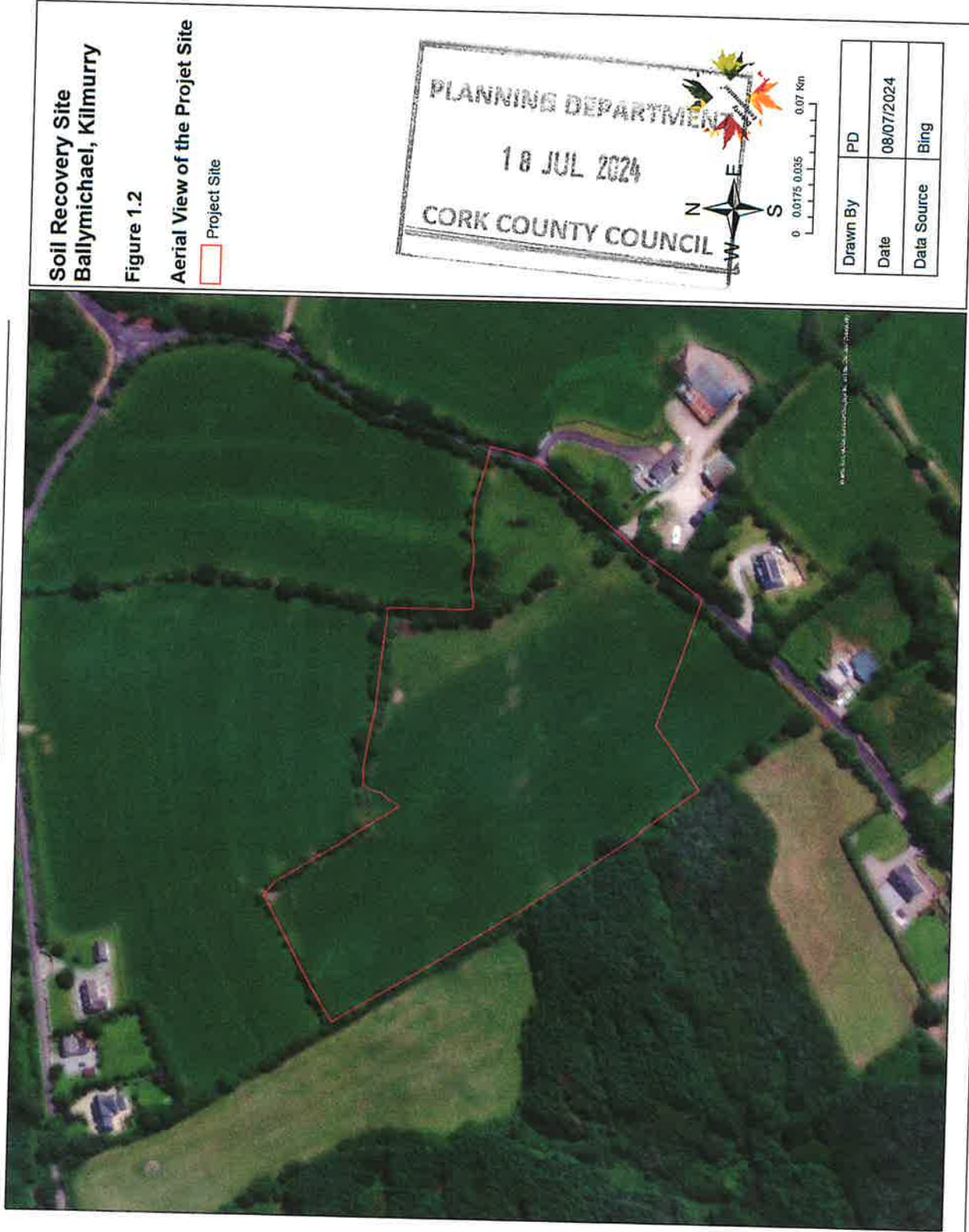
1.1 LEGISLATIVE CONTEXT

Legislative protection for habitats and species is provided within the European Union by the Habitats Directive. The Habitats Directive has been implemented in Ireland and throughout Europe through the establishment of a network of designated conservation areas known as the Natura 2000 (N2K) network. The N2K network includes sites designated as Special Areas of Conservation (SACs), under the EU Habitats Directive and Special Protection Areas (SPAs) designated under the EU Birds Directive 2009/147/EC (as amended). SACs are designated in areas that support habitats listed on Annex I and/or species listed on Annex II of the Habitats Directive. SPAs are designated in areas that support: 1% or more of the all-Ireland population of bird species listed on Annex I of the EU Birds Directive; 1% or more of the population of a migratory species; and more than 20,000 waterfowl.

This Screening Report for Appropriate Assessment is being prepared in order to enable the competent authority to comply with Article 6(3) of Council Directive 92/43/EEC (The Habitats Directive). It is prepared to assess whether or not the project alone or in combination with other plans and projects is likely to have a significant effect on any European Site in view of best scientific knowledge and in view of the conservation objectives of the European Sites and







specifically on the habitats and species for which the sites have been designated. Measures **intended** to avoid or reduce the harmful effects of the proposed project on European sites (i.e. “mitigation measures”) have not been taken into account in this screening stage appraisal of the project. It is noted that, as per the EC (2021) Guidelines, **design and generic measures** can be taken into account at the screening stage. Furthermore it is noted that European Court of Justice (ECJ) legal precedent¹ has established that **account may be taken of features of a project which involve the removal of contaminants and which therefore may have the effect of reducing the harmful effects of the project on a European Site, where those features have been incorporated into that project as standard features, inherent in such a project, irrespective of any effect on the site.**

Such measures form part of the design of the proposed project and have been taken into account in this Screening Report for Appropriate Assessment.

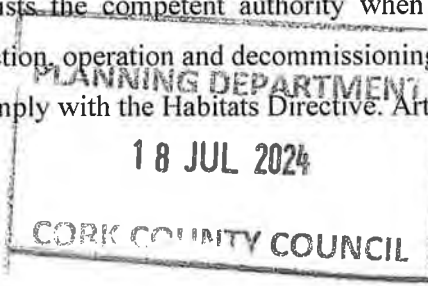
1.1.1 Requirement for an Assessment under Article 6 of the Habitats Directive

According to section 177U(1) of the Planning and Development Act 2000 (as amended) the competent authority has a duty to:

Determine whether the proposed Project is directly connected to or necessary for the management of one of more European Sites; and, if not,

Determine if the Project, either individually or in combination with other plans or projects, would be likely to have a significant effect on the European Site(s) in view of best scientific knowledge and the Conservation Objectives of the site(s).

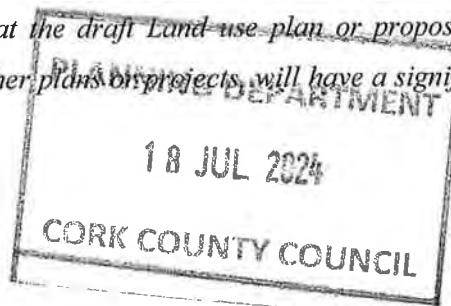
This report contains information to support a Screening for Appropriate Assessment and is intended to provide information that assists the competent authority when assessing and addressing all issues regarding the construction, operation and decommissioning of the Project and to allow the competent authority to comply with the Habitats Directive. Article 6(3) of the



¹ ECJ Judgement C-721/21 of the 15th June 2023

Habitats Directive defines the requirements for assessment of projects and plans for which likely significant effects on European Sites may arise. The Birds Directive and the Habitats Directive together list habitats and species that are of international importance for conservation and require protection. The Habitats Directive requires competent authorities, to carry out a Screening for Appropriate Assessment of plans and projects that are not directly connected to or necessary for the management of a European Site, to assess whether the plan or project alone or in combination with other plans or projects, would be likely to have significant effects on European Sites in view of best scientific knowledge and the Site's conservation objectives. This requirement is transposed into Irish Law by, inter alia, Part XAB of the Planning and Development Act, 2000 (as amended). Section 177U(4) of Part XAB of the Planning and Development Act states:

"The competent authority shall determine that an appropriate assessment of a draft Land use plan or a proposed development, as the case may be, is required if it cannot be excluded, on the basis of objective information, that the draft Land use plan or proposed development, individually or in combination with other plans or projects, will have a significant effect on a European site."



1.2 STAGE 1 SCREENING METHOD

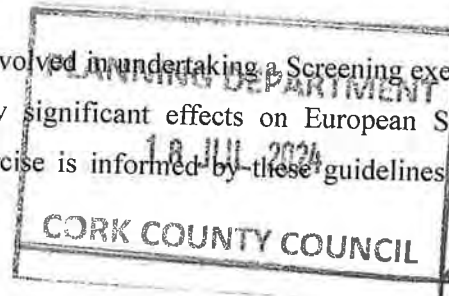
This Screening Report has been prepared in order to comply with the legislative requirements outlined in Section 1.1 above and aims to establish if it can or cannot be excluded, in view of best scientific knowledge and a European Site's conservation objectives and on the basis of objective information, that the project, individually or in combination with other plans or projects, will have a significant effect on a European Site. In this context "likely" refers to the presence of doubt with regard to the absence of significant effects (ECJ case C-127/02) and "significant" means not trivial or inconsequential but an effect that has the potential to undermine the European Site's conservation objectives (English Nature, 1999; ECJ case C-127/02). In other words any effect that compromises the conservation objectives of a European Site and interferes with achieving the conservation objectives for the site would constitute a significant effect.

On this basis it is emphasised that the identification of the project's potential to result in likely significant effects is underpinned by an extremely low threshold whereby a Stage 2 Appropriate Assessment is triggered in circumstances where such an effect cannot be ruled out.

This Screening exercise has been undertaken with reference to respective National and European guidance documents: Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities (DEHLG 2010) and *Assessment of Plans and Projects Significantly Affecting Natura 2000 sites – Methodological Guidance of the Provisions of Article 6(3) and (4) of the Habitats directive 92/43/EEC* and recent European and National case law informing the approach to the Habitats Directive Assessment process. The following guidance documents were also of relevance during this Screening Assessment:

- A guide for competent authorities. Environment and Heritage Service, Sept 2002. Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (2010). DEHLG.
- Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites – Methodological Guidance of the Provisions of Article 6(3) and (4) of the Habitats Directive 92/42/EEC. European Commission (2001).
- Managing Natura 2000 Sites – The provisions of Article 6 of the Habitats Directive 92/43/EEC. European commission (2018).

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



1. Describe the project and determine whether it is necessary for the conservation management of European Sites;
2. Identify European Sites that could be influenced by the project;
3. Where European Sites are identified as occurring within the sphere of influence of the project identify potential effects arising from the project and screen the potential for such effects to negatively affect European Sites identified under Point 2 above; and
4. Identify other plans or projects that, in combination with the project, have the potential to affect European Sites.

2.0 PROJECT DESCRIPTION

2.1 PROJECT OVERVIEW

Jerry Horgan, the owner of the site requires the raising of levels in part of her lands to improve its agricultural potential. Fill levels of up to 4.8m are proposed, with an average fill depth of approximately 1.9m over an area of approximately 7.5 acres. An agricultural report confirming that the lands would benefit from the proposed filling is included with the planning application.

2.2 SITE ACCESS

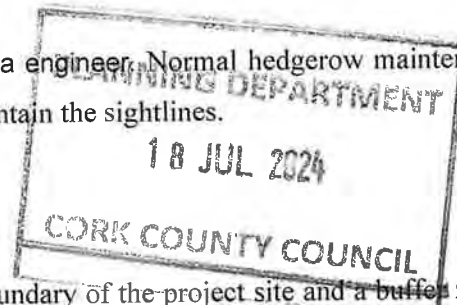
Site access has been discussed with the area engineer. Normal hedgerow maintenance, in control of the applicant, will be needed to maintain the sightlines.

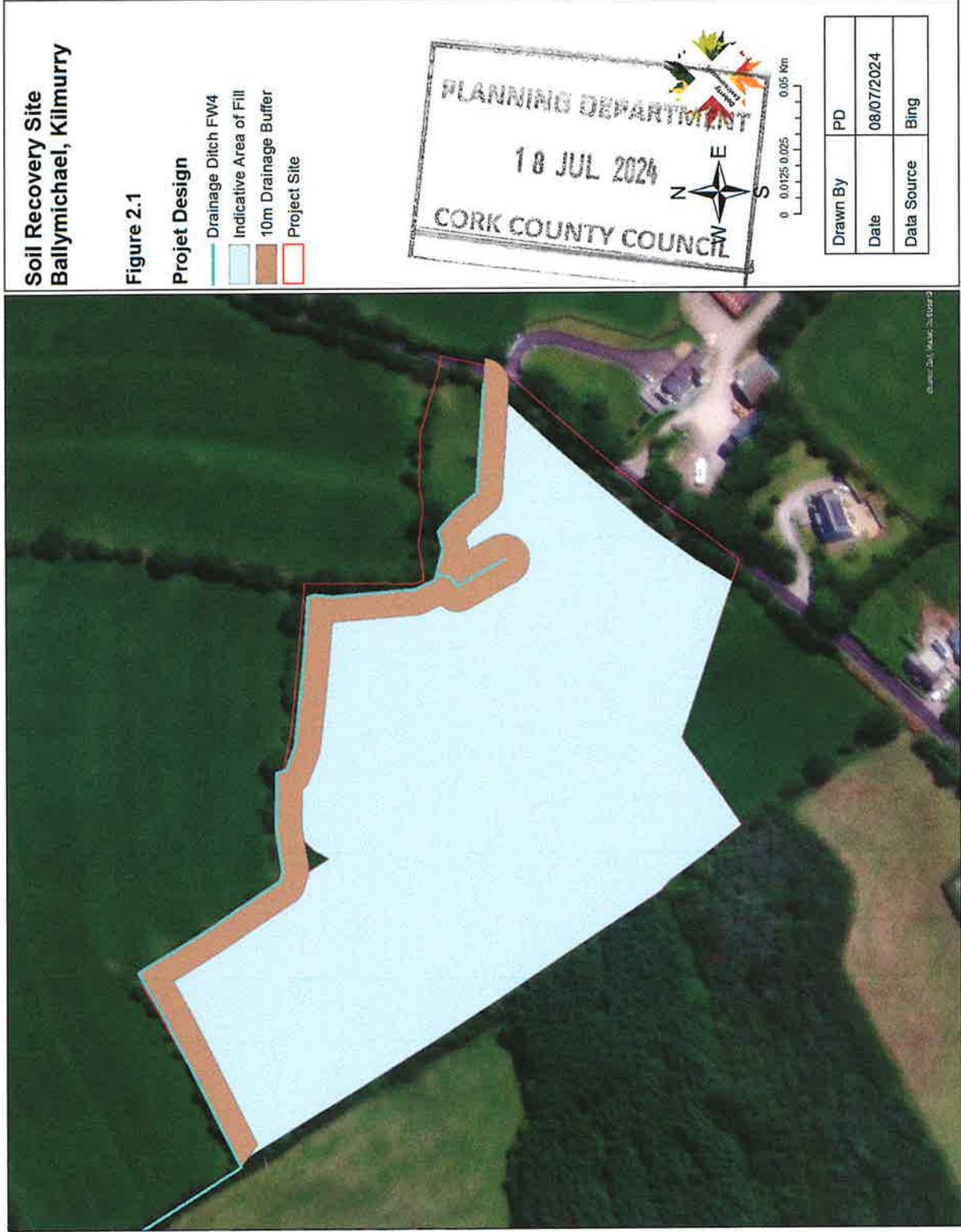
2.3 FILLING PROCEDURE

Drainage channels occur along the eastern boundary of the project site and a buffer zone will be implemented along the length of the drainage channels bounding the project site. Following establishing the drainage channel buffer zone along the eastern boundaries, a 1m-high earthen berm will be constructed. The minimum buffer width will be 10m. Figure 2.1 indicates the location of the earthen berm and the indicative area of fill proposed as part of the project. The provision of this buffer is representative of a standard measure for soil recovery projects required by Objective WM11-11(a) of the Cork County Development 2022 – 2028. The provision of the buffer with retention of a vegetated riparian zone along the buffer and the berm at the landward side of the buffer will eliminate the potential for the surface water to runoff from the project site to the boundary drains.

Filling will be carried out in phases, starting at the southern side of the site and working in a northerly direction. Jerry Horgan proposes to strip topsoil in phases and place clean soil and stone onto the in-situ subsoil to the permitted depths. The stripping and infilling will progress generally from south to north. The filling is expected to be completed within 5 years.

There is an existing entrance to the proposed site on the southern boundary of the field which will provide access.





The volume of soil to be deposited is 59,470m³ (or approximately 89,205 tonnes) which will be deposited over a 5 year period. The annual intake will be between approximately 18,000 tonnes. This would generate up to approximately 1200 loads per annum or approximately 23 loads per week on average.

3.0 DESCRIPTION OF THE SITE LOCATION

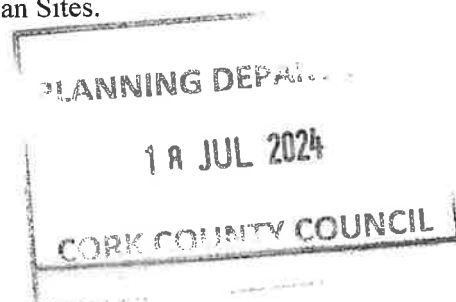
The project site is approximately 3.6 ha in area and is located approximately 1km to the north of the village of Kilmurry. The project site consists of a field of improved agricultural grassland. Hedgerows bound the site to the north, west, whilst L2004 local road occurs to the east.

The site is located within the River Lee surface water catchment. There are no surface watercourses occurring within or bounding the project site. The nearest surface watercourse to the project site is the Buingea River, located approximately 275m to the east of the project site. No surface drains occur within the project site.

The habitats occurring within the project site, as categorised in accordance with the level 3 habitats described in Fossitt's Guide to Habitats in Ireland (2000) comprise improved agricultural grassland (GA1) and hedgerow (WL1). The improved agricultural grassland occurring within the project site is of low local conservation value. The hedgerows occurring within the project site are of high local conservation value.

4.0 IS THE PROJECT NECESSARY FOR THE CONSERVATION MANAGEMENT OF EUROPEAN SITES

The project has been described in Section 2 of the Screening Report and it is clear from the description provided that the project is not directly connected with or necessary for the future conservation management of any European Sites.



5.0 IDENTIFICATION OF EUROPEAN SITES WITHIN THE ZONE OF INFLUENCE OF THE PROJECT

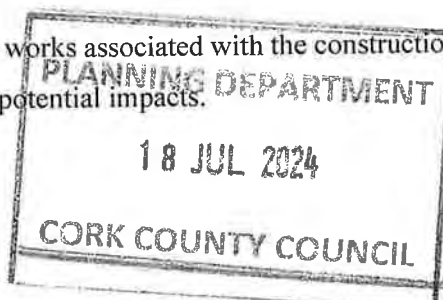
5.1 WITHIN/ADJOINING EUROPEAN SITES

Current guidance (OPR, 2021) informing the approach to screening for Appropriate Assessment defines the zone of influence of a proposed development as the geographical area over which it could affect the receiving environment in a way that could have significant effects on the Qualifying Interests of a European site. It is recommended that this is established on a case-by-case basis. In order to identify European Sites that could potentially be located within the zone of influence of the project, the current digital mapping (shapefile) of European Sites in Ireland², as published by the NPWS, was reviewed to identify the European Sites that could conceivably be connected to the project site via pathways. The OPR guidelines recommend that for projects that are located within or immediately adjacent to European Sites, the relevant European Site should be automatically selected for consideration in the screening exercise. Given that no element of the project occurs within or adjoining a European Sites, the automatic selection of European Sites for further consideration is not triggered. In view of this, this screening exercise will turn its attention to identifying the European Sites that fall within the zone of influence of the project by virtue of pathway connections between the project and European Sites. A Source-Pathway-Receptor model is used to identify the European Sites within the zone of influence of the project.

5.2 SOURCE-PATHWAY-RECEPTOR MODEL

The OPR Guidelines recommend that the zone of influence is established on a case-by-case basis using the Source-Pathway-Receptor (SPR) model.

Under the SPR model the project, the works associated with the construction and the operation of the project represent the source of potential impacts.



² Current SAC shapefile layer dated April 2022; current SPA shapefile layer dated October 2021

Pathways are represented by vectors that could potentially convey impacts from the project site to European Sites and features of interest. Potential pathways are defined by the OPR guidelines as ecological pathways and/or functional pathways. Ecological pathways relate to emission pathways, such as water, air, noise, light emissions that could connect a project to European Sites. Functional pathways relate to mobile qualifying species of a European Sites that may rely on a project site for a specific purpose e.g. special conservation interest bird species of an SPA foraging outside of the SPA within a project site.

The receptors are European Sites and their features of interest. The type of pathways that could represent vectors for the conveyance of impacts are considered in Section 5.2.1 below.

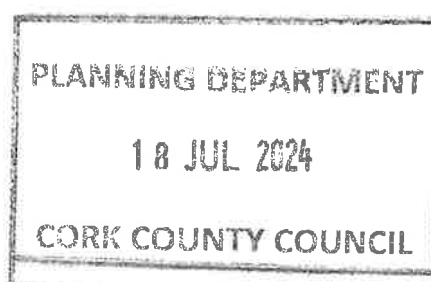
All European Sites in the wider area surrounding the project site are shown on Figure 5.1 and Figure 5.2.

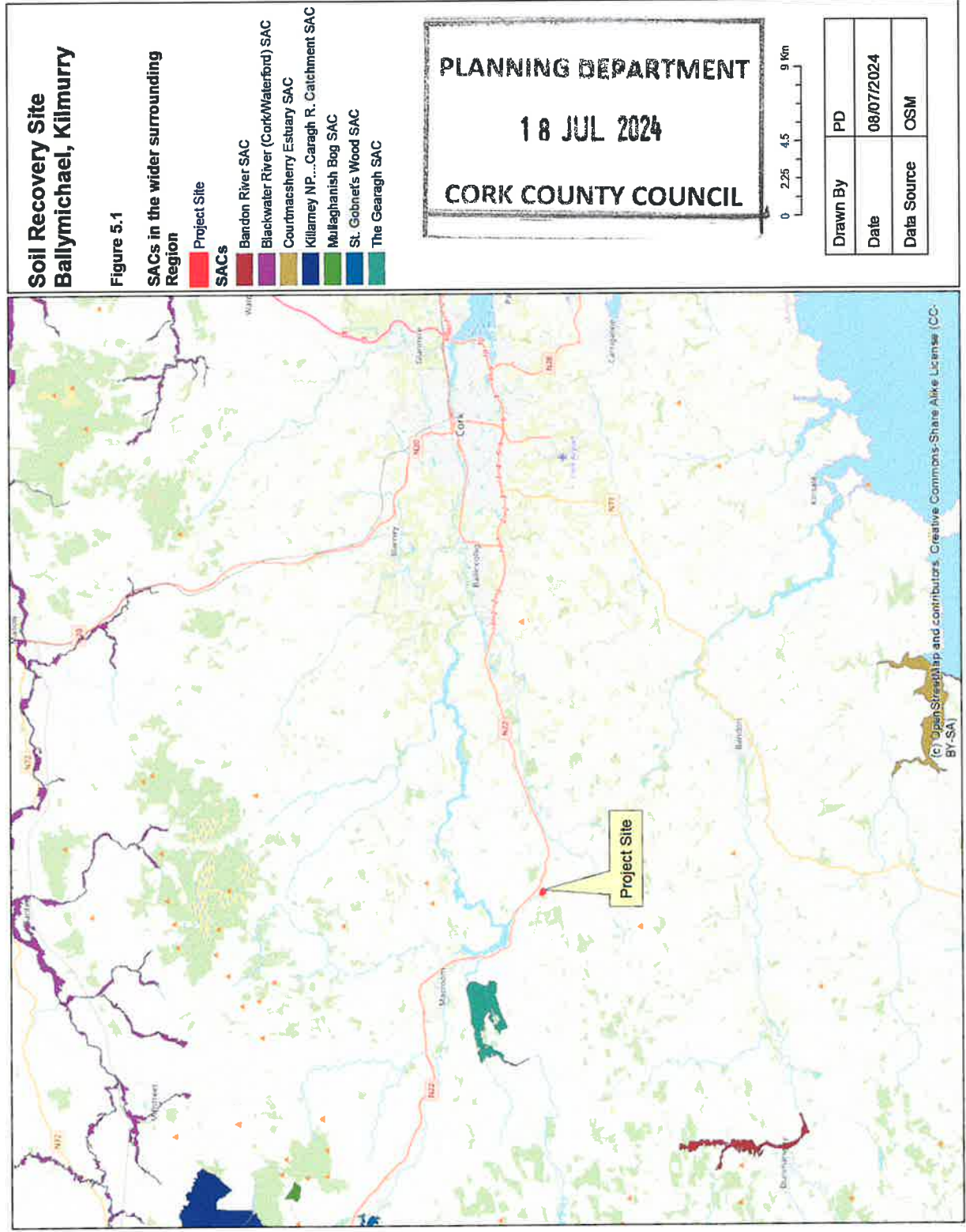
The nearest European Sites to the project site is The Gearagh SAC, which is located approximately 6km to the northwest. All other European Sites are located at more remote distances over 6km from the project site.

Section 5.3 below provides an examination of pathways with respect to the project site and European Sites in the wider surrounding area.

5.3 EXAMINATION OF PATHWAYS

Using the SPR model ecological and functional pathways are set out in Table 5.1 below and an examination as to whether these pathways connect the project to any other European Sites is provided.





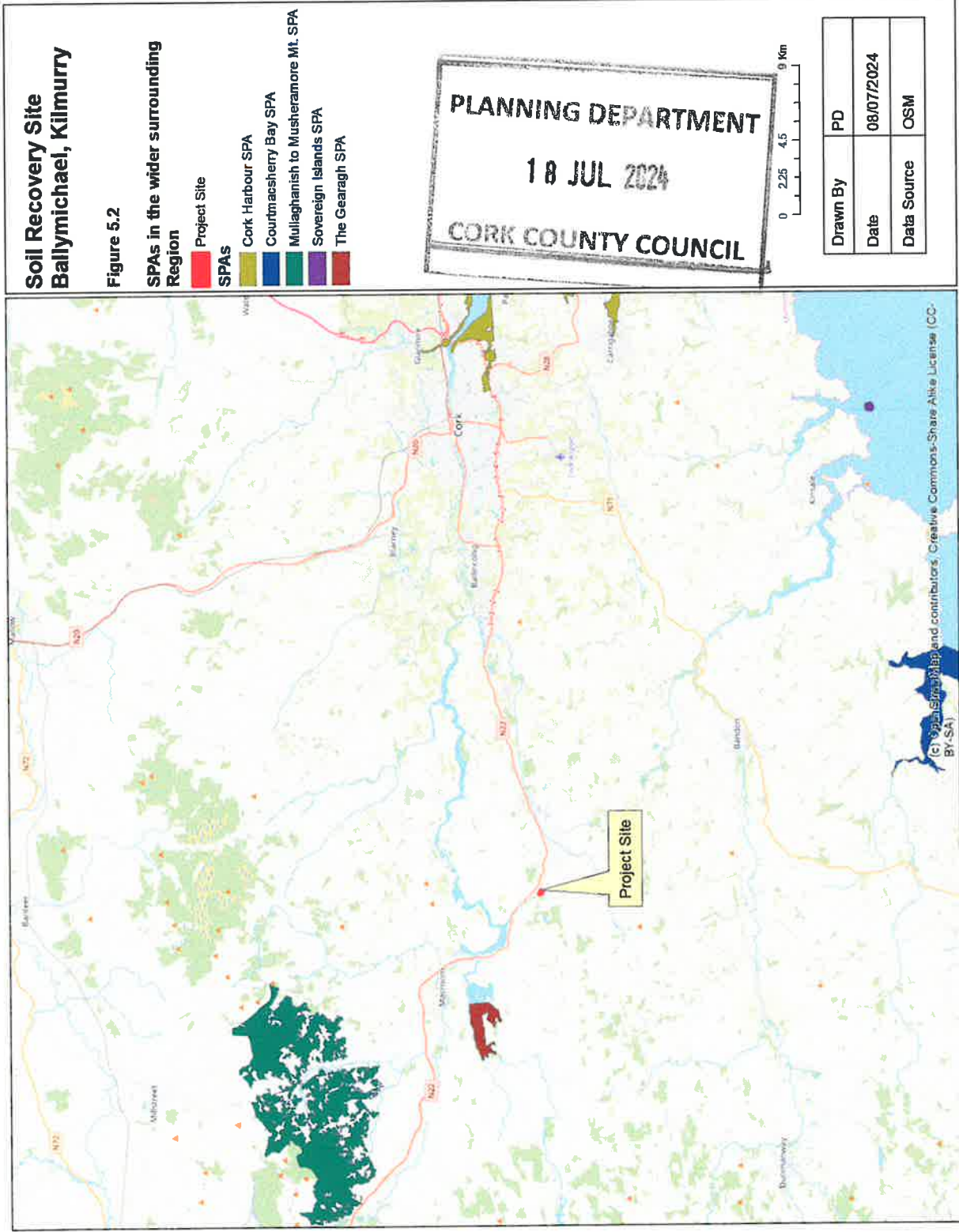
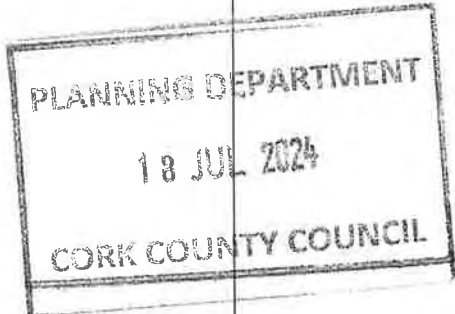
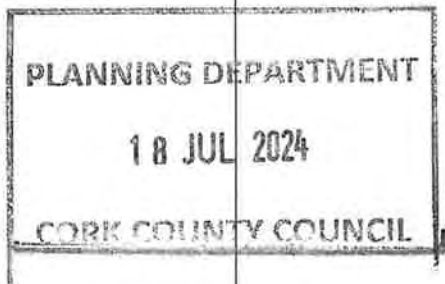


Table 5.1: Examination of Pathways

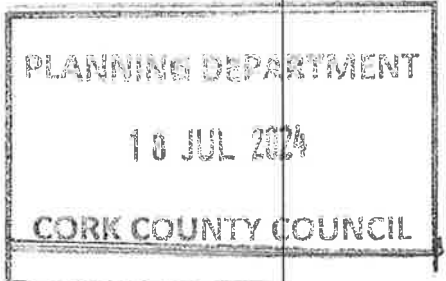
Pathway	Does the Pathway Connect the Project to Other European Sites	Reason
Hydrological – surface water	No	<p>There are no watercourses, present at the project site. Drainage channels occur along the eastern boundary of the project site. These drainage channels drain to the Buingea River, in who’s catchment the project site is located. The Buingea River in turn drains to the Carrigadrohid Reservoir. The Carrigadrohid Reservoir drains to the River Lee. At the mouth of the River Lee to the east of Cork City are located sections of the Cork Harbour SPA.</p> <p>The drainage channels along the eastern boundary of the project site will be buffered from the project by a 10m vegetation strip and a 1m earthen berm that will be provided as part of the design of the project along the landward side of the buffer. This standard design measure of the project will eliminate the potential for any runoff from the project site to the boundary drainage channel and will in turn eliminate the potential for a hydrological pathway to occur between the project site and waterbodies downstream, namely the Buingea River, the Carrigadrohid Reservoir and the River Lee as well as the sections of the Cork Harbour SPA along the lower River Lee.</p> <p>In view of the above no surface water hydrological pathway connects the project to European Sites in the surrounding region.</p> <p>No abstractions are required for the project.</p>
Hydrological groundwater	No	<p>The project site is located c. 6km from the nearest European Site. The project will not result in significant earthworks and exposure of soils and subsoils as a result of excavations. The risk posed by the deposition of inert soil over existing soil and subsoil layers of the project to groundwater quality is considered to be negligible. Given the negligible risk to groundwater quality and the distance of over 6km from the nearest European Sites no functional groundwater emission pathway connects the project site to any European Sites.</p>



Pathway	Does the Pathway Connect the Project to Other European Sites	Reason
Noise & Vibration	No	<p>Noise and vibration emissions are considered to have the potential to result in negative impacts to fauna at varying distances from the emission source depending on the species receptor. For instance the maximum disturbance zone of 300m for wetland bird species has been identified by Cutts et al. (2013) whilst the maximum disturbance distance for mammal species listed as qualifying features of interest for SACs is set at 150m, as per the NRA (2009). For qualifying aquatic species a potential noise and vibration impact pathway will only arise where works such as piling or blasting are proposed at instream or bankside locations within adjoining SACs. Given that no habitats occurring at the project site are relied upon by qualifying species of European Sites in the wider surrounding area; and that the nearest European Sites to the project site being approximately 6km, there will be no potential for the project to result in disturbance to these species as a result of noise or vibration emissions generated by the project.</p>
Air Emissions	No	<p>Air emissions will arise during site works. These will relate to exhaust emissions from plant and machinery as well as dust emissions. The plant and machinery emissions are not considered to have the potential to result in any changes in baseline atmospheric conditions and will not represent a potential impact pathway connecting the project site to European Sites in the wider surrounding area.</p> <p>The site works will have the potential to generated dust emissions during periods of dry weather conditions. Given the small scale of the project the quantities of dust likely to be emitted are considered to be minor. Furthermore dust emissions are reported to have the potential to result in negative impacts to biodiversity up to a 50m distance from the source of the emission. This is supported by the guidance outlined by Holman et al. (2014), which provides a risk assessment for ecological impacts arising from dust deposition. European Sites are ranked as high sensitive sites and the risk to high</p>



Pathway	Does the Pathway Connect the Project to Other European Sites	Reason
		sensitive sites ranges from high (at less than 20m from source) and medium (at less than 50m from source), while low risks, representative of insignificant and de-minimis effects arise at distances greater than 50m from source. As all European Sites occur well outside the 50m zone of susceptibility to dust emissions, they will not be susceptible to any emissions to air that may arise during the construction of the project. As such the potential for an air emission pathway to connect the project site to European Sites during the construction phase is ruled out.
Light Emissions	No	No lighting is proposed as part of the project.
Visual Emissions	No	The project will be screened from the nearest European Sites, The Gearagh SAC will not represent a potential source of visual disturbance to qualifying species of these European Sites.
Mobile species pathway	No	<p>The project site is located at a distance of approximately 6km from the nearest European Site. The project is located at a remote distance from all European Sites and is not necessary for achieving the conservation objectives of mobile species of European Sites in the wider surrounding area.</p> <p>In view of this no mobile species pathway is identified as having the potential to connect the project to any European Sites.</p>
Human Disturbance pathway	No	The project will not result in the generation of increased human activity within any other European Sites.



Following the above consideration of pathways that could conceivably connect the project site to European Sites in the wider surrounding area it has been found that no such pathways occur.

In view of the absence of pathways connecting the project site to European Sites there will be not potential for the project to interact with, influence or affect the status of European Sites and their conservation objectives. As such no European Sites are considered to lie within the zone of influence of the project.

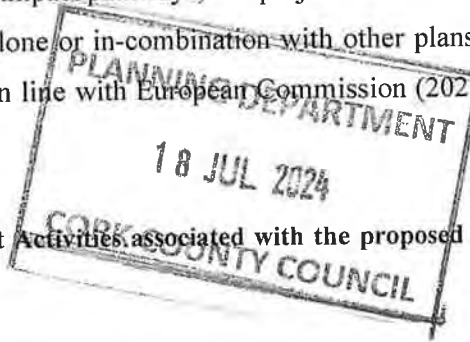
6.0 IN-COMBINATION EFFECTS

Given that all elements of the project are located outside the zone of influence of European Sites in the wider surrounding area and are not connected to European Sites via any potential impact pathways, there will be no potential for the project to combine with other land use plans or project relevant to lands at or surrounding the project site.

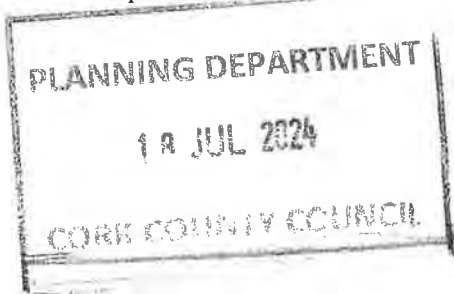
7.0 SCREENING SUMMARY


Given that the project is located outside the zone of influence of surrounding European Sites along with the absence of any potential impact pathways, this project will not have the potential to result in likely significant effects, alone or in-combination with other plans or projects, to European Sites. A Screening Matrix, in line with European Commission (2021) guidelines is provided below in Table 7.1.

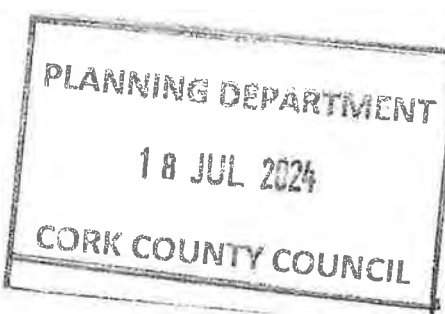
Table 7.1: Screening Matrix for Project Activities associated with the proposed grid connection route



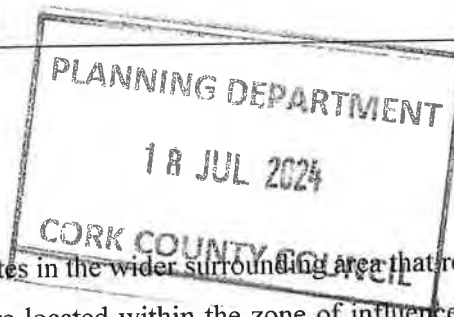
Brief description of the project or plan	The project and associated activities are described in Section 2 above.
Brief description of the European Sites	The European Sites occurring in the wider surrounding area are identified and described in Section 5.2 above.
Describe the individual elements of the project (either alone or in combination with other plans or projects) likely to give rise to impacts on the European Sites.	Land use projects, such as the proposed project, can typically give rise to potential environmental effects relating to habitat loss and/or disturbance, disturbance to fauna, surface water, noise or air emissions etc. However, given that the project is located at a distance of approximately 6km from the nearest European Site and is not necessary for achieving the conservation objectives of



	<p>any species for which European Sites are designated, there will be no potential for any elements of the project to result in habitat loss or habitat disturbance or disturbance to species of such European Sites in the wider surrounding area.</p>
<p>Describe any likely direct, indirect or secondary impacts of the project (either alone or in combination with other plans or projects) on the European Sites site by virtue of:</p> <ul style="list-style-type: none"> • size and scale; • land-take; • distance from the Natura 2000 site or key features of the site; • resource requirements (water abstraction etc.); • emissions (disposal to land, water or air); • excavation requirements; • transportation requirements; • duration of construction, operation, decommissioning, etc.; 	<p>The project will not have the potential to result in direct, indirect or secondary impacts to European Sites. All European Sites in the wider surrounding area have been identified as lying outside the zone of influence of the project.</p> 
<p>Describe any likely changes to the site arising as a result of:</p> <ul style="list-style-type: none"> • reduction of habitat area; • disturbance to key species; • habitat or species fragmentation; • reduction in species density; • changes in key indicators of conservation status 	<p>All European Sites in the wider surrounding area have been identified to lie outside the zone of influence of the project.</p> <p>Given the absence of pathways the project will not have the potential to result in changes to the Annex 1 habitats of these European Sites arising from these factors.</p> <p>The project will not result in the reduction of habitat area for special conservation interest bird species or waterbirds of SPAs in the wider surrounding area.</p>

	<p>Given the absence of pathways the project will not have the potential to result in changes to the population of Annex 2 species for which SACs in the wider surrounding area are designated.</p> <p>Examples of key indicators of the conservation status of bird species of surrounding SPAs and Annex 2 species of surrounding SAC are population size; distribution; habitat structure; foraging habitat and prey availability etc.</p> <p>Key indicators of the conservation status for the Annex 1 habitats of these European Sites include habitat area, habitat distribution, vegetation supported by the habitat, water quality, nutrient status etc.</p> <p>Given that the European Sites in the wider surrounding are located outside the zone of influence of the project, as established above, there will be no potential for the project to undermine the conservation status and conservation objectives for any European Sites.</p>
<p>Describe any likely impacts on the European Sites site as a whole in terms of: interference with the key relationships that define the structure of the site; interference with key relationships that define the function of the site</p>	<p>For reasons set out above the project will not have the potential to interfere with key relationships that define the structure and function of European Sites.</p>

<p>Provide indicators of significance as a result of the identification of effects set out above in terms of:</p> <ul style="list-style-type: none"> • loss; • fragmentation; • disruption; • disturbance; • change to key elements of the site (e.g. water quality etc.). 	<p>For reasons set out above the project will not have the potential to result in such effects to European Sites.</p>
<p>Describe from the above those elements of the project or plan, or combination of elements, where the above impacts are likely to be significant or where the scale or magnitude of impacts is not known.</p>	<p>The project will not have the potential to result in likely significant effects to European Sites.</p>



8.0 SCREENING CONCLUSION

During the Screening of the project European Sites in the wider surrounding area that required examination to ascertain whether or not they are located within the zone of influence of the project were identified. These European Sites are listed in Section 5 (Figure 5.1 and Figure 5.2 above).

An examination of emission pathways that could be generated by the project have been set out in Section 5.3 of this screening and these include such emission pathways as surface water runoff emissions, air emissions and noise emissions etc. Other pathways such as mobile species pathways between the project site and European Sites have also been considered. The examination provided in this screening has confirmed that there are no pathways connecting the project site to the European Sites in the surrounding area or any other European Sites. Given the absence of pathways there will be no potential for the conveyance any emissions that could arise during works associated with the proposed amendments or the consented solar project to

European Sites. The screening has also found that the project site is not necessary for achieving the conservation objectives for European Sites in the wider surrounding region.

Given that no European Sites have been identified as occurring within the zone of influence of the project, it is the considered view of the authors of this Screening Report for Appropriate Assessment that it can be concluded by the competent authority, that the project is not likely, alone or in-combination with other plans or projects, to have a significant effect on any European Sites in view of their Conservation Objectives and on the basis of best scientific evidence and there is no reasonable scientific doubt as to that conclusion.

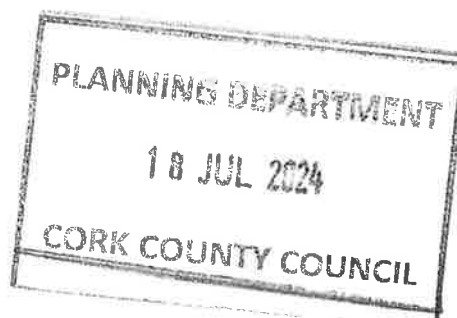
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Department of the Environment Heritage and Local Government (DEHLG) (2010). *Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities*. Second Edition, February, 2010.

European Commission (2018). *Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC*. Luxembourg.

European Commission (2021). *Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC*. Luxembourg.

OPR (2021). *Appropriate Assessment Screening for Development Management*. OPR Practice Note PN01.



APPENDIX III: CLOSURE PLAN

PLANNING DEPARTMENT
18 JUL 2024
CORK COUNTY COUNCIL

CLOSURE PLAN

This section describes actions to be taken should Jerry Horgan close the land reclamation facility at Ballymichael, Lissarda, Co. Cork.

1.0 Closure Plans

This plan identifies all steps necessary to achieve closure of the site at the end of its operating life. Copies of the plan will be maintained by the applicant until closure is completed and signed and certified by an independent professional. This plan will be updated as necessary.

1.1 Schedule for Closure

An estimated closure schedule that includes the time needed to complete all required closure activities is provided in Table 2. This schedule would also include all other activities necessary to complete final closure. Final closure will be supervised and certified by an independent professional.

Table 2: Closure Schedule:

CLOSURE ACTIVITY	TIMESCALE
Inspection of material on site	One week
Leveling of material	One month
Planting of suitable grass seed	Weather & seasonally dependent



1.2 Closure Procedures

An independent professional will oversee and certify all aspects of the closure procedure.

1.3 Health and Safety Procedures

Personnel performing tasks will use appropriate PPE deemed necessary.

1.4 Closure Certification

Within 60 days of the completion of closure the independent professional will submit in writing (by certified mail) a closure certification to Cork County Council. The certification will verify that the facility was closed in accordance with the specifications outlined in the closure plan.



1.5 Closure Cost Estimate

Table 3: Closure Cost Estimate:

CLOSURE ACTIVITY	COST
Inspection of material on site	€200
Leveling of material	€2000
Planting of suitable grass seed	€2000

1.6 Post-Closure Use of Property

The post-closure use of property will be agricultural.



APPENDIX IV: EMERGENCY RESPONSE PROCEDURE

PLANNING DEPARTMENT
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CORK COUNTY COUNCIL

**Accident Prevention
&
Emergency Response Procedure**

PLANNING DEPARTMENT
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4.0 Accident Prevention Procedures..... 2
5.0 Emergency Procedures 2

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1.0 Introduction

The purpose of this document is to set out the procedure to be followed in the event of an emergency at the soil & stone land reclamation works at Ballymichael, Lissarda, Co. Cork. Please note that the site will only accept soil & stone defined as a by-product. Emergency evacuation procedures are designed to ensure the safety of people during emergencies by coordinating and controlling evacuations until the appropriate emergency services arrive.

The Emergency Response details any emergency situation which could occur on site and the proposed response should this emergency occur. Each procedure details the emergency situation, the proposed response should this emergency occur and the potential environmental impacts of this occurrence. The following environmental incidents are addressed.

- Fire
- Spillage or leakage of hydrocarbons from vehicles
- Vehicle collision on site

The following Emergency contacts should be contacted in the case of an Emergency:



A&E:

 **999 / 112**

Fire

 **999 / 112**


Police:

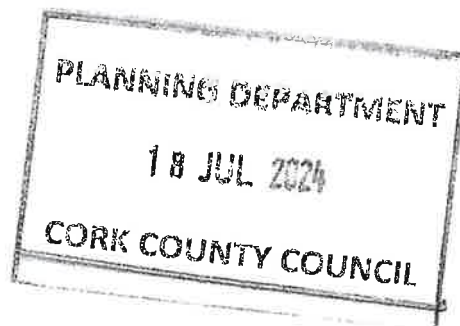
 **999 / 112**

Jerry Horgan

 **087 6834092**

CORK COUNTY COUNCIL

 **Tel: 021 4532700**



2.0 Definitions

Definition: An emergency or incident can be defined at any event, natural or man-made which, by its occurrence, endangers the lives of employees, contractors and members of the public or which results in a risk of environmental pollution and which requires an immediate response.

3.0 Accident Prevention Procedures

The following Accident Prevention Procedures are in place to address the hazards on-site in particular to with accidents with a possible impact on the environment to;

- 3.1 Health & Safety Statement will be in place for site activities.
- 3.2 Staff given safety training at least yearly.
- 3.3 All new staff given an induction which includes health & safety training.
- 3.4 Weekly Housekeeping check in place to monitor potential environmental impacts from oil leaks, dust, odour, vermin, etc.
- 3.5 Preventative maintenance program in place, all on site machines are maintained as per manufacturers requirements.

4.0 Emergency Procedures

1. FIRE:

In the case of Fire or Emergency all site personnel move away from the source of the fire and should wait until the arrival of the Fire Service.

Jerry Horgan should:

- Check the source, type and severity of the emergency.
- Order the evacuation of the area if necessary.
- Record the details of the incident and notify Cork County Council.



2. SPILLAGE OR LEAKAGE OF HYDROCARBONS FROM VEHICLES:

- All vehicles carry spillage kits in order to clean any spillage immediately. Spill kits will also be maintained on site.
- Place warning triangles to make on-coming traffic aware.
- Driver shall clear spillage in a safe manner. This will be supervised and verified by Jerry Horgan.
- Driver shall be issued with all necessary Personal Protective Equipment required
- Spillage and corrective actions shall be recorded at principle place of business.

3. VEHICLE COLLISION ON SITE:

- Notify Jerry Horgan
- Tel. Emergency Services if required.
- Place warning triangles to make on-coming traffic aware.
- Where required, clean-up crew shall be directed to location in order to remove material and clear any spillage.
- Clean-up crew shall be issued with all necessary Personal Protective Equipment required
- Notify relevant Local Authority of incident



APPENDIX V: RISK ASSESSMENT

PLANNING DEPARTMENT
18 JUL 2024
CORK COUNTY COUNCIL

Environmental Risk Management

Applicant: Jerry Horgan

Site Location: Ballymichael, Lissarda, Co. Cork.

1. Context

Risk assessment provides a valuable tool to inform decision-making about uncertain future outcomes. One of its strengths is that it can explicitly take account of uncertainties about future outcomes. In addition, the risk assessment process can be informed by dialogue with stakeholders, which can aid decision-making.

2. Environmental risk assessment and management – the 4 stage process

2.1 Stage 1. Problem formulation

The problem at hand should be clearly set out along with any constraints on the assessment and the final risk management decision and its implementation. Describing the problem in clear and unambiguous terms will assist in selecting the level, or type, of risk assessment required (e.g. qualitative / quantitative) and ensure that risk management decisions are as robust as possible.

Problem formulation involves the following:

- Setting out the problem in clear and unambiguous terms
- Defining the spatial and temporal boundaries of the problem
- Identifying all constraints on the assessment, including those imposed by specific legislative requirements
- Starting to document areas of uncertainty and assumptions
- Developing a conceptual understanding ('model') of all sources of hazard, all exposed receptors, and the pathways linking them should be developed at this stage. Without a source-pathway-receptor linkage in place, harm cannot occur.

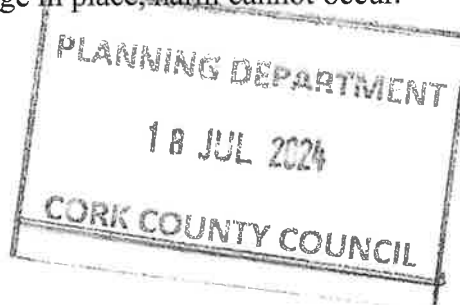


Table 1. Source, pathway and receptor Model.

Sources	Pathways	Receptors
<ul style="list-style-type: none"> • Soil & Stone 	<ul style="list-style-type: none"> • Groundwater <ul style="list-style-type: none"> - Percolation • Atmosphere <ul style="list-style-type: none"> - Dust • Surface Water <ul style="list-style-type: none"> - Overland Flow 	<ul style="list-style-type: none"> • Groundwater • Atmosphere • Surface Water

2.1 Stage 2. Risk assessment

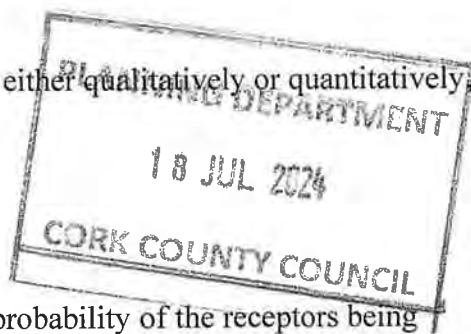
Risk assessments are undertaken to determine the significance (sometimes referred to as “acceptability”) of the risk(s) and the need for management action to prevent or limit the risk.

There will always be an element of subjectivity in risk assessment. It is important to be open about uncertainty and, where feasible, define and agree the approaches to be used with relevant stakeholders.

Risks assessment takes account of the probability of an event and the magnitude of the consequences of the event (see box 1 below for a simple risk screening example). Risks associated with an event are assessed using a source-pathway-receptor model.

The final stage is the evaluation of the significance of the risk which involves placing it in a context for example with respect to an environmental standard or other criterion defined in legislation, statutory or good practice guidance.

Risk assessment provides a useful tool for evaluation, either qualitatively or quantitatively, of possible future environmental outcomes.



3.1 Stage 3.

Box 1 - Illustrative qualitative risk assessment or the probability of the receptors being exposed to the hazard. Example categories:

- High
- Medium
- Low
- Very Low

The consequences of a hazard being realised are similarly rated. Example categories:

- High
- Medium
- Low
- Negligible

The significance of the risk is determined by combining the probability with the magnitude of the potential consequences. A matrix such as the one below can be used to categorise the risk as high, medium, low or very low.

Applicant: Jerry Horgan

Site Location: Ballymichael, Lissarda, Co. Cork.

Activity: Land Reclamation

Matrix:

CONSEQUENCE OF HAZARD	LIKELIHOOD OF HAZARD			
	High	Medium	Low	Very Low
Severe	High	High	Medium	Effectively zero
Medium	High	Medium	Medium/Low	Effectively zero
Low	Medium/Low	Low	Low	Effectively zero
Negligible	Effectively zero	Effectively zero	Effectively zero	Effectively zero

	Percolation	Atmosphere	Surface Water
Likelihood	H	H	L
Consequence	N	M	M
Risk Rating	ZERO	HIGH	LOW

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4.1 Stage 4 – Dealing with the Risk Rating & Cost

Percolation – The risk of pollution occurring from Percolation to Groundwater is effectively zero. This is a natural process and may only become an issue in Karst areas. This site is not located within a Karst area.

Atmosphere – The risk to atmosphere is high in that it is likely that dust may occur at the site. If dust becomes an issue, the applicant has access to a water supply and a bowser. Therefore, there will be no cost to the applicant.

Surface water – The risk of pollution is low. The site will in fact be negligible when appropriate soiled water containment measures are put in place. However, a costing on providing a solution is set out below:

Machinery - €1000

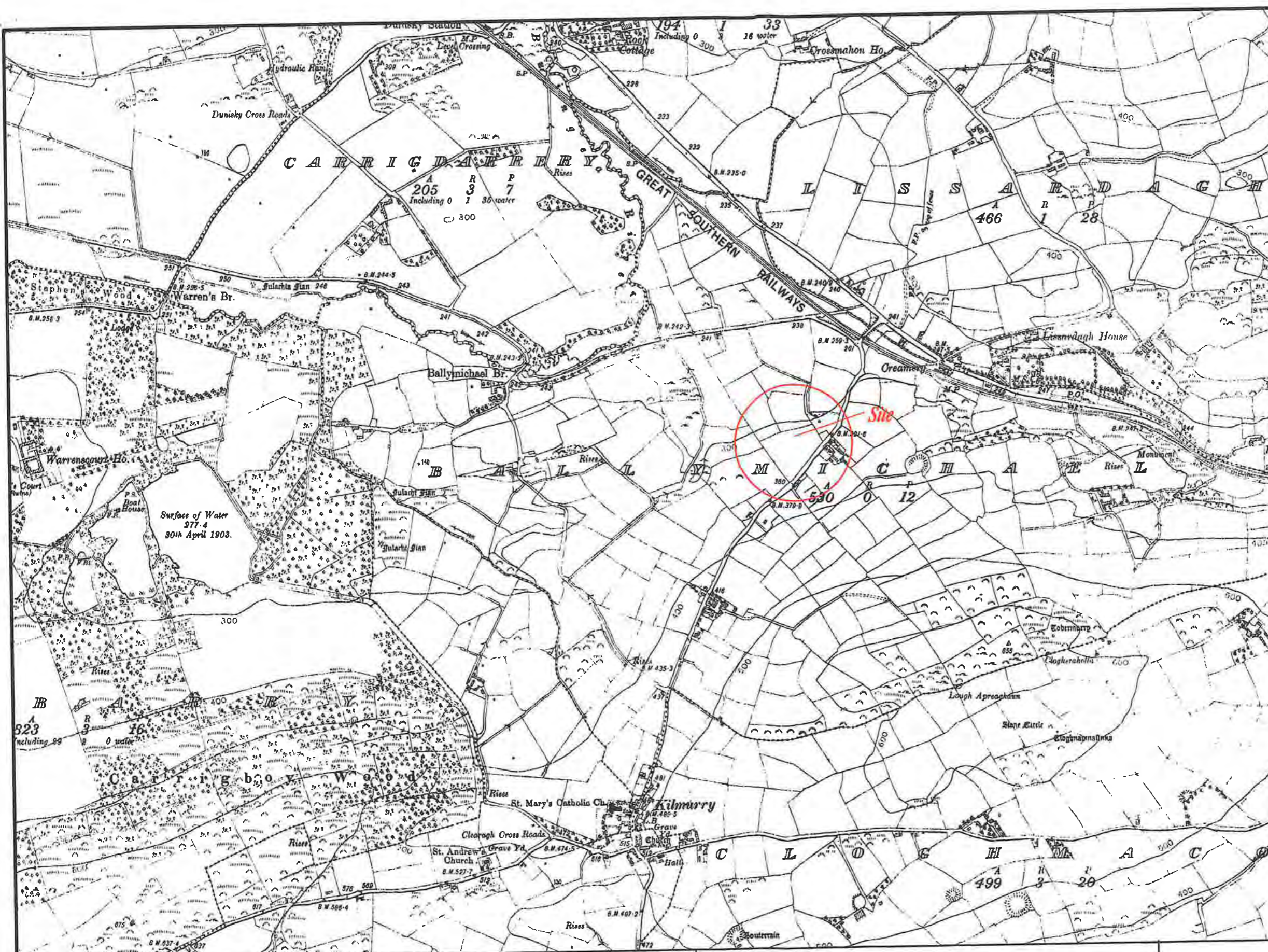
Manpower - €250

The total cost of dealing with environmental incidents is €1250.00. The applicant proposes a contingency cost of €5000.00 in any event.



APPENDIX VI: DRAWINGS & MAPS

PLANNING DEPARTMENT
18 JUL 2024
CORK COUNTY COUNCIL



Description:

Historic 6" Latest Edition

Publisher / Source:

Ordnance Survey Ireland (OSI)

Data Source / Reference:

CK071

Survey Date = 31-Dec-1934

Levelled Date = 31-Dec-1938

CK083

Survey Date = 31-Dec-1934

Levelled Date = 31-Dec-1943

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URX,URY= 543246.48,569588.3901

Centre Point Coordinates:

X,Y = 539741.48,566991.3901

Data Extraction Date:

26-Feb-2024

License / Copyright:

Ordnance Survey Ireland 'Terms of Use' apply.
Compiled and published by Ordnance Survey
Ireland, Phoenix Park, Dublin 8, Ireland.

PLANNING DEPARTMENT

18 JUL 2024

CORK COUNTY COUNCIL



Civil Eng. & Design Services

Kilbarry, Lissarda, Co. Cork.
Tel. 087 6526267

CLIENT

JERRY HORGAN

PROJECT

BALLYMICHAEL, LISSARDA, CO. CORK.

TITLE

Site Location Map

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LISSARDA 1 -001 - A

SCALE

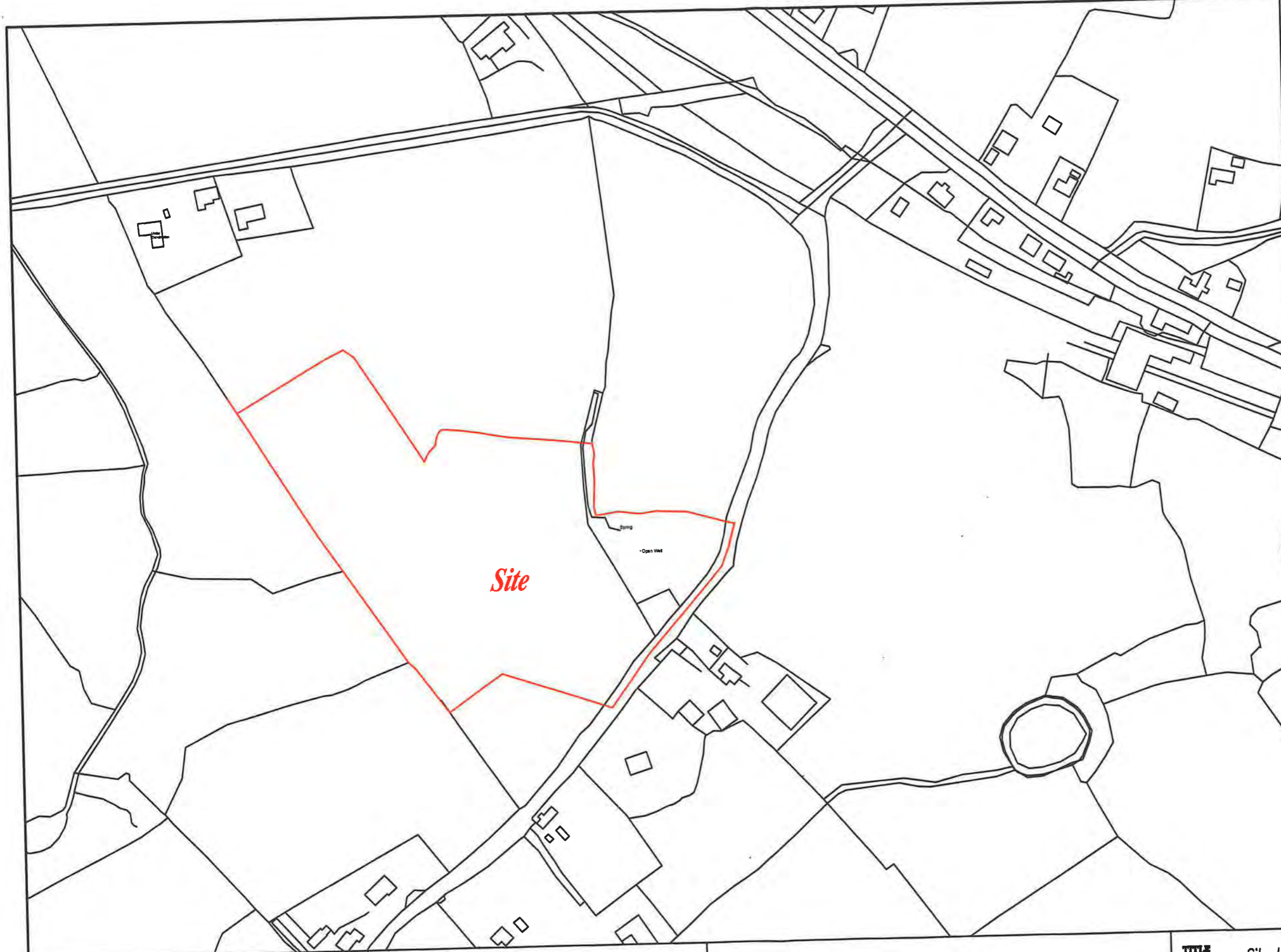
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DRAWN

DATE

May 2024

K. Barnett



Description:
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 Digital Landscape Model (DLM)

Publisher / Source:
 =====
 Ordnance Survey Ireland (OSi)

Clip Extent / Area of Interest (AOI):
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Centre Point Coordinates:
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Reference Index:
 =====

Map Series / Map Sheets
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 1:5,000 | 6420
 1:5,000 | 6421
 1:5,000 | 6463

Data Extraction Date:
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 Date= 26-Feb-2024

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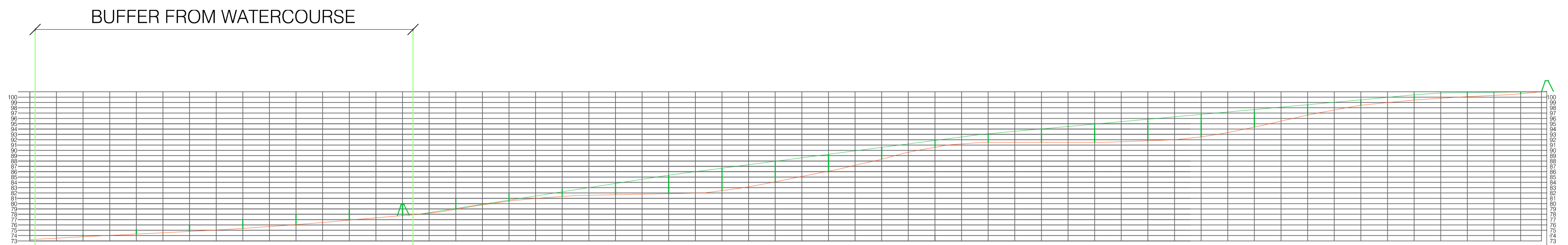
Civil Eng. & Design Services
 Kilbarry, Lissarda, Co. Cork.
 Tel. 087 6526267

CLIENT JERRY HORGAN

PROJECT BALLYMICHAEL, LISSARDA, CO. CORK.

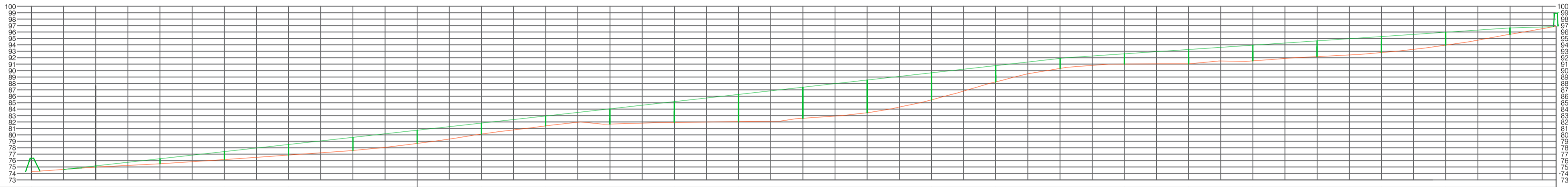
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Section CC



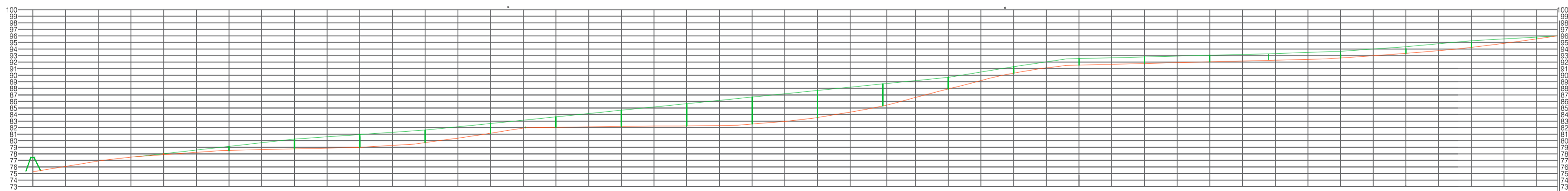
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Proposed CC - Elevation		73.24	74.43	75.64	76.92	78.16	79.18	80.19	79.91	79.69	80.49	81.38	83.54	83.77	85.35	86.71	88.00	89.37	90.58	91.50	92.61	93.59	94.57	95.59	96.55	97.52	98.50	99.44	100.90	100.63	

Section BB



Section BB - Distance	BOUNDARY SOD & STONE DITCH	0.000	10.000	20.000	30.000	40.000	50.000	60.000	70.000	80.000	90.000	100.000	110.000	120.000	130.000	140.000	150.000	160.000	170.000	180.000	190.000	200.000	210.000	220.000	230.000	BOUNDARY
Section BB - Elevation		74.28	75.13	76.28	77.50	78.44	79.69	80.74	82.00	82.94	84.90	86.90	89.00	90.75	92.11	92.38	91.83	92.00	92.79	94.65	95.33	96.15	97.00	97.38	97.19	
Proposed BB - Elevation		74.28	74.94	75.51	76.25	76.80	77.66	78.69	80.31	81.41	82.55	83.67	84.79	85.92	87.03	88.18	89.30	90.44	91.20	92.41	92.88	93.70	94.55	95.37	96.19	

Section AA

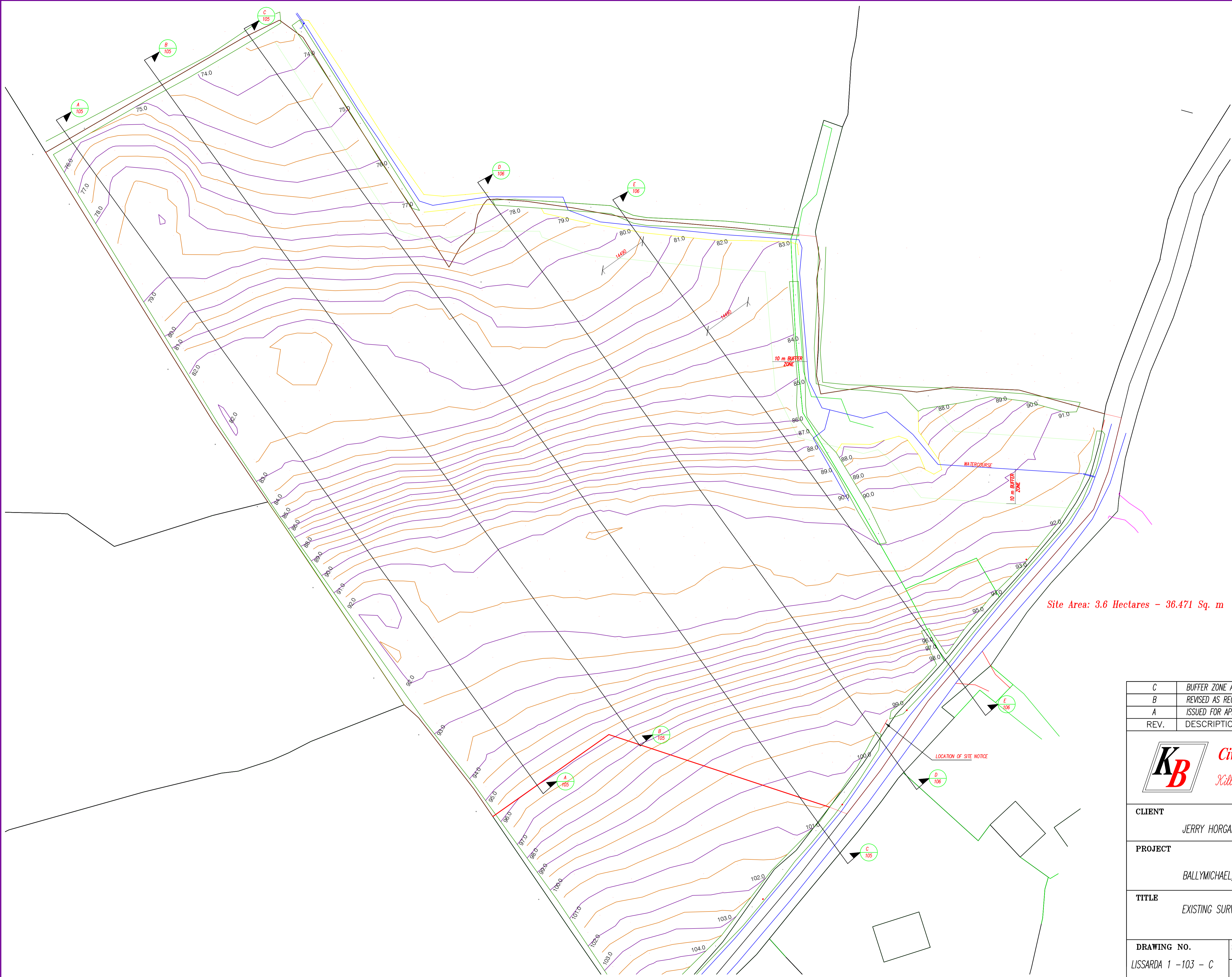
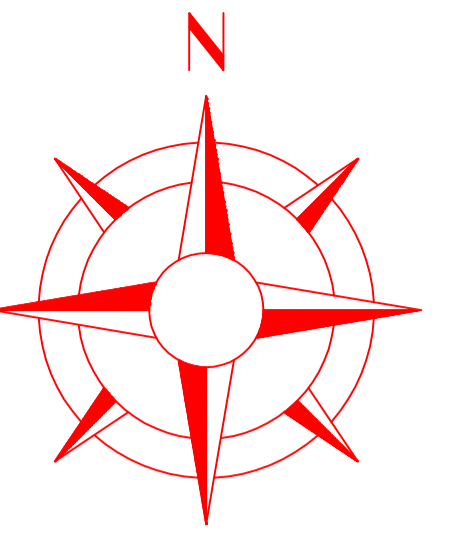


Section AA - Distance	BOUNDARY SOD & STONE DITCH	0.000	10.000	20.000	30.000	40.000	50.000	60.000	70.000	80.000	90.000	100.000	110.000	120.000	130.000	140.000	150.000	160.000	170.000	180.000	190.000	200.000	210.000	220.000	BOUNDARY	
Section AA - Elevation		75.31	76.91	78.03	78.82	81.15	82.58	83.55	84.16	85.90	87.13	89.10	90.72	91.85	92.06	91.44	91.68	92.54	92.81	93.58	93.32	94.22	95.11	95.93	95.00	
Proposed AA - Elevation		75.31	76.91	77.87	78.52	79.65	80.63	81.63	82.67	84.32	84.66	85.69	86.62	87.72	88.69	89.66	90.68	91.54	91.81	92.58	92.32	93.22	94.11	94.93	95.77	

C	BUFFER ZONE ADDED FROM WATERCOURSE	20.05.2024
B	REVISED AS REQUESTED	18.04.2024
A	ISSUED FOR APPROVAL	21.03.2024
REV.	DESCRIPTION	DATE



CLIENT		
JERRY HORGAN		
PROJECT		
BALLYMICHAEL, LISSARDA, CO. CORK.		
TITLE		
SECTIONS THROUGH SITE - SHEET 1 OF 2		
DRAWING NO.	SCALE	DRAWN
LISSARDA 1 - 105 - C	1:500 A1	Kathleen Barnett
	DATE	
	March 2024	



Site Area: 3.6 Hectares - 36.471 Sq. m

REV.	DESCRIPTION	DATE
C	BUFFER ZONE ADDED FROM WATERCOURSE	20.05.2024
B	REVISED AS REQUESTED	18.04.2024
A	ISSUED FOR APPROVAL	21.03.2024


Civil Eng. & Design Services
 Killybarry, Lissarda, Co. Cork.
 Tel. 087 6526267

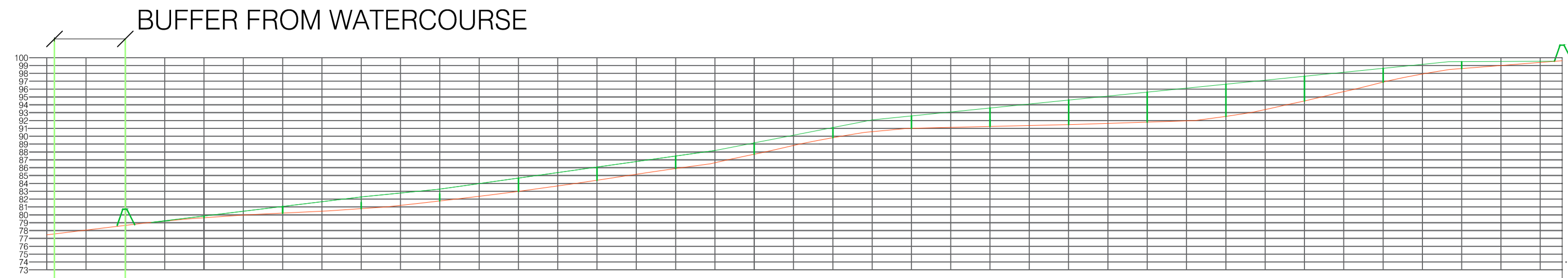
CLIENT
JERRY HORGAN

PROJECT
BALLYMICHAEL, LISSARDA, CO. CORK.

TITLE
EXISTING SURVEY SITE PLAN

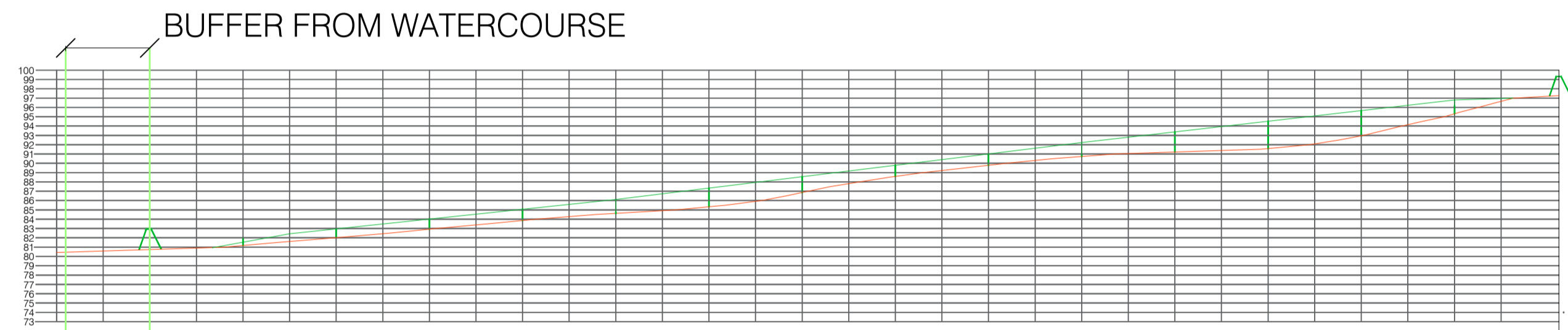
DRAWING NO. LISSARDA 1 - 103 - C	SCALE 1:500 A1	DRAWN Kathleen Barrett
	DATE March 2024	

Section DD



Section DD - Distance	BOUNDARY SOD & STONE DITCH	0.000	10.000	20.000	30.000	40.000	50.000	60.000	70.000	80.000	90.000	100.000	110.000	120.000	130.000	140.000	150.000	160.000	170.000	180.000	ROAD SOD & STONE BOUNDARY
Section DD - Elevation		77.46	78.65	79.90	81.32	83.08	83.08	85.50	84.41	87.54	89.13	91.11	92.75	94.52	96.35	98.11	99.50	99.65	98.64	99.50	
Proposed DD - Elevation		77.46	78.65	79.66	80.48	81.58	82.68	83.81	86.08	85.95	87.68	89.81	91.17	92.16	93.22	94.29	95.41	96.50	97.58	98.64	

Section EE



Section EE - Distance	BOUNDARY SOD & STONE DITCH	0.000	10.000	20.000	30.000	40.000	50.000	60.000	70.000	80.000	90.000	100.000	110.000	120.000	130.000	140.000	150.000	ROAD SOD & STONE BOUNDARY
Section EE - Elevation		80.42	81.01	82.08	82.96	84.00	85.05	86.07	87.48	88.92	89.80	91.00	92.48	94.43	96.50	97.58	97.68	
Proposed DD - Elevation		80.42	80.71	81.26	82.00	82.91	83.85	84.71	86.15	87.22	88.60	89.77	90.98	92.26	93.57	94.88	96.18	

C	BUFFER_ZONE ADDED FROM WATERCOURSE	20.05.2024
B	REVISED AS REQUESTED	18.04.2024
A	ISSUED FOR APPROVAL	21.03.2024
REV.	DESCRIPTION	DATE



CLIENT
JERRY HORGAN

PROJECT
BALLYMICHAEL, LISSARDA, CO. CORK.

TITLE
SECTIONS THROUGH SITE - SHEET 2 OF 2

DRAWING NO.	SCALE	1:500 A1	DRAWN
LISSARDA 1 -106 - C	DATE	March 2024	Kathleen Barrett