



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

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Your Client: Eircom Limited.

20th April, 2022

Section 5 referral Reference R22-13 – Eircom Limited.

Is the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare, considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 18th February 2022 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at www.pleanala.ie

Mise, le meas


Anne O'Gorman
Staff Officer

Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúirthóireacht Forbairt Gheilleagrach
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
Economic Development Directorate
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



**DECLARATION ISSUED UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)**

Reference No.: R22-13



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R22-13

Is the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare, considered to be development and if so, is it exempted development?

AND WHEREAS, Eircom Limited. has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

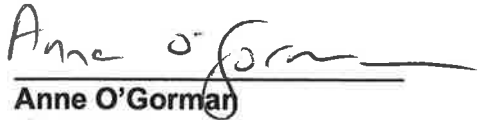
- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) Classes 31(b), 31(bb) and 31(bbb) of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended;
- (d) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council has concluded:

- a) The construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare constitutes "works" which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended;
- b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- c) the said the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare is exempted development by virtue of Schedule 2, Part 1, Class 31 of the Planning and Development Regulations 2000 (as amended).

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The proposed development consisting of the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare is development and is exempted development, as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

A handwritten signature in black ink, appearing to read 'Anne O'Gorman', is written over a horizontal line.

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

20th April, 2022

CLARE COUNTY COUNCIL

SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000 AS AMENDED

DECLARATION ON DEVELOPMENT AND/OR EXEMPTED DEVELOPMENT

Chief Executive's Order No:

79627

Reference Number:

R22-13

Date Referral Received:

18th February 2022

Name of Applicant:

Eircom Limited.

Location of works in question:

2.9km Road - Caher to Cloonagh, Co. Clare

Section 5 referral Reference R22-13 – Eircom Limited.

Is the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare, considered to be development and if so, is it exempted development?

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) Classes 31(b), 31(bb) and 31(bbb) of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended;
- (d) The works as indicated in submitted documents from the referrer.

AND WHEREAS Clare County Council has concluded:

- (a) The construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare constitutes "works" which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended;
- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) the said the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare is exempted development by virtue of Schedule 2, Part 1, Class 31 of the Planning and Development Regulations 2000 (as amended).

ORDER: Whereas by Chief Executive's Order No. HR 152 dated 9th April 2021, Pat Dowling, Chief Executive for Clare County Council, did, pursuant to the powers conferred on him by Section 154 of the Local Government Act 2001, delegate to Gareth Ruane, Senior Executive Planner, the powers, functions and duties as set out herein,

NOW THEREFORE pursuant to the delegation of the said powers, functions and duties and under Section 5(2)(a) of the Planning & Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the referral described above, I, Gareth Ruane, Senior Executive Planner, hereby declare that the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare is development and is exempted development:

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER *A. 6*

Date: 20th April, 2022

CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R22-13
APPLICANT(S):	Eircom Ltd.
REFERENCE:	Whether the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor is or is not development and is or is not exempted development.
LOCATION:	Caher townland to Cloonagh townland, Co Clare
DUE DATE:	22 nd April 2022

Eircom Ltd sought a declaration on whether the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor is or is not development and is or is not exempted development. In March 2022, the Planning Authority sought additional information as follows:

1. In accordance with Article 9(i)(a)(viiB) of the Planning and Development Regulations 2001 (as amended) development shall not be exempted development if carrying out such development would:

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

National Parks and Wildlife Service (NPWS) identifies features such as overhead lines as 'pressures' which are likely to cause disturbance at Hen Harrier sites. The '*Screening Report to inform Appropriate Assessment*' submitted in support of the referral is noted. However there are a number of key issues that have not been satisfactorily addressed, namely:

- Hen Harrier habitat in the wider vicinity of the site has not been considered and known flight paths have not been identified.
- The risk of collision with the proposed overhead cable has not been assessed
- The potential for the cable to create a barrier effect/risk has not been considered
- Potential for disturbance to wider breeding/foraging habitat must be assessed.

In the absence of detailed assessment of these issues, the Planning Authority, as the competent authority with regard to the appropriate assessment process, has been unable to reach a determination that the proposed development will not have a significant effect on the Slieve Aughty Mountains SPA.

An updated *Screening Report to inform Appropriate Assessment* is required, prepared by a suitably qualified ecologist, addressing the issues of concern outlined above.

In the event that significant effects cannot be ruled out and a full Natura Impact Statement of the proposed development is required in line with Article 6(3) of the EC Habitats Directive 1992, planning permission for the proposed development must be sought in accordance with Section 34 of the Planning and Development Act 2000 (as amended)

On 4th April 2022 the Planning Authority received a response to the further information request. An updated Appropriate Assessment Screening was provided which indicates (in summary):

- Taking account of the nature of the proposed development (size, scale, alteration of baseline condition), comprising an overhead Eir fibre cable line along an existing road corridor, it is not considered that vantage point surveys and flight path mapping is required in this instance. The proposed project does not comprise the

nature or scale of impact significance associated with overhead cables such as 110kV or 220kV lines required by Eirgrid or grid connections for the wind energy sector.

- The risk of collision and susceptibility of Hen Harrier to collision with overhead wires was assessed and was found to be low.
- Hen Harrier flight paths and use of agricultural land to the south of the road corridor will already be acclimatised or adapted to the presence of the existing overhead lines along the road corridor. The existing overhead telephone lines and the proposed fibre cable are within the context of the road corridor and the existing treeline which will likely encourage birds to overfly rather than try to pass through the cable height.
- Breeding habitat for this species is predominantly north of the road corridor in heath habitat. Areas to the south of the road are predominantly outside the SPA and are dominated by improved agricultural grassland and wet grassland which do not provide suitable foraging for hen harrier. The presence of the proposed cable will not have any significant disturbance effect on Hen Harrier movement between breeding and foraging sites.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh is or is not development and is or is not exempted development.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 31(e)

This section of the Regulations provides exemptions to Statutory Undertakers with regard to works related telecommunications structures. The Act defines a statutory undertaker as:

“statutory undertaker” means a person, for the time being, authorised by or under any enactment or instrument under an enactment to—

- (a) construct or operate a railway, canal, inland navigation, dock, harbour or airport,
- (b) provide, or carry out works for the provision of, gas, electricity or telecommunications services, or
- (c) provide services connected with, or carry out works for the purposes of the carrying on of the activities of any public undertaking;

Based on this definition, I am satisfied that the applicant meets the criteria of a ‘statutory undertaker’

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 2, Class 31(b)

Overhead telecommunications including the erection of poles or other support structures or the use of existing poles or other support structures, where

- *Poles or other support structures carrying overhead lines shall not exceed 12 metres in height*

The submitted details indicate that the support structures will be 8.5m in height. The 12m limitation is not therefore exceeded.

- *Poles or other support structures carrying other equipment shall not exceed 12 metres in height and 0.6 metres in diameter measured at the widest point, where “other equipment” means 2 transmitting or receiving dishes (the diameter of which shall not exceed 0.6 metres), or 1 panel antenna (the dimensions of which shall not exceed 0.85 metres in length x 0.65 metres in width x 0.2 metres in depth) used for the provision of a specific telecommunications service and the provision of which would otherwise require an additional pole route carrying overhead wires*

The height and diameter limitations are not exceeded. No dishes or antennae are proposed.

- *Where a pole or poles or other support structures carry radio transmitting or receiving apparatus, the field strength of the non-ionising radiation emissions from that installation shall not exceed the limits specified by the Commission for Communications Regulation*

No apparatus proposed

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 31(bb)

- The attachment to a pole or other support structure referred to in paragraph (b) above of any bracket, clamp or other fixture required for the carrying or support of any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing, or required for the carrying or support of any device containing any such cable, wire, tube, pipe, duct or similar thing, and the attachment to such fixture of—
 - (i) any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing (including its casing or coating) or any device containing any of the foregoing,
 - (ii) any other equipment or apparatus used for telecommunications purposes, which is exempted development for the purposes of Article 6 and this Class

Where:

- The dimensions of any such device should not exceed 0.50 cubic metres measured externally

The applicant has stated that these limitations will not be exceeded.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 31(bbb)

- The attachment to any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing of any device containing any such cable, wire, tube, pipe, duct or similar thing,

Where

- The dimensions of any such device should not exceed 0.25 cubic metres measured externally

The applicant has stated that these limitations will not be exceeded.

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below:

- (i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

No recent planning application of the proposal site

- (ii) *consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

Not applicable in this instance.

- (iii) *endanger public safety by reason of traffic hazard or obstruction of road users,*

A traffic management plan is proposed to safely manage the construction phase of the proposed development. The operational phase will not result in the creation of a traffic hazard or obstruct road users.

- (iv) *except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

Not applicable to this proposal

- (v) *consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

Not applicable to this proposal.

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

The proposal will not interfere with the character of a landscape, view or prospect of special amenity value.

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

Not applicable to this proposal

- (viiA) *consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended.*

No issues of archaeological concern arise.

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

No significant effects on European sites are likely as a result of the proposed development. No Appropriate Assessment issues arise.

An Appropriate Assessment Screening Report and Determination is attached to this report.

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."

Not applicable in this instance

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

Not applicable in this instance

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

Not applicable in this instance

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

Not applicable in this instance

(xi) obstruct any public right of way,

The development will not obstruct a right of way

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

The proposal site is not located in an Architectural Conservation Area

Recommendation

The following question has been referred to the Planning Authority:

Whether the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare is considered to be development and if so, is it exempted development.

The Planning Authority in considering this referral had regard to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended;
- (c) Classes 31(b), 31 (bb) and 31(bbb) ~~16~~ of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended;
- (d) The works as indicated in submitted documents from the referrer.

And whereas Clare County Council (Planning Authority) has concluded:

- (a) The construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare constitutes

"works" which come within the scope of section 2(1) of the Planning and Development Act 2000, as amended;

- (b) The said works constitute "development" which comes within the scope of section 3(1) of the Planning and Development Act 2000, as amended;
- (c) the said the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare is exempted development by virtue of Schedule 2, Part 1, Class 31 of the Planning and Development Regulations 2000 (as amended).

Now therefore Clare County Council (Planning Authority) hereby decides that the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare is development and is exempted development.



Executive Planner

Date: 19/04/2022



Senior Planner

Date: 20/04/22

Clare County Council
Screening for Appropriate Assessment & Determination

1. Table 1 to be filled in for all development applications.
2. Where proposed development is within a European site(s) site, go directly to table 3.
3. For all other development proposals, fill in table 2, and if required, table 3.
4. A Habitats Directive Screening Statement should be sought for all developments regardless of location which require an EIS

Table 1: Project Details

Planning File Reference	R22-13
Applicant Name	Eircom Ltd.
Development Location	at Caher and Cloonagh, Co. Clare
Application accompanied by an EIS	No
Application accompanied by an NIS	No

Description of the project (To include a site location map):

The construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor

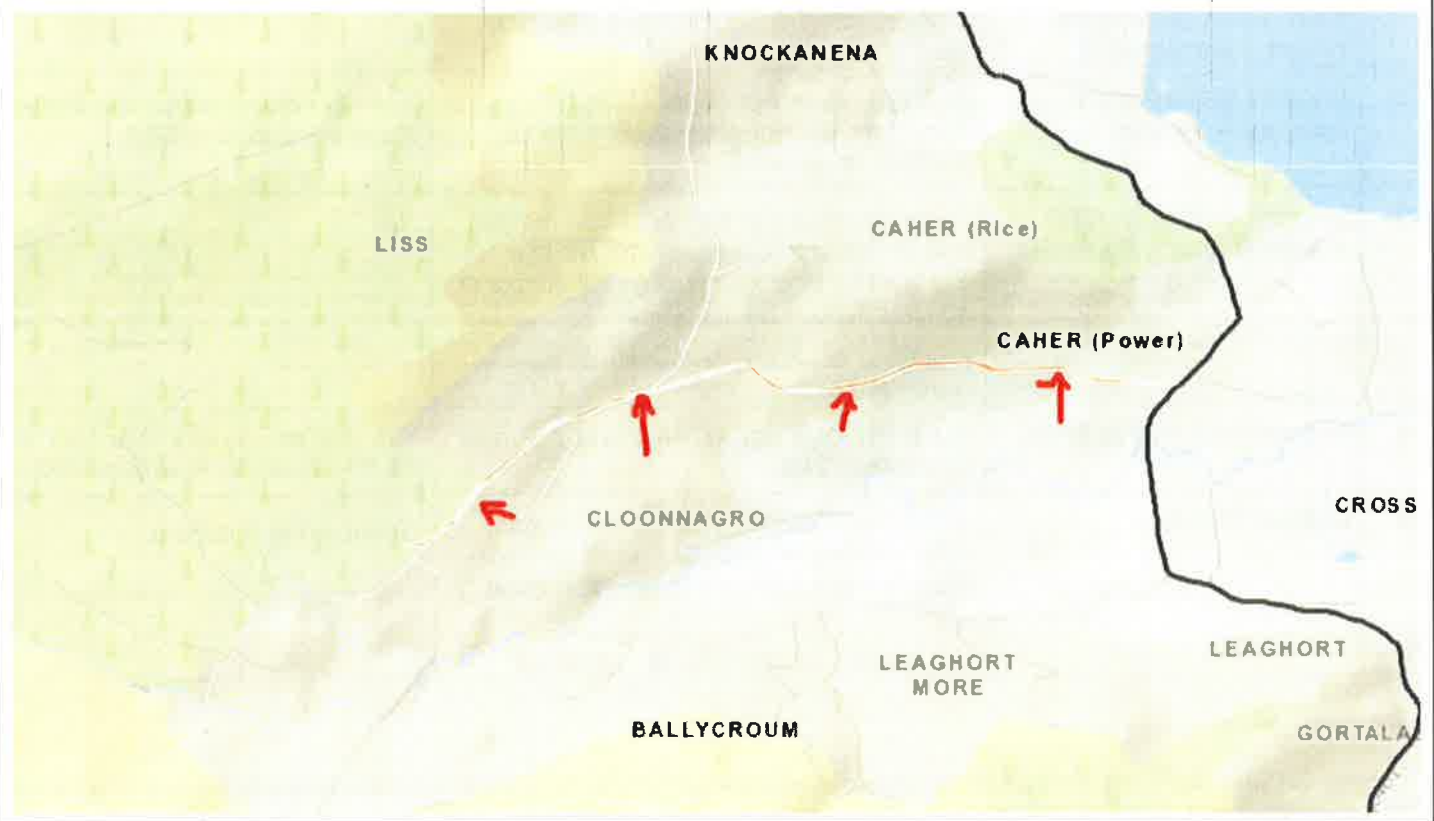


Table 2: Identification of European sites which may be impacted by the proposed development.

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)¹ is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis.

Having regard to the nature and scale of the proposed development and the location within the footprint of the Slieve Aughty Mountains SPA, the likely zone of impact is no greater than 5km.

Table 2 (a): European Sites within 5km of Applicant Site

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
Slieve Aughty Mountains SPA	<ul style="list-style-type: none"> • Hen Harrier <i>Circus cyaneus</i> [A082] breeding • Merlin <i>Falco columbarius</i> [A098] breeding 	0.00km Site is within the SPA
Glendree Bog SAC	<p><u>Annex I habitats</u></p> <ul style="list-style-type: none"> • Blanket Bog (* if active only) [7130] 	2.0km

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?	No
2	Impacts on terrestrial habitats & species.	Is the development within 1km of a European site with terrestrial based habitats or species?	Yes- the Site is within the Slieve Aughty Mountains SPA
3	Impacts on designated marine habitats & species.	Is the development located within marine or intertidal areas and within 5 km of a European site whose qualifying habitats or species include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs	No
4	Impacts on birds in SPAs	Is the development within 1km of a Special Protection Area	Yes- the site is less than 1km from the Slieve Aughty Mountains SPA
5	Indirect effects	Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development	Unknown at this time

¹ European Sites that are more than 15km from the proposal may have to be considered. For example in the case of sites with water dependent habitats or species and where a proposal could affect water quality or quantity it may be necessary to consider the full extent of the upstream and/or downstream catchment.

² European Site details are available on <http://webgis.npws.ie/npwsviewer/> or maybe obtained from internal mapping systems.

		(including noise) likely to impact on an adjacent habitat or species?	No likely emissions
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Conclusion:

- If the answer to all of the above is *no*, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.
- If the answer is *unknown* or *yes* proceed to Table 3 and refer to the relevant sections of Table 3.

Table 3: Identification of potential impacts.

2	<p align="center">Impacts on terrestrial habitats and species.</p> <p align="center"><i>Please answer the following if the answer to question 2 in table 2 was yes.</i></p> <p align="center"><i>Does the development involve any of the following:</i></p>	
2a	<p>Removal of or interference with habitat within the European site. This includes reduction in habitat area or fragmentation of habitat.</p> <p>Is the timing of this interference liable to impact on the nesting or breeding period of any protected species?</p>	<p>The proposed development will not result in the removal of or interference with habitat within the European site. The applicants have submitted an AA Screening Report which concludes that the proposal will not impact on the breeding or foraging of SCIs nor will it result in habitats fragmentation. The Planning Authority, as the competent authority with regard to the appropriate assessment process, concurs with these findings.</p>
2b	Construction of roads or other infrastructure on peat habitats within 1km of bog, marsh, fen or heath habitat within a European site	No
2c	Is the development liable to impact on water quality in the European site, or liable to give rise to any change in a key indicator of water quality, including salinity. If yes, is the site designated for any bird species or other plant species whose feeding ground or life cycle may be affected by changes in water quality?	No
2d	Development within 1km of terrestrial European site of a scale or type which involves the production of an EIS.	No

4	<p align="center">Impacts on birds in SPAs</p> <p align="center"><i>Please answer the following if the answer to question 5 in table 2 was yes.</i></p> <p align="center"><i>Does the development involve any of the following:</i></p>	
4a	Removal of or interference with habitats within an SPA. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No
4b	Erection of wind turbines within 1km of an SPA.	No
4c	All construction works within 100m of intertidal areas – Coastal SPAs, including indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No
4d	Infilling of coastal habitats within 500m of SPA, including indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No
4e	Discharges to coastal SPA, including any element of a discharge liable to give rise to disturbance of this habitat, either by direct, indirect, or in combination effects	No
4f	Development of cycleways or walking routes within 100m of intertidal areas. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No
4g	Development within 1km of SPA of a scale or type which involves the production of an EIS. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No

Conclusion:

- If the answer to all of the above is *no*, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.
- If the answer to any of the above is *yes*, or *unknown* effects on the European sites need to be assessed and a Natura Impact Statement will be required

Appropriate Assessment Screening Determination

Planning File Reference	R22-13
Proposed Development	The construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public corridor
Development Location	From the townlands of Caher to Coonagh, Co. Clare
European sites within impact zone	Slieve Aughty Mountains SPA Glendree Bog SAC
Description of the project:	
The construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public corridor	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
Slieve Aughty Mountains <ul style="list-style-type: none"> • Hen Harrier <i>Circus cyaneus</i> [A082] breeding • Merlin <i>Falco columbarius</i> [A098] breeding 	
Glendree Bog SAC <u>Annex I habitats</u> Blanket Bog (* if active only) [7130]	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
No likely direct or indirect effects due to (a) the nature and scale of the proposed development; (b) the location alongside an existing road corridor where there are existing overhead cables; and (c) the location of the cable route relative to known breeding and foraging locations	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
N/A – no likely significant effects	
Documentation reviewed for making this statement	
<ul style="list-style-type: none"> - County Development Plan (including Flood Maps, SEA & AA) - NPWS website - Documents received as part of the referral 	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature	

conservation management of a European Site(s)³	
(b) There is no potential for significant effects to European Sites³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out⁴	
(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010⁵	
Completed By	Caroline Balfe
Date	19/04/2022

Caroline Balfe
20/04/22

³ Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no material changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

⁴ In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. This guidance document is available from http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf

Alternatively, where other planning concerns arise the proposal could be refused planning permission.

⁵ The proposed development must either by refused planning permission or alternatively an 'Appropriate Assessment' (AA) should be carried out by the Planning Authority. In order to facilitate the preparation of an AA the applicant should be requested to submit a Natura Impact Statement (NIS) in accordance with S177 (T) of the Planning and Development (Amendment) Act 2010. However, in the case of an application to retain unauthorised development of land and where the authority decides that an 'appropriate assessment' should have been carried out prior to the commencement of development, the application is required to be invalidated by the Planning Authority as per S34 (12) of the Planning and Development (Amendment) Act 2010 and accordingly an NIS should not be requested in such instances.

Clare County Council
Aras Contae on Chlair
New Road
Ennis
Co Clare
V95 DXP2



31/03/2022

RE: SECTION 5 REFERRAL - PLANNING REFERENCE R22-13 – EIRCOM LTD

Is the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare, considered to be development and if so, is it exempted development?

Dear Sir or Madam,

I refer to your Request for Further Information dated 08/03/2022.

Please find attached two copies of an updated *Screening Report to Inform Appropriate Assessment*, which was prepared by Hibernica Ecology and addresses the issues of concern outlined in your previous correspondence.

If the Planning Authority requires any further information, please do not hesitate to contact me.

Yours faithfully

A handwritten signature in blue ink, appearing to be 'Kieran Tarpey'.

KIERAN TARPEY MIPI, MRTPI

Entrust Limited

on behalf of Eircom Limited T/A Eir Mobile

E: kieran@entrust-services.com

PH: 091 432 510

Enclosures:

1. Screening Report by Hibernica Ecology (two copies)



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Registered Post

Kieran Tarpey
Entrust Limited
Unit 1D, Deerpark Business Centre
Oranmore
Co. Galway
H91 KHX0



Your Client: Eircom Limited.

08/03/2022

Section 5 referral Reference R22-13 – Eircom Limited.

Is the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare, considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 18th February 2022 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

In accordance with Article 9(i)(a)(viiB) of the Planning and Development Regulations 2001 (as amended) development shall not be exempted development if carrying out such development would:

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

National Parks and Wildlife Service (NPWS) identifies features such as overhead lines as 'pressures' which are likely to cause disturbance at Hen Harrier sites. The 'Screening Report to inform Appropriate Assessment' submitted in support of the referral is noted. However there are a number of key issues that have not been satisfactorily addressed, namely:

- Hen Harrier habitat in the wider vicinity of the site has not been considered and known flight paths have not been identified.
- The risk of collision with the proposed overhead cable has not been assessed

An Roinn Pleanála
An Stiúrthoireacht Forbairt Ghilleagrach
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
Economic Development Directorate
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2





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- The potential for the cable to create a barrier effect/risk has not been considered
- Potential for disturbance to wider breeding/foraging habitat must be assessed.

In the absence of detailed assessment of these issues, the Planning Authority, as the competent authority with regard to the appropriate assessment process, has been unable to reach a determination that the proposed development will not have a significant effect on the Slieve Aughty Mountains SPA.

An updated *Screening Report to Inform Appropriate Assessment* is required, prepared by a suitably qualified ecologist, addressing the issues of concern outlined above.

In the event that significant effects cannot be ruled out and a full Natura Impact Statement of the proposed development is required in line with Article 6(3) of the EC Habitats Directive 1992, planning permission for the proposed development must be sought in accordance with Section 34 of the Planning and Development Act 2000 (as amended).

Mise, le meas

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúrthóireacht Forbairt Ghilleagrach
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
Economic Development Directorate
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



In response to the Request for Further Information issued by Clare County Council (R22/13; 8th March, 2022) the Screening Report to inform the Appropriate Assessment process has been updated to incorporate additional information relating to a number of queries identified, specifically with regard to Hen Harrier populations in the Slieve Aughty Mountains SPA.

The AA Screening Report has been prepared by Daireann McDonnell (B.Sc., M.Sc.), principal ecologist with Hibernica Ecology Ltd. He has over 20 years' experience in environmental and ecological consultancy, and has extensive species-specific avifauna survey and impact assessment experience relating to raptors and wintering wildfowl interactions with wind energy, overhead grid connections and national infrastructure projects.

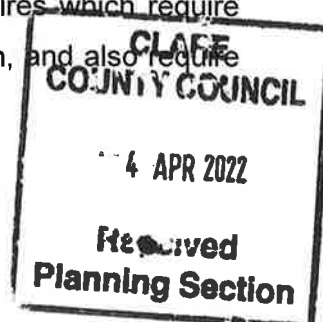
With regard to the queries raised by Clare Co. Co., the following summary responses are provided here, and are addressed further in the AA Screening Report to inform the Planning Authority, as the competent authority, in completing its Determination for Appropriate Assessment.

- 1. Hen harrier habitat in the wider vicinity of the site has not been considered and known flight paths have not been identified.*

Response: Hen harrier habitat within the Slieve Aughty Mountains SPA and adjacent land areas has been provided in the AA Screening Report; informed by field survey in December 2021, as well as the 'Hen Harrier Special Protection Area (SPA) Habitat Mapping Project 2014' dataset (Moran & Wilson-Parr, 2015). The AA Screening Report provides an evaluation of the importance of habitats within the zone of influence of the proposed project alignment route along the existing road corridor. Taking account of the nature of the proposed development (with reference to its size, scale, alteration of the baseline condition), comprising an overhead Eir fibre cable line along the existing road corridor, following the route of existing Eir telephone lines along the road corridor, it was not considered that vantage point surveys and flight path mapping would be required in this instance. The proposed project does not comprise the nature, scale or impact significance associated with overhead cables such as 110 kV or 220 kV lines required by Eirgrid, or grid connections for the wind energy sector.

- 2. The risk of collision with the proposed overhead cable has not been assessed.*

The risk of collision and susceptibility of Hen harrier to collision with overhead wires has been assessed based on the limited data available in published literature, taking account of the evaluation of the proposed project as a 'pressure'. This is evaluated in the context of the proposal, differentiating the overhead line along the road corridor where existing overhead lines occur, as opposed to identified pressures of overhead electricity wires which require multiple lines, traverse open countryside potentially causing fragmentation, and also require vegetation clearance and management within their wayleave.



3. *The potential for the cable to create a barrier effect / risk has not been considered.*

The proposed overhead line follows the corridor of the public road, and will be constructed from within the road corridor and immediately adjacent verge. There is an existing overhead telephone line along this road corridor and a 110 kV line along a portion of the route. The proposed fibre cable to provide broadband service will not cumulatively interact with the telephone line or overhead cables, as it is considered that this project will be assimilated into the baseline. Hen Harrier flight paths and use of agricultural grassland to the south of the road corridor will have already acclimatised, or adapted to the presence of the existing overhead lines along the road corridor. The existing overhead telephone line and the proposed fibre cable are within the context of the road corridor and the existing treeline which will likely encourage birds to overfly rather than try to pass through at cable height.

4. *Potential for disturbance to wider breeding / foraging habitat must be assessed.*

Breeding habitat for Hen harrier is predominantly in rough heath and heather, with conifer plantation providing suitable nesting sites. However, from on-going national survey trends for this species, it is becoming evident that the sustainability of nesting within commercial conifer plantations is problematic. Breeding habitat for this species is predominantly to the north of the road corridor in heath habitat. Habitats to the south of the road corridor predominantly lie outside of the SPA and are dominated by improved agricultural grassland and wet grassland. These habitats do provide suitable foraging for this species, *ex situ* the SPA; however, the presence of the proposed overhead cable along the road corridor, recognising the presence of the road corridor and existing telephone pole and cable arrangement at this site, preclude the potential for any significant disturbance effect on Hen harrier movement between breeding and foraging sites.

Screening Report to Inform Appropriate Assessment



Project: Eir Aerial Fibre Cable Network, Caher Cross to Cloonagh, Co. Clare

Date: 03 April, 2022

Prepared by: Hibernica Ecology Ltd.

On behalf of: Entrust Planning and Environmental Ltd.

- The pole must be in a vertical position, viewed from all angles when load is applied. Subject to the minimum depths detailed below, the depth at which a pole shall be placed in the ground varies with the character of the soil and the site conditions. Under average conditions, poles must be placed to a minimum depth of from 1.5 metres to 1.7 metres, according to their length and site conditions.

Pole siting and specification

The proposed aerial fibre cable installation will use medium poles and shall be positioned with a target span length of not more than 50 metres. Holes will be dug with the minimum of ground disturbance. The base of any hole will be punned sufficiently to ensure a solid base for the pole to stand on and care taken to avoid damage to any services, cables, pipes etc. in the area.

The back-filling around the pole must be completed by stoning all around the butt and 200mm below the ground line. Each layer of stones and in-fill material will be firmly compacted using punners. Clause 804 (i.e. stone plus aggregate granular material, as defined by the Department of the Environment) is considered to be a suitable back-filling material, where pole hole has been dug by auger. Permanent reinstatement will be carried out in accordance with the Specification of the Local Authorities.

2.2 Description of the Receiving Environment

An ecological site survey, including a Phase 1 habitat survey of the proposed route alignment was carried out on December 11th, 2021. The proposed aerial cable route is located entirely along the corridor of the Caher to Cloonagh tertiary road, extending west from the junction with the R461.

The works area is characterised as rural, predominantly agricultural pasture (GA1) and wet grassland (GS1) in the wider landscape. Habitats along the road margin include hedgerow (WL1), treeline (WL2) and earth banks (BL2), with a number of private residences and farm entrances off the public road. The proposed cable route along the existing road corridor follows the existing alignment of the telephone pole and overhead line network, as well as an existing 110 kV line at the western end of the route. In this context the proposal does not create an additional linear overhead feature within the study area; rather it is assimilated in the context of the existing road and overhead line network at this location. The potential for the proposed overhead line to interact alone or cumulatively with regard to sensitive receptors is evaluated in the impact assessment section of this report. Representative photographs from the site survey are presented below.

Datasets from the National Biodiversity Data Centre (<https://maps.biodiversityireland.ie/Map>) were searched for records of ecological sensitivities associated with any European Site within a radius of approximately 200m of the proposed works area along the road corridor route. No records were generated, other than the presence of *Rhododendron*, an invasive plant species. This species was not recorded from within the road corridor of the proposed cable route. A wider search of the study area to include the 2km grid squares intersecting

with the proposed route identified records of both Hen harrier *Circus cyaneus* and Merlin *Falco columbarius*, both of which were associated with general historic records for the Bird Atlas 2007 – 2011. However, it is noted that both of these species are listed as special conservation interests of the Slieve Aughty Mountains SPA, which overlaps with the proposed works area. The site synopsis for this SPA is included in Appendix 1.

2.3 Surface watercourses

A review of EPA river routes data (<https://gis.epa.ie/EPAMaps/>) identifies three minor watercourses crossed by the public road within the proposed route alignment; all of which are first order headwater tributaries of the Graney River (EPA Code: 25G04). The Graney River flows to Lough Graney, to the east, which is designated within the Slieve Aughty Mountains SPA. The installation of poles or erection of the fibre cable by hand will not require works within any surface watercourses identified on or adjacent to the site. All watercourses are culverted beneath the existing public road and will not be affected by the proposed works.

Representative Photographs from the site survey (December 11, 2021).



Plate 1. View west along the public road from the junction with the R461. Treeline habitat lines the road, providing an overflight pattern to which Hen harrier will be habituated



Plate 2. View east to the R461 junction and the terminal end of the fibre cable route.



Plate 3. The cable route follows the road corridor due west. The road margin is characterised by treelines and earth banks. Treelines create habituation to overflight in accessing lands to the south (left) of the road.



Plate 4. Occasional private residences and farm entrances occur along the route corridor. Existing pole and overhead cable line visible along the southern side of the corridor, where the proposed line will be installed.



Plate 5. In parts the road corridor is narrow, between high earth banks, deciduous treelines present.



Plate 6. View west towards the terminal end of the route. Rough pasture and agricultural grassland dominate. Coniferous plantation and wet grassland to the north of the road (right of image). Existing overhead electricity line traverses the road corridor here.



Plate 7. The terminal (western) end of the route, at an entrance to a conifer plantation.



Plate 8. View east from the terminal western end of the route. Existing poles and ESB powerlines visible along the road corridor, on the southern side of the road (right of image). This is the same side where the proposed fibre cable will be strung.

3 SCREENING ASSESSMENT

3.1 Introduction

This stage of the process identifies any likely significant effects upon European Sites from the proposed works, either alone or in combination with other projects or plans. The Screening Assessment is progressed in order to determine: whether the proposal can be excluded from AA requirements because it is directly connected with or necessary to the management of a European site; and whether the proposal has the potential to give rise to significant effects on a European site, either alone or in combination with other projects or plans, in view of the site's conservation objectives or conversely, that the potential for significant effects cannot be excluded. In the instance of this proposal, it is not directly connected to or necessary for the management of any European site, therefore the potential for significant effects must be evaluated.

3.2 Identification of Relevant European Sites

A standard source-receptor-pathway conceptual model was used to identify a preliminary list of 'relevant' European sites (i.e. those which could be potentially affected due to connectivity via impact pathways). This conceptual model is a standard tool in environmental assessment and follows the current OPR (2021) guidance for AA Screening. In order for an effect to occur, all three elements of this mechanism must be in place. The absence or removal of one of the elements of the mechanism means there is no likelihood for the effect to occur. In the context of the proposed works, the model comprises:

- Source(s) – e.g. noise disturbance, physical structures, habitat loss, pollution.
- Pathway(s) – e.g. drains and streams connecting to European Sites; increased human activity; creation of barriers to movement/migration.
- Receptor(s) – Qualifying habitats and species of European Sites.

The designated European Sites identified in the wider 15km buffer of the proposed development are presented in Figure 2, in line with published guidance (NPWS, 2010). Potential pathways for impacts affecting European Sites outside of this buffer were also evaluated; however, given the size and scale of the proposed cable alignment, within and adjacent to the existing road corridor, no pathways for effects at this extent were identified.

It is vital that an assessment of potential source-pathway-receptor links is undertaken to assess potential impact links between the receptor (European Sites) and source (proposed development) to establish the risk of any likely significant effects. Taking account of the most recent guidance published by the OPR (2021), the zone of influence of the proposed works are evaluated with regard to the scale of impacts of the proposal and identification of connectivity pathways to any European Sites. There is a requirement to consider hydrological connectivity (surface water and groundwater), and a recommendation to evaluate designations within a 5km radius. Therefore, in the context of this project although there are European Sites within a wider 15km radius (NPWS, 2010), only those sites within a

5km radius (OPR, 2021) are considered with regard to the potential for significant effects (Table 2), in the absence of impact pathways in the wider buffer zone.

No additional SPA or SAC sites were considered to be within the zone of influence following this process. Additional designated sites including proposed Natural Heritage Areas (pNHA's), Natural Heritage Areas and RAMSAR sites were also reviewed, as they often provide important supporting functions to European Sites. Information collected on the sensitivity of the Qualifying Interests / Special Conservation Interests (i.e. the stated Conservation Objectives) of each European Site identified in Table 2 was assessed with reference to the proposed development, including any likely significant effects from the construction and operation.

There are two European sites within approx. 5km of the proposed works (Table 2):

- Glendree Bog SAC (site code: 001912) is designated for the conservation of an upland blanket bog, located approximately 2 km due west of the fibre cable route.
- Slieve Aughty Mountains SPA (site code: 004168) is a very large, predominantly upland site designated for the conservation of two Annex I listed bird species: Hen harrier and Merlin. This designation overlaps with the public road corridor within which the proposed works will be undertaken (see Figure 3).

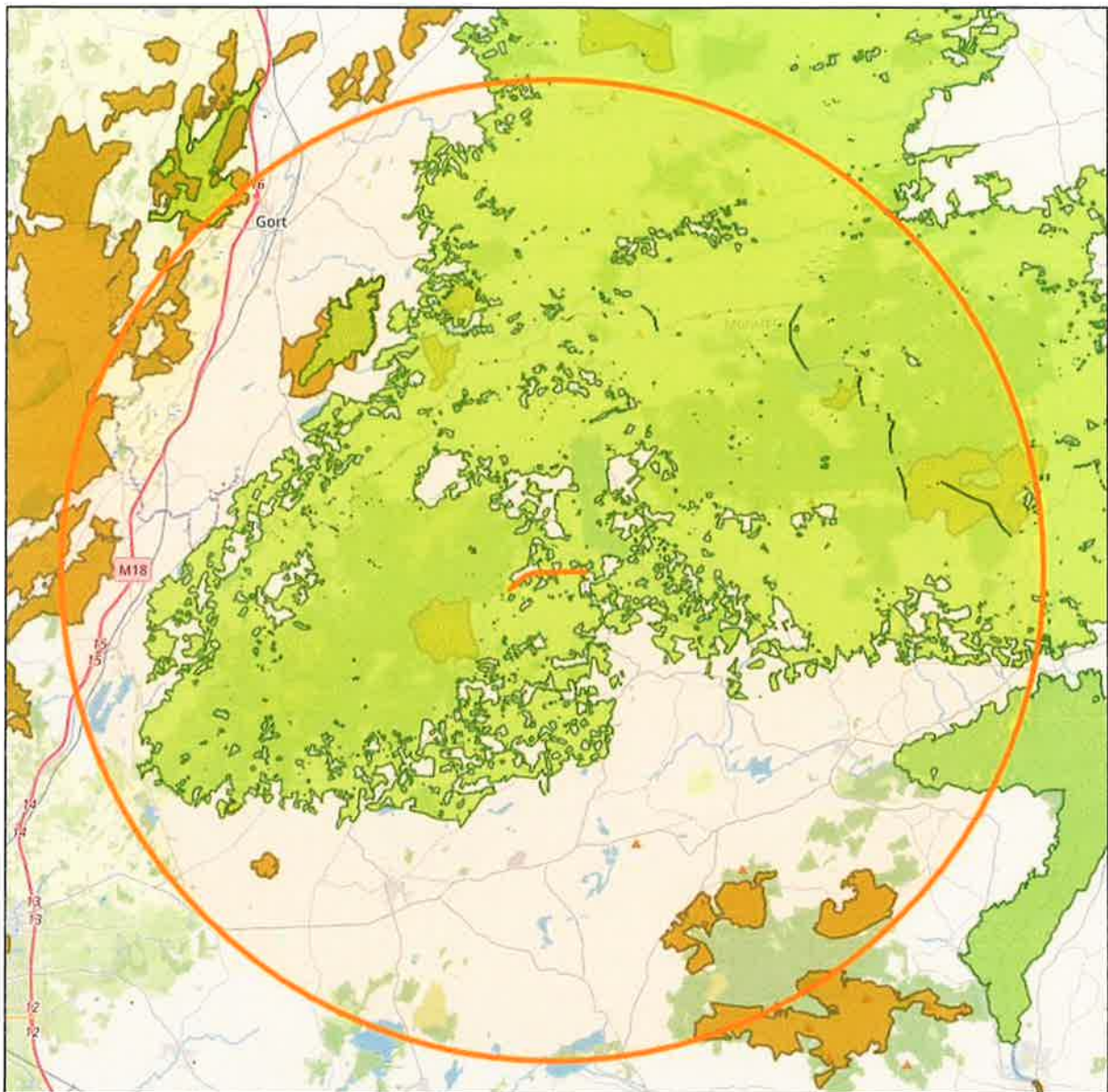


Figure 2. Designated European Sites within a 15km buffer of the proposed fibre cable route (orange line, approx. 2.9 km length).

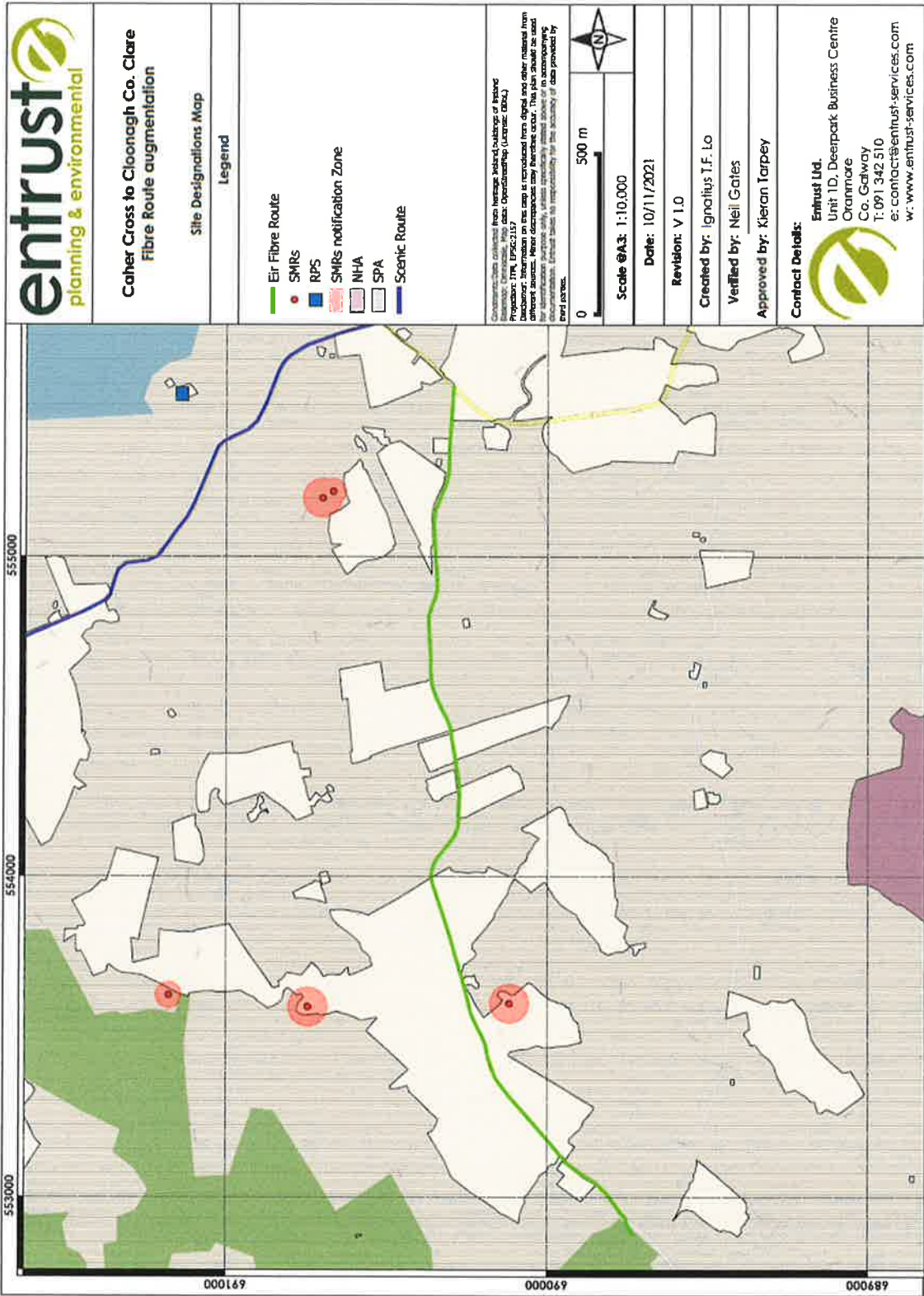


Figure 3. Proposed fibre cable route (green line) along the existing road alignment, partially within the Slieve Aughty Mountains SPA (grey shading).

Table 2 European Sites within the 5km zone of influence of the proposed works

Site Name	Distance To (km)	Qualifying Interests (* denotes a priority habitat)	Conservation Objectives	Pathways for Connectivity
Glendree Bog SAC 001912	2.8	7130 Blanket bogs (* if active bog)	http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO001912.pdf	No. Based on the scale and extent of the development, and in the absence of any hydrological connectivity, there are no pathways or potential connectivity for impacts identified between the proposed works and this designated site. There is no interaction between the proposal and the terrestrial upland peat habitats listed as qualifying interests of this SAC.
Slieve Aughty Mountains SPA 004168	0.0	A098 Merlin (<i>Falco columbarius</i>) A082 Hen Harrier (<i>Circus cyaneus</i>)	http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004168.pdf	Yes. The proposed works are located within and adjacent to this SPA site boundary. The works within the existing public road corridor are adjacent to three minor first order watercourses which are hydrologically connected to Lough Graney, which is also designated within this SPA. Taking account of the scale and extent of the proposed works, the potential for effects requires assessment in view of these connectivity pathways. This is detailed further in the current report.

3.3 Potential for Significant Effects on European Sites

Assessment of the likely effects direct and indirect of the proposed project was undertaken by carrying out an ecological field survey of the proposed site, desktop review, and consideration of the information pertaining to the conservation objectives of the European Sites for which pathways for potential impacts occur. It is vital that an assessment of potential source-pathway-receptor links is undertaken to assess potential impact links between the receptor (European Sites) and source (proposed development) to establish the risk of any likely significant effects.

This Screening Assessment follows the OPR (2021) guidance and utilises the information collected on the sensitivity of the qualifying interests or special conservation interests of each European Site and describes any likely significant effects from the construction, operation and decommissioning stages of the proposed development. This assumes the absence of mitigation measures with the exception of those incorporated in the design stage as specified in the project proposal. The Screening Assessment identifies the likelihood of significant effects arising from the proposal, both in isolation and potentially in combination with other plans or projects, with specific regard to the Slieve Aughty Mountains SPA (Table 3).

Table 3. Screening Assessment for the proposed fibre cable installation, based on OPR (2021).

Description of the project / the project / proposal	Description of the project / proposal and local site characteristics
Brief description of the works area / site	<p>Erection and installation of fibre cable and associated poles along the existing tertiary road corridor from Caher to Cloonagh townlands, Co. Clare. Existing telephone poles will be used, as well as new pole erection to facilitate the cable. The route extends approx. 2.9 km due west from the junction with the R461. Works will be undertaken following standard works specifications from the public road, no additional access or landtake is required.</p> <p>An ecological survey was undertaken of the proposed route in December 2021. Additional ecological data pertaining to the study area was gathered during a desk study exercise to inform the AA Screening Report. The study area is predominantly rough agricultural pasture, with hedgerow, treeline, residential dwellings and farm yards. No habitats or species protected under Annex I or Annex II or the EU Habitats Directive or the EU Birds Directive were recorded within the proposed work location. There are no records of flight paths or any recent meaningful records to inform movements of Hen harrier within the proposed works corridor, based on the desk study information. The works are located within the public road which overlaps with the Slieve Aughty Mountains SPA site boundary.</p> <p>The western terminal end of the route is at a junction with a commercial coniferous forestry track which connects to the public road. Lightly grazed heath/bog with some scrub is the most suitable habitat mix for nesting Hen Harrier. This habitat is predominantly located in upland areas to the north. Lowland tillage, in combination with open heath/bog and rough grasslands is important for both foraging and roosting outside the breeding season, which is of course the majority of the year. Hedgerows are also important, providing foraging networks throughout the year. Habitat loss, fragmentation, and degradation due to agricultural intensification or abandonment have already significantly reduced the availability and quality of unenclosed heath/bog and open grazed wet grassland habitats in areas important for breeding Hen Harrier in Ireland, and there are real concerns about the low survival of young Hen Harriers. 'Linear features' was a new foraging habitat category added in the National Hen Harrier Survey (Ruddock <i>et al.</i>, 2016), to which a small number of records were assigned (1.2%) which included birds utilising drainage channels, hedgerows, forest rides and open habitat corridors containing power-lines. It is noted that the references to power-lines relate to wind-energy and 110/220kV lines associated with grid connections and Eirgrid / ESB networks which require cleared corridors within afforested areas. This is not equivalent to the proposed project, which comprises the installation of an overhead cable along the existing road corridor, where existing telephone cables exist already. Furthermore, the recorded usage of linear corridors by Hen harriers is very low at 1.2%. This provides an indication of the sub-optimal importance of the existing road corridor and telephone line corridor within the footprint and works area of the proposed project.</p> <p>Hen Harriers in Ireland are frequently associated with young (i.e. pre-thicket) conifer plantations that provide them with areas for nesting and foraging. Caravaggi <i>et al.</i> (2020) identifies pressures associated with anthropogenic impacts such as afforestation and forest management, agricultural management including landscape degradation, land-use change, livestock grazing and illegal burning, peat extraction, recreation, and wind energy development which could have important implications for breeding Hen Harriers in Ireland. Hen harrier SPA sites have yet to be attributed management plans, over a decade on from designation in 2007. The draft Hen Harrier Threat Response Plan, initiated by the National Parks & Wildlife Service, in response to a requirement from the European Commission, has yet to be finalized.</p>

	<p>The suitability of breeding habitat for the two SCI species listed for the SPA within or directly adjacent to the proposed works area is evaluated as low. The road corridor follows parallel to the contours, with suitable upland habitat to the north, and lands at lower elevation to the south, dominated by agricultural landuse. The wet grassland and improved agricultural grassland provide suitable foraging habitat for both species, including foraging habitat for Hen harrier. Mapping of habitat suitability is presented in Figure 4 below, taken from the 'Hen Harrier Special Protection Area (SPA) Habitat Mapping Project 2014' dataset (Moran & Wilson-Parr, 2015). No potential habitat for these species will be lost within the footprint of the works, where the footprint overlaps with the SPA boundary; with regard to the requirements set out in the Bunkimalla case (ECJ, 2018). The upland habitats to the north of the road corridor are fully within the SPA, and are dominated by coniferous forestry, heath and wet grassland; comprising better habitat for Hen harrier breeding and foraging.</p> <p>The proposed works will be undertaken by Eir. Due to the minor scale of the proposed works and given that no in-stream works will take place, it was determined that consultation with prescribed bodies was not required, subject to the findings of this AA Screening. However, the Screening assessment will require review by Clare Co. Co. planning section, in view of the Section 5 application.</p>
Prescribed bodies consulted (NPWS, EPA, OPW, IFI, etc.)	N/A
Consultation responses	

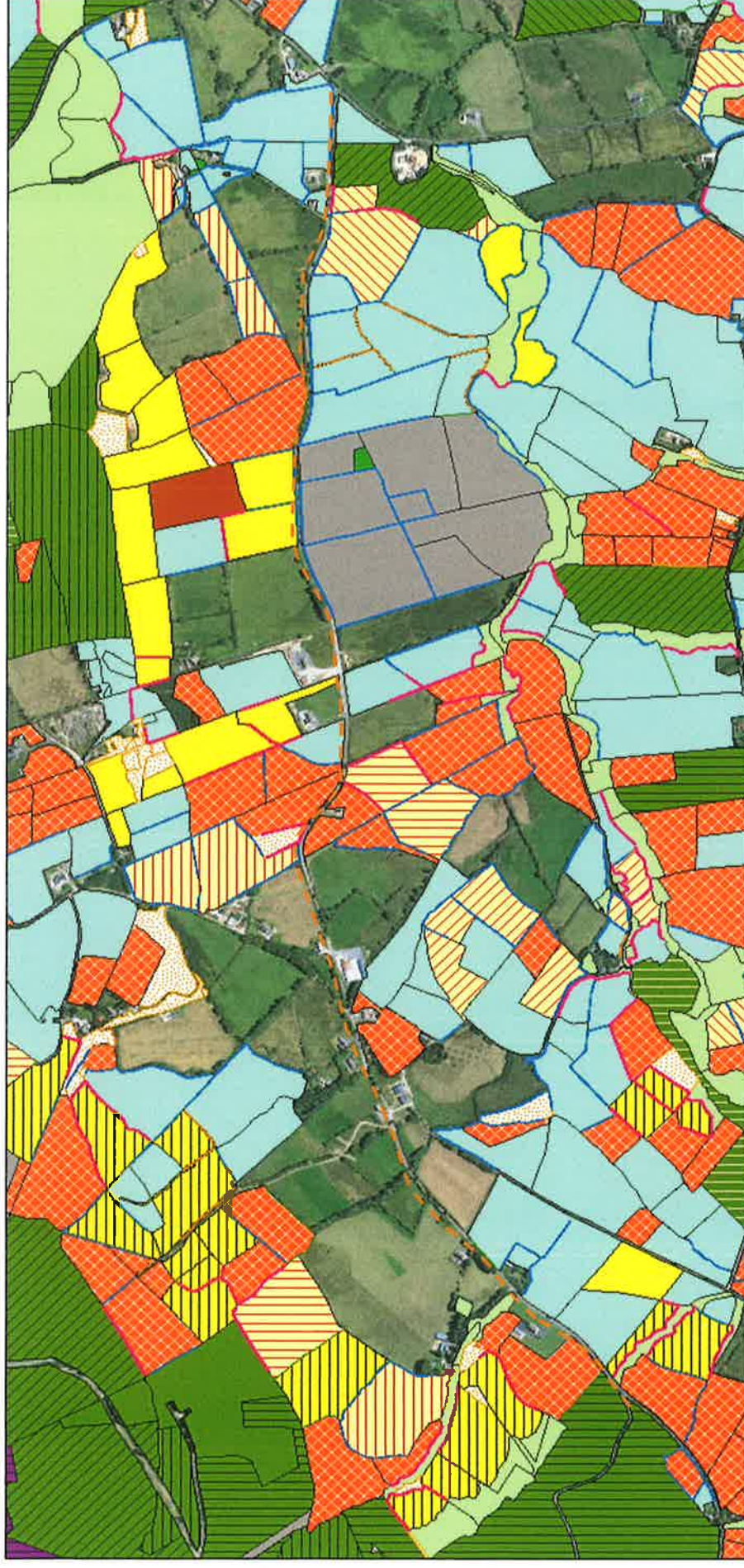


Figure 4. Proposed fibre cable route (dashed orange line) along the existing road alignment. Hen harrier habitats within the Slieve Aughty Mountains SPA include improved agricultural grassland (light blue), wet grassland/*Juncus* cover (red hatching), dry grassland (yellow) and heath mosaic (grey). From: Hen Harrier Special Protection Area (SPA) Habitat Mapping Project 2014.

Assessment of Likely Significant Effects

(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:

Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
<p>Construction phase e.g.: Vegetation clearance, Demolition, Surface water runoff from soil excavation/ infill/ landscaping (including borrow pits) Dust, noise, vibration Lighting disturbance Impact on groundwater/ dewatering Storage of excavated/ construction materials Access to site Pests</p>	<p>The proposed development is located within the public road corridor, which overlaps fully and partially within and adjacent to the Slieve Aughty Mountains SPA site boundary. There are no other European Sites identified for which connectivity exists to the proposal, with regard to the size and scale of the proposed works and impact pathways potentially arising.</p> <p>Potential construction phase impacts are restricted to works from within the existing corridor of the public road and are limited to installation of poles and erection of fibre cable by hand. The scale of the works are highly unlikely to have an effect on the special conservation interests of the stated conservation objectives of the Slieve Aughty Mountains SPA, with specific reference to the limited duration and minor disturbance arising in the context of the baseline human activity along the road corridor. There will be no disturbance impacts of any duration or magnitude which would have the potential for significant effects on breeding or foraging habitat for Hen harrier in the SPA, within the zone of influence of the proposed construction works, or in the wider study area <i>ex situ</i> the SPA.</p> <p>Three minor first-order watercourses are crossed by the road corridor, with culverts in place. There are no works associated with the fibre cable route requiring any instream works, or works directly adjacent to or impacting on these watercourses. There are no impact pathways identified via these minor watercourses which would have the potential to give rise to significant effects on water quality or aquatic ecology in the Graney River, which could give rise to impact pathways affecting the SCIs of the SPA in the wider context. This is also with recognition of the two bird species listed as SCIs being birds of prey and not associated with feeding, foraging or breeding in the aquatic environment.</p> <p>Based on the scale and extent of the development, there are no impact pathways in the local context which would have the potential to give rise to significant effects on the Slieve Aughty Mountains SPA, in view of the sensitivities of the SCIs for this European Site and their conservation objectives.</p> <p>There is no reference to overhead cables, overhead lines and collision risk in the draft Hen Harrier Threat Response Plan (NPWS, 2021). Most frequently recorded pressures in the Slieve Aughty Mountain were paths, tracks, cycling tracks including non-paved forest roads; uncontrolled burning; utility & service lines and forest and plantation management and use. These pressures reflect a wide range of issues including recreation, land management, infrastructure development and forestry management. The risk of direct collision with wind turbine rotors was found to be low by Ruddock <i>et al.</i> (2016).</p> <p>The placement and orientation of overhead power lines relative to bird flight lines is an important factor affecting collision risk. Power lines which cross migratory flight paths or regular daily commuting routes used by birds pose a</p>
<p>Operational phase e.g.: Direct emission to air and water Surface water runoff containing contaminant or sediment Lighting disturbance Noise/vibration Changes to water/groundwater due to drainage or abstraction Presence of people, vehicles and</p>	

<p>activities Physical presence of structures (e.g. collision risks) Potential for accidents or incidents</p>	<p>higher risk than those running parallel to flight paths. It is noted that the proposed development is not an overhead power line, rather it is a fibre cable, strung on the existing telephone poles and requiring some additional pole placement along the route. There is a distinct difference in height and strike potential given that the proposal does not cross open countryside, is along the existing road corridor in the context of the existing telephone line cable and is also predominantly associated with treeline habitat which will generally result in an overflight scenario for Hen harrier. This species is likely habituated to flying over the road and associated cables and treelines along this corridor, thus precluding the potential for any significant cumulative effects of the proposal which will be in line with the baseline environment, not additive in the sense of increasing barriers to or fragmentation of foraging or breeding habitat.</p> <p>It has been reported that raptors and owls are not generally prone to collision with power lines in Europe. These species are generally highly manoeuvrable, with a low wing loading, do not generally fly in large flocks, and have good forward vision. An investigation of the causes of death of recovered ringed birds in Britain and Ireland (Rose and Baillie, 1992), indicated that raptors are susceptible to collisions with power lines; however, it is noted that there are no records or references to additional collision risk with telephone or road corridor overhead lines available in the Irish context in the intervening 30 years. Furthermore, the distinction with regard to flight height and collision risk between overhead power lines (110 / 220 / 440 kV) and the current proposal is reiterated, where the proposal is along the existing road corridor and in line with the existing baseline condition.</p> <p>Ruddock <i>et al.</i> (2016) tentatively identified a positive association, although this was not statistically tested, and supported by behavioural observations, that habitat management (i.e. clearance) for power line infrastructure may provide corridors for movement and foraging by hen harriers within the forested landscape. The use of such corridors could prove useful to increasing connectivity with suitable nesting and foraging areas and particularly linking forested areas with open habitats which are shown to be used more frequently in Ireland (Ruddock <i>et al.</i>, 2016). However, it is noted that the proposed overhead line will not require clearance of land or any maintenance of a wayleave, precluding the increase in foraging usage, but also minimizing the potential for interactions resulting in potential collisions.</p> <p>Once completed, there will be no operational stage activities associated with the proposed fibre cable along the existing road corridor, and no significant change to the receiving environment will occur as a result of the cable along the route, given that it is installed within the context of existing telecoms and electrical aerial cables along the road corridor. As such no potential operational stage impacts are predicted which would have the potential to give rise to significant effects on the SCIs for the Slieve Aughty Mountains SPA.</p> <p>The proposed fibre cable route is within and directly adjacent to the public road corridor. When considered individually or together with the existing road, the proposal will not result in effects to the conservation objectives of any European site, due to the absence of impact pathways; therefore there are no cumulative impacts anticipated.</p>
<p>In-combination/Other</p>	<p>The proposed fibre cable route is within and directly adjacent to the public road corridor. When considered individually or together with the existing road, the proposal will not result in effects to the conservation objectives of any European site, due to the absence of impact pathways; therefore there are no cumulative impacts anticipated.</p>
<p>(b) Describe any likely changes to the European site(s) in view of the conservation objectives</p>	<p>Examples of the type of changes to give consideration to include: Reduction or fragmentation of</p>
<p>The breeding Hen Harrier population in the Slieve Aughty Mountains SPA has more than halved from 27 territorial pairs at designation. There were seven confirmed breeding pairs recorded during surveys in 2021 and one possible pair, a slight increase on 2019 and 2020. Recent monitoring shows that few nests successfully fledged young in this SPA. The 2021 breeding season was another poor year in terms of productivity with just three successful pairs</p>	

<p>habitat area; Disturbance to QI species; Habitat or species fragmentation; Reduction or fragmentation in species density; Changes in key indicators of conservation status value (water or air quality etc.); Changes to areas of sensitivity or threats to QI; Interference with the key relationships that define the structure or ecological function of the site.</p>	<p>fledging a total of four young. A significant pressure on Hen Harrier in this SPA is the direct and indirect effects of habitat loss and fragmentation. The extent and age profile of the forest plantations in the SPA may be leading to an increased vulnerability to predation. Forestry activities along with recreational traffic are regularly observed near nests and pose an ongoing risk of disturbance (NPWS, 2021). The Conservation Objectives for this SPA remain as generic COs (NPWS 2022), as follows: The favourable conservation status of a species is achieved when:</p> <ul style="list-style-type: none"> • population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and • the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and • there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis. <p>The works are located within the Slieve Aughty Mountains SPA; however, the nature of the works do not give rise to any footprint impacts which could result in the loss of existing or potential habitat for the SCI species. There will be no change to the structure or function of the supporting habitats or management requirements of the SPA. There are no elements of the works which could significantly affect the density or key indicators of conservation status for either Hen harrier or Merlin, in view of the conservation objectives. The size and scale of the proposal, in the context of the existing baseline environment, which includes the road corridor, treelines and existing telephone line cables. There is no increase in habitat fragmentation and no increased risk of collision identified as a result of the installation of additional poles and erection of the fibre cable along the proposed route. No impact pathways with regard to hydrological pathways are identified via water quality impacts downstream.</p> <p>Taking account of the location, size and scale of the proposal, recognizing that there are no watercourses impacted by the proposed works there are no pathway for effects to the SCIs of the Slieve Aughty Mountain SPA, or any other European sites within the zone of influence of the proposed works. No changes to any European site will occur.</p> <p>(c) Are mitigation or protective measures necessary to reach a conclusion that likely significant effects can be excluded based on scientific evidence? Yes / No</p> <p>No.</p> <p>In the absence of impacts requiring amelioration, mitigation measures or protective measures are not required.</p> <p>Step 4. Screening Determination Statement</p> <p>The assessment of significance of effects: Describe how the proposed development (alone or in-combination) is/is not likely to have significant effects on European site(s) in view of its conservation objectives.</p> <p>An assessment of connections between the proposed works and all European sites has demonstrated, in light of best scientific knowledge, that the proposed works will not give rise to ecological impacts which would constitute significant effects on any site, with particular reference to the Slieve Aughty Mountains SPA and the Conservation Objectives for this site. This finding had regard to the nature, size and location of the proposal and the sensitivities of the special conservation interests of the sites SPA.</p> <p>In particular, no potential for significant effects are identified with respect to the closest European Site (Slieve Aughty Mountains SPA), either alone or in</p>
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combination with other plans or projects. There are no elements of the project which could interact with the special conservation interests of this very large SPA complex via impact pathways, no potential for significant effects arising via any such impact pathways are identified. There is no potential for impacts to extend beyond the proposed works via hydrological connectivity which could give rise to significant effects on any European Site.

Conclusion:		
	Mark (x) as appropriate	Recommended Action
(i) It is clear that there is no likelihood of significant effects on a European site.	X	The proposal can be screened out:
(ii) It is uncertain whether the proposal will have a significant effect on a European site.		Appropriate assessment not required. No action required.
(iii) Significant effects are likely or cannot be excluded		No action required.

4 CONCLUSION STATEMENT

The proposed project has been assessed taking into account:

- the nature, size and location of the proposed project and the associated works and possible impacts arising from same;
- the qualifying interests (QIs) and special conservation interests (SCIs), conservation objectives and conservation status of any European Sites within the zone of influence;
- the potential for impacts arising from the works on any European Sites; and
- the potential for cumulative impacts

The proposed fibre cable route and associated pole erection along the corridor of the existing tertiary road between Caher and Cloonagh, Co. Clare is located within and directly adjacent to the Slieve Aughty Mountains SPA. There is no connectivity identified to any other designated European Site. The Appropriate Assessment screening process considered the potential for significant effects which may arise during the construction and operational phases of the development with regard to the installation of the aerial cable along the existing road corridor, in view of the existing telecoms cables, electricity infrastructure and associated pole infrastructure in place along the same road corridor.

This assessment comprised an evaluation of the pathways for effects on the qualifying interests of designated European Sites, with reference to the location, size, scale, and duration (construction and operation) associated with the proposal. The impact assessment takes account of the installation processes involved, the isolated nature of the construction restricted to within and directly adjacent to the existing road corridor and the operation phase which is in line with baseline conditions. Pathways for impacts on the Slieve Aughty Mountains SPA were evaluated to determine that there are no likely significant effects on the special conservation interests of this designation with particular regard to habitat loss, or barrier effects impacting on the breeding or foraging capacity of the Annex I Hen harrier which occurs within the wider study area of this project.

No potential for significant effects are identified with respect to the Slieve Aughty Mountains SPA, either alone or in combination with other plans or projects. Taking account of the location, size and scale of the proposed works, and the landscape character of the existing baseline environment, there are no elements of the project which could interact with the special conservation interests (Hen harrier and Merlin) of this SPA via impact pathways; therefore there is no potential for significant effects arising with regard to the conservation objectives of this European site. There is no hydrological connectivity identified along the route which could interact with impacts arising from the proposed works which could give rise to potential downstream effects on any European Site. Therefore, taking account of the nature and specific installation methods required for the proposed works, the potential for significant effects via hydrological impact pathways are excluded.

It is concluded that there are no likely potential impacts, whether direct, indirect or cumulative/in-combination, which could give rise to significant effects on the qualifying interests or special conservation interests of any designated European Site, in view of their conservation objectives. Consequently, this proposal does not require Appropriate Assessment process and can be screened out.

5 REFERENCES

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APPENDIX 1 – SLIEVE AUGHTY MOUNTAINS SPA SITE SYNOPSIS

Site Name: Slieve Aughty Mountains SPA

Site Code: 004168

The Slieve Aughty Mountains SPA is a very large site that extends southwards from just south of Lough Rea, County Galway to Scariff in County Clare. The peaks are not notably high or indeed pronounced; the site rises to a maximum 400 m at Maghera west of Lough Graney. The site includes many small- and medium-sized lakes, notably Lough Graney and Lough Atorick; several important rivers rise in the site, including the Owendalulleagh and Graney. Lough Derg occurs immediately to the south-east. The Slieve Aughty Mountains are predominantly comprised of Old Red Sandstone, but outliers of Lower Palaeozoic rocks provide occasional outcrops capping the hills.

The site consists of a variety of upland habitats, though approximately half is afforested. The coniferous forests include first and second rotation plantations, with both pre-thicket and post-thicket stands present. Substantial areas of clear-fell are also present at any one time. The principal tree species present are Sitka Spruce (*Picea sitchensis*) and Lodgepole Pine (*Pinus contorta*). Almost one-third of the site is unplanted blanket bog and heath, with both wet and dry heath present. Well-developed blanket bog occurs at several locations, notably Sonnagh, Loughatorick South and Glendree. The vegetation is characterised by such species as Ling Heather (*Calluna vulgaris*), Bilberry (*Vaccinium myrtillus*), Common Cottongrass (*Eriophorum angustifolium*), Hare's-tail Cottongrass (*Eriophorum vaginatum*), Deergrass (*Scirpus cespitosus*) and especially Purple Moor-grass (*Molinia caerulea*). Bog mosses (*Sphagnum* spp.) are well-represented. The remainder of the site is mostly rough grassland that is used for hill farming. This varies in composition and includes some wet areas with rushes (*Juncus* spp.) and some areas subject to scrub encroachment.

The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for Hen Harrier and Merlin. The Slieve Aughty Mountains are a stronghold for Hen Harrier and support the second largest concentration in the country. A survey in 2005 recorded 27 pairs, which represents over 12% of the all-Ireland population. A somewhat lower count of between 15 and 23 pairs in the 1998-2000 period is considered to reflect poorer coverage then. The mix of forestry and open areas provides optimum habitat conditions for this rare bird, which is listed on Annex I of the E.U. Birds Directive.

The early stages of new and second-rotation conifer plantations are the most frequently used nesting sites, though some pairs may still nest in tall heather of unplanted bogs and heath. Hen Harriers will forage up to c. 5 km from the nest site, utilising open bog and moorland, young conifer plantations and hill farmland that is not too rank. Birds will often forage in openings and gaps within forests. In Ireland, small birds and small mammals appear to be the most frequently taken prey. The site also supports a breeding population of Merlin. The population size is not well known but is likely to exceed five pairs. Red Grouse is found on many of the unplanted areas of bog and heath – this is a species that has declined in Ireland and is now Red-listed.

The Slieve Aughty Mountains SPA is of ornithological significance, as it provides excellent nesting and foraging habitat for nationally important breeding populations of Hen Harrier and Merlin, two species that are listed on Annex I of the E.U. Birds Directive. Some woodlands within the Slieve Aughty Mountains SPA are designated as Statutory Nature Reserves.

NPWS: 20.1.2015

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004168.pdf>



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**Kieran Tarpey
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RL 4096 6272 2IE

Your Client: Eircom Limited.

08/03/2022

Section 5 referral Reference R22-13 – Eircom Limited.

Is the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare, considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 18th February 2022 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

In accordance with Article 9(i)(a)(viiB) of the Planning and Development Regulations 2001 (as amended) development shall not be exempted development if carrying out such development would:

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

National Parks and Wildlife Service (NPWS) identifies features such as overhead lines as 'pressures' which are likely to cause disturbance at Hen Harrier sites. The 'Screening Report to inform Appropriate Assessment' submitted in support of the referral is noted. However there are a number of key issues that have not been satisfactorily addressed, namely:

- Hen Harrier habitat in the wider vicinity of the site has not been considered and known flight paths have not been identified.
- The risk of collision with the proposed overhead cable has not been assessed

**An Roinn Pleanála
An Stiúthóireacht Forbairt Gheilleagrach**
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

**Planning Department
Economic Development Directorate**
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2





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- The potential for the cable to create a barrier effect/risk has not been considered
- Potential for disturbance to wider breeding/foraging habitat must be assessed.

In the absence of detailed assessment of these issues, the Planning Authority, as the competent authority with regard to the appropriate assessment process, has been unable to reach a determination that the proposed development will not have a significant effect on the Slieve Aughty Mountains SPA.

An updated *Screening Report to Inform Appropriate Assessment* is required, prepared by a suitably qualified ecologist, addressing the issues of concern outlined above.

In the event that significant effects cannot be ruled out and a full Natura Impact Statement of the proposed development is required in line with Article 6(3) of the EC Habitats Directive 1992, planning permission for the proposed development must be sought in accordance with Section 34 of the Planning and Development Act 2000 (as amended).

Mise, le meas

Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stiúrthóireacht Forbairt Gheilleagrach
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

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CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT

FILE REF:	R22-13
APPLICANT(S):	Eircom Ltd.
REFERENCE:	Whether the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor is or is not development and is or is not exempted development.
LOCATION:	Caher townland to Cloonagh townland, Co Clare
DUE DATE:	17 th March 2022

Site Location

The proposal site is located in a rural area southwest of the village of Caher. The site extends along the L-4014 local road.

Recent Planning History

No previous planning applications on the proposal site.

Background to Referral

This Referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by Eircom Ltd. The proposed fibre cable will run along the public road which is owned by Clare County Council.

The applicant is seeking a Section 5 Declaration as to whether the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh is or is not development and is or is not exempted development.

Based on the accompanying details the proposal will involve the installation of a 38 new poles of 8.5m height

Statutory Provisions

Planning and Development Act, 2000 (as amended)

In order to assess this proposal, regard has to be had to the *Planning and Development Act 2000, as amended*.

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

'Works' are defined in Section 2 of the *Planning and Development Act 2000, as amended* as follows:

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

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that 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.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 31(b)

The carrying out by a statutory undertaker authorised to provide telecommunications services of development consisting of the provision of: -

- Overhead telecommunications including the erection of poles or other support structures or the use of existing poles or other support structures, where:
 - Poles or other support structures carrying overhead lines shall not exceed 12 metres in height
 - Poles or other support structures carrying other equipment shall not exceed 12 metres in height and 0.6 metres in diameter measured at the widest point, where “other equipment” means 2 transmitting or receiving dishes (the diameter of which shall not exceed 0.6 metres), or 1 panel antenna (the dimensions of which shall not exceed 0.85 metres in length x 0.65 metres in width x 0.2 metres in depth) used for the provision of a specific telecommunications service and the provision of which would otherwise require an additional pole route carrying overhead wires
 - Where a pole or poles or other support structures carry radio transmitting or receiving apparatus, the field strength of the non-ionising radiation emissions from that installation shall not exceed the limits specified by the Commission for Communications Regulation

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 31(bb)

The carrying out by a statutory undertaker authorised to provide telecommunications services of development consisting of the provision of: -

- The attachment to a pole or other support structure referred to in paragraph (b) above of any bracket, clamp or other fixture required for the carrying or support of any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing, or required for the carrying or support of any device containing any such cable, wire, tube, pipe, duct or similar thing, and the attachment to such fixture of—
 - (i) any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing (including its casing or coating) or any device containing any of the foregoing,
 - (ii) any other equipment or apparatus used for telecommunications purposes, which is exempted development for the purposes of Article 6 and this Class

Where:

- The dimensions of any such device should not exceed 0.50 cubic metres measured externally

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 31(bbb)

The carrying out by a statutory undertaker authorised to provide telecommunications services of development consisting of the provision of: -

- The attachment to any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing of any device containing any such cable, wire, tube, pipe, duct or similar thing,

Where

- The dimensions of any such device should not exceed 0.25 cubic metres measured externally

Planning and Development Act, 2000 (as amended) Section 2(1)

“statutory undertaker” means a person, for the time being, authorised by or under any enactment or instrument under an enactment to—

- (a) construct or operate a railway, canal, inland navigation, dock, harbour or airport,
- (b) provide, or carry out works for the provision of, gas, electricity or telecommunications services, or
- (c) provide services connected with, or carry out works for the purposes of the carrying on of the activities of any public undertaking;

Under Article 9 (1) of the same Regulations, *development to which Article 6 relates shall not be exempted development for the purposes of the Act:*

(a) *if the carrying out of such development would –*

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act

(ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,

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

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

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

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

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor from the townlands of Caher to Cloonagh is or is not development and is or is not exempted development.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 31(e)

This section of the Regulations provides exemptions to Statutory Undertakers with regard to works related telecommunications structures. The Act defines a statutory undertaker as:

"statutory undertaker" means a person, for the time being, authorised by or under any enactment or instrument under an enactment to—

- (a) construct or operate a railway, canal, inland navigation, dock, harbour or airport,
- (b) provide, or carry out works for the provision of, gas, electricity or telecommunications services, or
- (c) provide services connected with, or carry out works for the purposes of the carrying on of the activities of any public undertaking;

Based on this definition, I am satisfied that the applicant meets the criteria of a 'statutory undertaker'

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 2, Class 31(b)

Overhead telecommunications including the erection of poles or other support structures or the use of existing poles or other support structures, where

- *Poles or other support structures carrying overhead lines shall not exceed 12 metres in height*

The submitted details indicate that the support structures will be 8.5m in height. The 12m limitation is not therefore exceeded.

- *Poles or other support structures carrying other equipment shall not exceed 12 metres in height and 0.6 metres in diameter measured at the widest point, where "other equipment" means 2 transmitting or receiving dishes*

(the diameter of which shall not exceed 0.6 metres), or 1 panel antenna (the dimensions of which shall not exceed 0.85 metres in length x 0.65 metres in width x 0.2 metres in depth) used for the provision of a specific telecommunications service and the provision of which would otherwise require an additional pole route carrying overhead wires

The height and diameter limitations are not exceeded. No dishes or antennae are proposed.

- *Where a pole or poles or other support structures carry radio transmitting or receiving apparatus, the field strength of the non-ionising radiation emissions from that installation shall not exceed the limits specified by the Commission for Communications Regulation*

No apparatus proposed

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 31(bb)

- The attachment to a pole or other support structure referred to in paragraph (b) above of any bracket, clamp or other fixture required for the carrying or support of any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing, or required for the carrying or support of any device containing any such cable, wire, tube, pipe, duct or similar thing, and the attachment to such fixture of—
 - (i) any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing (including its casing or coating) or any device containing any of the foregoing,
 - (ii) any other equipment or apparatus used for telecommunications purposes, which is exempted development for the purposes of Article 6 and this Class

Where:

- The dimensions of any such device should not exceed 0.50 cubic metres measured externally

The applicant has stated that these limitations will not be exceeded.

Planning and Development Regulations 2001 (as amended) Schedule 2, Part 1, Class 31(bbb)

- The attachment to any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing of any device containing any such cable, wire, tube, pipe, duct or similar thing,

Where

- The dimensions of any such device should not exceed 0.25 cubic metres measured externally

The applicant has stated that these limitations will not be exceeded.

Article 9 of the Planning and Development Regulations 2001, as amended outlines restrictions on exempted development, and these are assessed below:

- (i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

No recent planning application of the proposal site

- (ii) *consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

Not applicable in this instance.

- (iii) *endanger public safety by reason of traffic hazard or obstruction of road users,*

A traffic management plan is proposed to safely manage the construction phase of the proposed development. The operational phase will not result in the creation of a traffic hazard or obstruct road users.

- (iv) *except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

Not applicable to this proposal

- (v) *consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

Not applicable to this proposal.

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

The proposal will not interfere with the character of a landscape, view or prospect of special amenity value.

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

Not applicable to this proposal

- (viiA) *consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12(1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended.*

No issues of archaeological concern arise.

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

The proposed development is located within the footprint of the Slieve Aughty Mountains SPA and the applicants have submitted an Appropriate Assessment Screening Report with the referral documents. The indicates (in summary):

- There is no suitable breeding or foraging habitat for the two special conservation interest (SCI) species within the proposed works area.
- The works are highly unlikely to have an effect on the SCIs or their stated conservation objectives due to the limited duration of works and the minor disturbance arising in the context of the baseline human activity along the road corridor.
- No potential operation stage impacts are predicted.

While noting the contents of the report, a number of concerns remain. National Parks and Wildlife Service, in *The 2015 National Survey of Breeding Hen Harrier in Ireland*, identify features such as overhead lines as 'pressures' which are likely to cause disturbance at Hen Harrier sites.

The Screening has not considered the habitat in the wider vicinity of the lines and known Hen Harrier flight paths in the area. There is no assessment of collision risk or the potential creation of a barrier effect/risk from the cable.

In the absence of the above-mentioned details, the Planning Authority as the competent authority with respect of the appropriate assessment process, has been unable to reach a determination that the proposed development will not have a significant effect on the Special Conservation Interests of the Slieve Aughty Mountains SPA.

Further information is required.

An appropriate assessment screening report and determination is attached to this report.

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."
Not applicable in this instance

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,
Not applicable in this instance

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
Not applicable in this instance

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,
Not applicable in this instance

(xi) obstruct any public right of way,
The development will not obstruct a right of way

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

The proposal site is not located in an Architectural Conservation Area

Recommendation

It is recommended that the following FURTHER INFORMATION is requested from the applicant.

1. In accordance with Article 9(i)(a)(viiB) of the Planning and Development Regulations 2001 (as amended) development shall not be exempted development if carrying out such development would:
comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

National Parks and Wildlife Service (NPWS) identifies features such as overhead lines as 'pressures' which are likely to cause disturbance at Hen Harrier sites. The 'Screening Report to inform Appropriate Assessment' submitted in support of the referral is noted. However there are a number of key issues that have not been satisfactorily addressed, namely:

- Hen Harrier habitat in the wider vicinity of the site has not been considered and known flight paths have not been identified.
- The risk of collision with the proposed overhead cable has not been assessed
- The potential for the cable to create a barrier effect/risk has not been considered
- Potential for disturbance to wider breeding/foraging habitat must be assessed.

In the absence of detailed assessment of these issues, the Planning Authority, as the competent authority with regard to the appropriate assessment process, has been unable to reach a determination that the proposed development will not have a significant effect on the Slieve Aughty Mountains SPA.

An updated *Screening Report to inform Appropriate Assessment* is required, prepared by a suitably qualified ecologist, addressing the issues of concern outlined above.

In the event that significant effects cannot be ruled out and a full Natura Impact Statement of the proposed development is required in line with Article 6(3) of the EC Habitats Directive 1992, planning permission for the proposed development must be sought in accordance with Section 34 of the Planning and Development Act 2000 (as amended)


Executive Planner

Date: 08/03/2022


Senior Planner

Date: 08/03/22

Clare County Council
Screening for Appropriate Assessment & Determination

1. Table 1 to be filled in for all development applications.
2. Where proposed development is within a European site(s) site, go directly to table 3.
3. For all other development proposals, fill in table 2, and if required, table 3.
4. A Habitats Directive Screening Statement should be sought for all developments regardless of location which require an EIS

Table 1: Project Details

Planning File Reference	R22-13
Applicant Name	Eircom Ltd.
Development Location	at Caher and Cloonagh, Co. Clare
Application accompanied by an EIS	No
Application accompanied by an NIS	No

Description of the project (To include a site location map):

The construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public road corridor

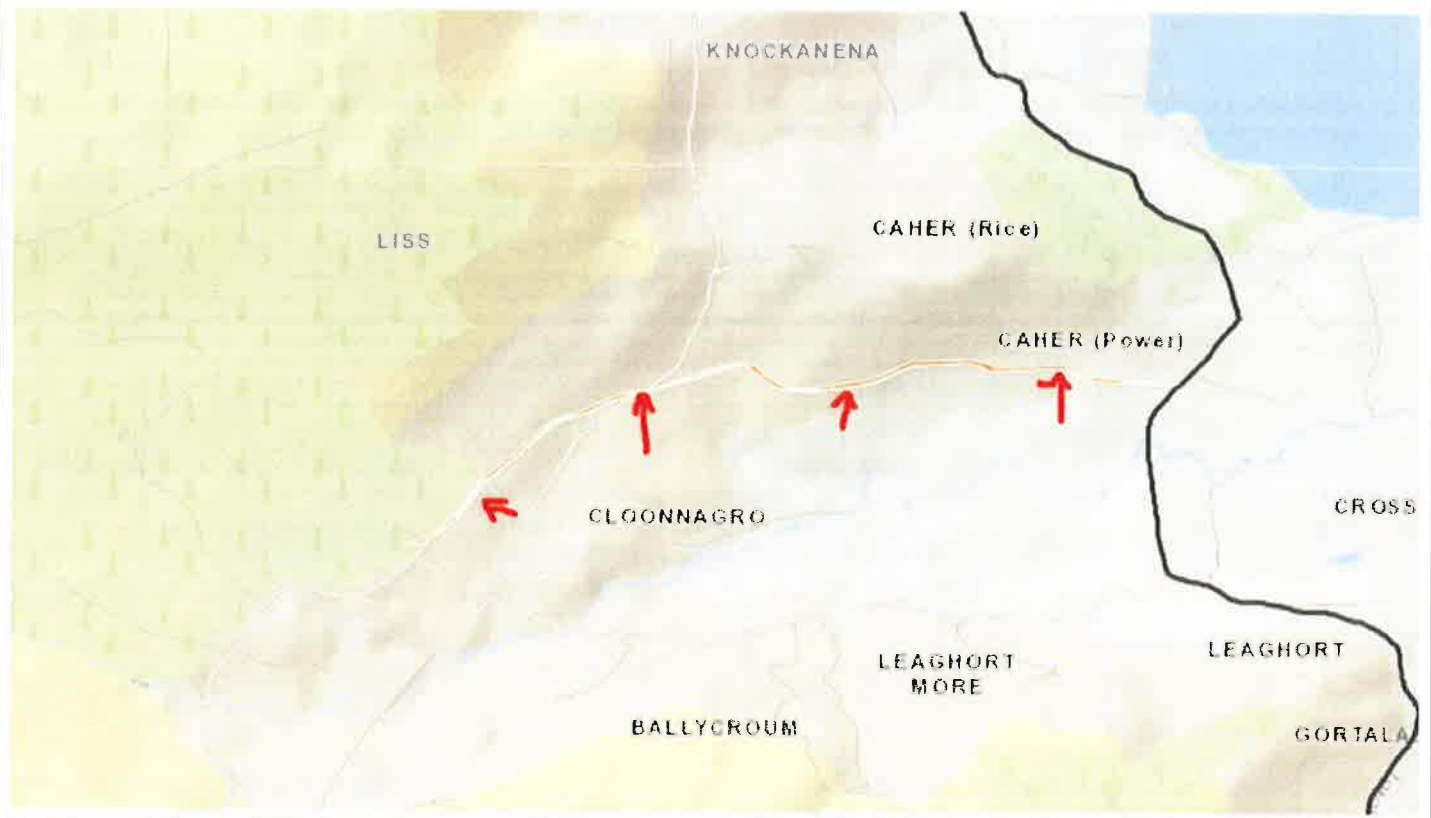


Table 2: Identification of European sites which may be impacted by the proposed development.

This section identifies the European Sites within the likely zone of impact of the plan or project. For plans an initial 15km zone of influence (NPWS-DAHG)¹ is recommended. For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis.

Having regard to the nature and scale of the proposed development and the location within the footprint of the Slieve Aughty Mountains SPA, the likely zone of impact is no greater than 5km.

Table 2 (a): European Sites within 5km of Applicant Site

European Sites ²	Qualifying Interests (QIs)/Special Conservation Interests (SCIs) and conservation objectives (either generic or detailed) (available on www.npws.ie/protectedsites) or through Intranet.	Distance to Applicant Site (km)
Slieve Aughty Mountains SPA	<ul style="list-style-type: none"> • Hen Harrier <i>Circus cyaneus</i> [A082] breeding • Merlin <i>Falco columbarius</i> [A098] breeding 	0.00km Site is within the SPA
Glendree Bog SAC	<p><u>Annex I habitats</u></p> <ul style="list-style-type: none"> • Blanket Bog (* if active only) [7130] 	2.0km

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species.	Is the development in the catchment of or immediately upstream of a watercourse that has been designated as a European site?	No
2	Impacts on terrestrial habitats & species.	Is the development within 1km of a European site with terrestrial based habitats or species?	Yes- the Site is within the Slieve Aughty Mountains SPA
3	Impacts on designated marine habitats & species.	Is the development located within marine or intertidal areas and within 5 km of a European site whose qualifying habitats or species include the following: Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs	No
4	Impacts on birds in SPAs	Is the development within 1km of a Special Protection Area	Yes- the site is less than 1km from the Slieve Aughty Mountains SPA
5	Indirect effects	Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site? Is any emission from the development	Unknown at this time

¹ European Sites that are more than 15km from the proposal may have to be considered. For example in the case of sites with water dependent habitats or species and where a proposal could affect water quality or quantity it may be necessary to consider the full extent of the upstream and/or downstream catchment.

² European Site details are available on <http://webgis.npws.ie/npwsviewer/> or maybe obtained from internal mapping systems.

		(including noise) likely to impact on an adjacent habitat or species?	No likely emissions
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Conclusion:

- If the answer to all of the above is *no*, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.
- If the answer is *unknown* or *yes* proceed to Table 3 and refer to the relevant sections of Table 3.

Table 3: Identification of potential impacts.

2	Impacts on terrestrial habitats and species. <i>Please answer the following if the answer to question 2 in table 2 was yes.</i> <i>Does the development involve any of the following:</i>	
2a	Removal of or interference with habitat within the European site. This includes reduction in habitat area or fragmentation of habitat. Is the timing of this interference liable to impact on the nesting or breeding period of any protected species?	Impact on Hen Harrier unknown – the cable may create a barrier effect or may cause disturbance within breeding or foraging habitat. This issues have not been fully assessed by the applicant
2b	Construction of roads or other infrastructure on peat habitats within 1km of bog, marsh, fen or heath habitat within a European site	No
2c	Is the development liable to impact on water quality in the European site, or liable to give rise to any change in a key indicator of water quality, including salinity. If yes, is the site designated for any bird species or other plant species whose feeding ground or life cycle may be affected by changes in water quality?	No
2d	Development within 1km of terrestrial European site of a scale or type which involves the production of an EIS.	No

4	Impacts on birds in SPAs <i>Please answer the following if the answer to question 5 in table 2 was yes.</i> <i>Does the development involve any of the following:</i>	
4a	Removal of or interference with habitats within an SPA. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	Unknown
4b	Erection of wind turbines within 1km of an SPA.	No

4c	All construction works within 100m of intertidal areas – Coastal SPAs, including indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No
4d	Infilling of coastal habitats within 500m of SPA, including indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No
4e	Discharges to coastal SPA, including any element of a discharge liable to give rise to disturbance of this habitat, either by direct, indirect, or in combination effects	No
4f	Development of cycleways or walking routes within 100m of intertidal areas. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No
4g	Development within 1km of SPA of a scale or type which involves the production of an EIS. This includes consideration of indirect and in combination effects on the feeding, breeding and nesting grounds of Annex 1 birds	No

Conclusion:

- If the answer to all of the above is *no*, significant impacts on European sites are unlikely. No further assessment is required; go directly to the conclusion statement.
- If the answer to any of the above is *yes*, or *unknown* effects on the European sites need to be assessed and a Natura Impact Statement will be required

Appropriate Assessment Screening Determination

Planning File Reference	R22-13
Proposed Development	The construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public corridor
Development Location	From the townlands of Caher to Coonagh, Co. Clare
European sites within impact zone	Slieve Aughty Mountains SPA Glendree Bog SAC
Description of the project:	
The construction of an overhead fibre cable and associated pole erection that extends approximately 2.9km along the public corridor	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
Slieve Aughty Mountains <ul style="list-style-type: none"> • Hen Harrier <i>Circus cyaneus</i> [A082] breeding • Merlin <i>Falco columbarius</i> [A098] breeding 	
Glendree Bog SAC <u>Annex I habitats</u> Blanket Bog (* if active only) [7130]	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
Unknown at this time. A Screening Report to inform Appropriate Assessment was submitted with the application. It does not satisfactorily assess a number of issues of concern. It fails to consider the habitat in the vicinity of the lines and known Hen Harrier flight paths. The report does not assess if there is a collision risk and if a barrier effect will be created by the cable. It also remains unclear if the proposal will lead to disturbance to breeding/foraging habitat	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
Unknown at this time.	
Documentation reviewed for making this statement	
<ul style="list-style-type: none"> - County Development Plan (including Flood Maps, SEA & AA) - NPWS website - Documents received as part of the referral 	
Conclusion of assessment (a, b, c or d)	
(a) The proposed development is directly connected with or necessary to the nature	

conservation management of a European Site(s)³	
(b) There is no potential for significant effects to European Sites³	Yes
(c) The potential for significant effects to European Site(s) cannot be ruled out⁴	
(d) Significant effects to European sites are certain or likely or where potential for significant effects to European sites remains following receipt of Further Information requested under S177U of the Planning and Development (Amendment) Act 2010⁵	
Completed By	Caroline Balfe
Date	07/03/2022

³ Appropriate Assessment is not required and therefore Planning permission may be granted at this stage subject to all other planning considerations. However, no material changes may be made to the proposed development after this conclusion has been reached as this would invalidate the findings of the screening exercise.

⁴ In accordance with S177U of the Planning and Development (Amendment) Act 2010, the applicant should be requested to submit an 'Appropriate Assessment Screening Matrix' completed by a suitably qualified ecologist, by way of Further Information. Following receipt of this information a new Appropriate Screening Report should be completed. The requested 'Appropriate Assessment Screening Matrix' should be in accordance with the template outlined in Annex 2, Figure 1 of the EU (2001) guidance document 'Assessment of plans and projects significantly affecting European Sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC'. This guidance document is available from http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf

Alternatively, where other planning concerns arise the proposal could be refused planning permission.

⁵ The proposed development must either by refused planning permission or alternatively an 'Appropriate Assessment' (AA) should be carried out by the Planning Authority. In order to facilitate the preparation of an AA the applicant should be requested to submit a Natura Impact Statement (NIS) in accordance with S177 (T) of the Planning and Development (Amendment) Act 2010. However, in the case of an application to retain unauthorised development of land and where the authority decides that an 'appropriate assessment' should have been carried out prior to the commencement of development, the application is required to be invalidated by the Planning Authority as per S34 (12) of the Planning and Development (Amendment) Act 2010 and accordingly an NIS should not be requested in such instances.

P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

Planning Department,
Economic Development Directorate,
Clare County Council,
New Road, Ennis,
Co. Clare.
V95DXP2

Telephone No. (065) 6821616
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie



**REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT
(Section 5 of the Planning & Development Act 2000 (as amended))**

FEE: €80

This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority

1. CORRESPONDENCE DETAILS.

(a) Name and Address of person seeking the declaration	Fergal McCann Eircom Limited 2022 Bianconi Avenus, Citywest Business Park, Dublin 24
(b) Telephone No.:	091 342 511
(c) Email Address:	kieran@entrust-services.com
(d) Agent's Name and address:	Kieran Tarpey Entrust Limited Unit 1D Deerpark Business Centre, Oranmore, Co. Galway H91 KHX0



2. DETAILS REGARDING DECLARATION BEING SOUGHT

- (a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT
Note: only works listed and described under this section will be assessed.

Sample Question: *Is the construction of a shed at 1 Main St., Ennis development and if so is it exempted development?*

'Whether or not the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9 km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare is development and if so is or is not exempted development'.

- (b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.

See attached cover letter.

to determine if the proposed installation of an overhead fibre cable and associated poles that extends approximately 2.9 km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare constitutes 'exempted development'.

- (c) List of plans, drawings etc. submitted with this request for a declaration:

(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

See attached 1:10,000 and 4 No. 1:2500 Maps

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT

(a) Postal Address of the Property/Site/Building for which the declaration sought:	Caher and Cloonagh, Feakle Co. Clare _____ _____ _____ _____
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	No _____ _____ _____
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	Entirely public roads _____ _____
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	Clare County Council (public roads) _____ _____ _____
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	No
(f) Are you aware of any enforcement proceedings connected to this site? <i>If so please supply details:</i>	No
(g) Were there previous planning application/s on this site? <i>If so please supply details:</i>	No
(h) Date on which 'works' in question were completed/are likely to take place:	Not yet commenced

SIGNED: _____



DATE: 17/02/2022

GUIDANCE NOTES

This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

FOR OFFICE USE ONLY

Date Received:	Fee Paid:
Date Acknowledged:	Reference No.:
Date Declaration made:	CEO No.:
Decision:	

Clare County Council
Planning Department
Economic Development Directorate
New Road
Ennis
Co. Clare
V95 DXP2



Our Ref: Eir Caher Cross to Cloonagh

REGISTERED POST

16/02/2022

APPLICATION FOR DECLARATION OF EXEMPT DEVELOPMENT – EIRCOM LIMITED

APPLICATION BY THE STATUTORY UNDERTAKER OF A PROPOSED DEVELOPMENT IN ACCORDANCE WITH THE PLANNING AND DEVELOPMENT REGULATIONS 2001 (AS AMENDED) TO UTILISE EXEMPT DEVELOPMENT RIGHTS.

INSTALLATION AT: CAHER CROSS TO CLOONAGH, COUNTY CLARE.

Dear Sir or Madam,

We, Entrust Limited (T/A Entrust Planning & Environmental) on behalf of our client Eircom Limited are making this submission to seek a Declaration in accordance with Section 5 of the Planning and Development Act, 2000 (as amended), to determine if the proposed installation of an overhead fibre cable and associated poles that extends approximately 2.9 km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare constitutes 'exempted development'.

We respectfully request Clare County Council as part of this submission to determine ***'Whether or not the construction of an overhead fibre cable and associated pole erection that extends approximately 2.9 km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare is development and if so is or is not exempted development'***.

Background Information

Eircom Limited proposes to upgrade its existing overhead telecommunications line infrastructure between Caher to Cloonagh in order to facilitate the installation of a fibre optic cable so that it can deliver high speed broadband and data services to this part of County Clare.

The proposed installation of an overhead fibre optic cable and associated poles will be sited along the corridor of the public road between Caher and Cloonagh, near Feakle, Co. Clare. The works extend approximately 2.9 km along the existing tertiary road commencing at the junction with the R461 and extending west (see Appendix I, Drawings). The entire installation of supplementary poles and fibre cabling will be along public roads only. There are currently 18

existing wooden telegraph poles along the proposed route which are proposed to be retained and it is proposed to supplement these existing poles with 38 new poles (8.5m high). These new telegraph poles are proposed to be erected at 50 metre intervals along the route in locations where no such wooden telegraph poles exist today.

Construction and Design

The proposed works will be completed in accordance with the design and construction requirements of Eircom Limited (eir Mobile and Openeir units) which is contained in its two documents, namely;

1. "Pole Erecting" details the methodology used to erect telecommunications poles. This detail includes the pole types which in the case of this proposal will be "Type 7" (8.5 metres);
2. "ADSS Aerial Fibre Erection Methods". This document describes the methodology and material choice for the proposed deployment. The term ADSS loosely describes cables that are lightweight and have a non-metallic strength member that renders them suitable for erection without the need for specialised winches (i.e. it is erected and tensioned by hand). The cable for this application is a 12 fibre count cable.

Relevant extracts from these three documents are provided below. It is noted by Eircom Limited that *'the information herein is the intellectual property of Eircom Ltd. and may not be distributed or copied other than for the purposes of the application'*.

1. Pole Erecting

When erecting poles company policy is that where possible the utility truck with auger will be used. Where this is not possible a mechanical digger with the appropriate approved bucket (straight back and minimum width) and mini grab will be used. Hand digging is carried out where above is not possible or undesirable. Poles must be placed at adequate depth to ensure its stability in the ground, considering the pole size and site conditions at the pole location. The pole must be in a vertical position, viewed from all angles when load is applied. Subject to the minimum depths detailed below, the depth at which a pole shall be placed in the ground varies with the character of the soil and the site conditions. Under average conditions, poles must be placed to a minimum depth of from 1.5 metres to 1.7 metres, according to their length and site conditions.

Pole Size

Pole type 7 to be used which is 8.5m in height.

Standard Minimum Clearance at Maximum Summer Temperatures

Location	Min. Clearance
Crossing over railways	7.0 metres
Crossing or overhanging carriageway, street or lay-by.	6.0 metres
Crossing over entrance to house, farmyard, field or driveway	6.0 metres
Along roads with no overhang	4.5 metres
Along railway banks where footways exist	2.5 metres
Along railway banks not used by pedestrians	2.0 metres

Depths

In normal ground, the depths for pole holes shall be as follows:

Pole Size	Depth
up to 9 metres	1.5 metres
10 metres and upward	1.7 metres

Pole Depth Reference Ground

The pole must be secure in the ground. The depth of the pole in the ground must be measured from the effective reference ground line. In all cases, the reference ground line is the uppermost level where the width of undisturbed ground in ALL directions around the pole is 1.5 metres. The 3-metre mark must be judged against the reference ground level to determine the depth of the pole in the ground. For a pole with a required depth of 1.5m into the ground, the position of the 3-metre mark must be 1.5m or less above the ground line.

Pole On a Bank

In many cases, poles may need to be erected on the sloping faces of banks. It is permissible to erect a pole on the sloping face of a bank, where the bank is of any height (see Fig. 1). Note these rules will only apply for undisturbed ground and does not apply to made, filled or built-up ground. The normal required pole depth (i.e. 1.5 or 1.7 metres) is to be measured from the reference ground line appropriate to that particular pole location. The reference ground line is the uppermost level where the width of undisturbed ground in ALL directions around the pole is 1.5 metres.

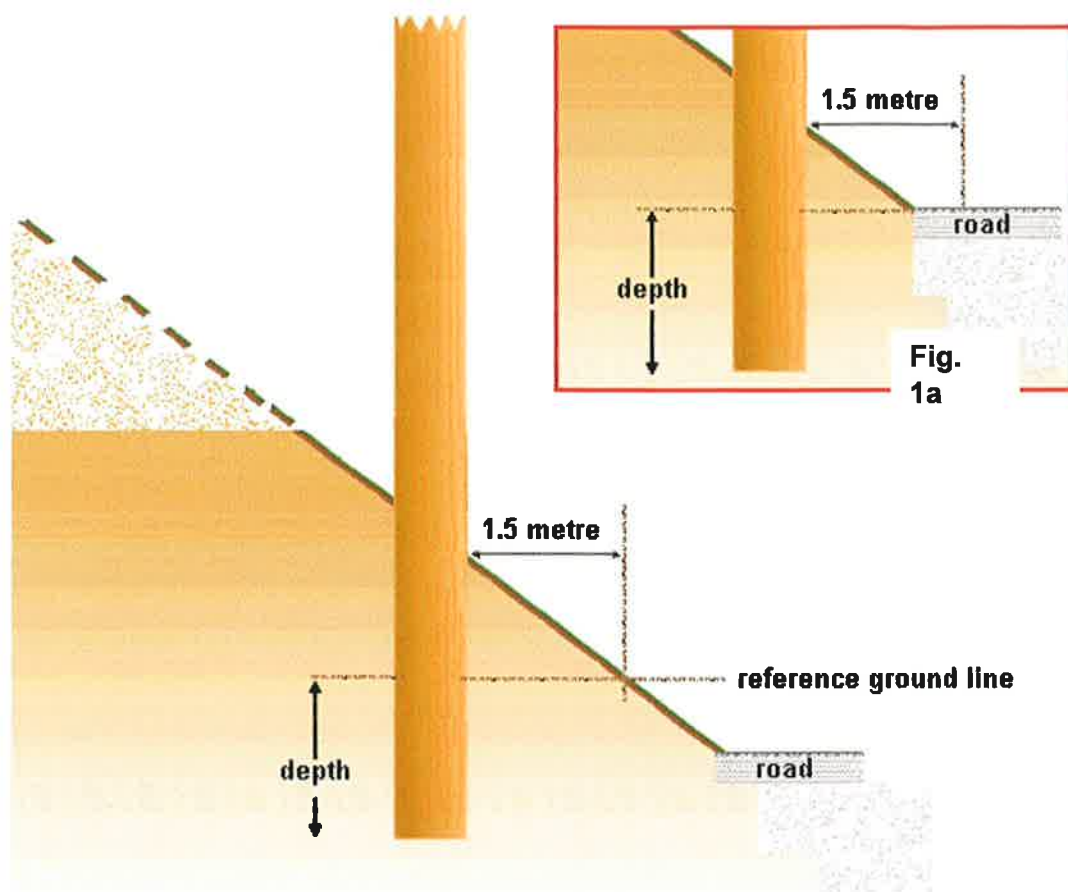


Fig. 1 – sloping bank

For a pole in a sloping bank (as per example in Fig. 1), the reference ground line can be determined as follows: measure horizontally, and away from the slope, a distance of 1.5 metres from the intersection of pole and slope. From this point, measure vertically down to the slope. The reference ground line is the level of the undisturbed ground at this point in ALL directions. The normal required depth (i.e. 1.5 or 1.7 metres) of the pole is measured downwards from this reference ground line. Note re Fig. 1a where pole is within 1.5 metres of road, it can be seen that the reference ground line is the road surface. Similarly, where a bank slopes down to a ditch and the pole is placed on the bank within 1.5 metres of the ditch, then the reference ground line is the floor of the ditch (see Fig. 2a).

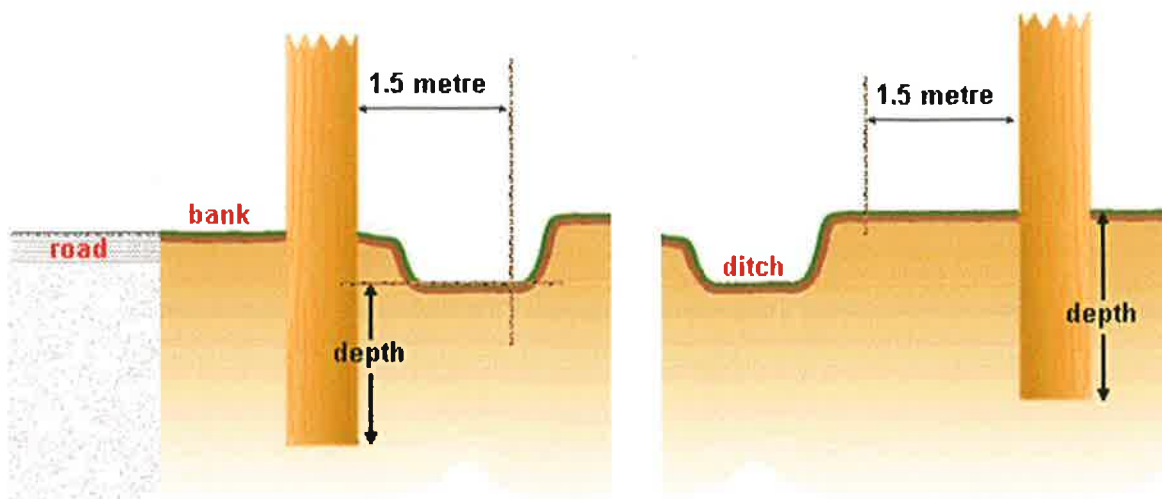


Fig. 2a bank & ditch examples Fig. 2b

Figures 2a & 2b above give examples of poles located on top of a flat bank of undisturbed ground, with a steep side (or sides), and in the vicinity of a roadway &/or ditch.

Pole in Soft Ground

In soft ground, an additional 300mm may be added to each depth. If very soft, marshy or boggy ground is met or where the lateral support is suspect, the pole may require blocking.

Pole in Rock

Poles may be erected on solid rock at surface level, or set into a rock socket. Pole struts may be used to erect poles onto solid rock at surface level. Alternatively, a rock socket may be used – a “rock socket” is an excavation in solid rock.

Angle Poles

At angle poles carrying Aerial Cables (Medium Poles), where:

- a) The ‘pull-on-pole’ is between one and not greater than two metres, &
- b) It is not possible to fit a stay or strut,

The pole depth can be increased by 300mm. The preferred option is to provide staying where these ‘pull-on-pole’ situations are encountered. In addition, the pole can also be “set” to counteract the load applied to the pole by the cables.

Pole Selection

Poles are selected based on a combination of factors such as clearance required, number of cables, and dip (or sag) in cables.

Safe Digging Practices

Before excavation work is performed, especially in the vicinity of towns and suburban areas the position of electricity cables and other underground services must be determined by the

use of Cat and Jenny and by obtaining prints from all the various bodies. Holes must be dug with the minimum of ground disturbance. The base of any hole must be punned sufficiently to ensure a solid base for the pole to stand on. Care must be taken to avoid damage to any services, cables, pipes etc. in the area.

Back-Filling

The back-filling around the pole must be completed, by stoning all around the butt and 200mm below the ground line. Each layer of stones and in-fill material should be firmly compacted using punners. Clause 804 (i.e. stone plus aggregate granular material, as defined by the Department of the Environment) is considered to be a suitable back-filling material, where pole hole has been dug by auger.

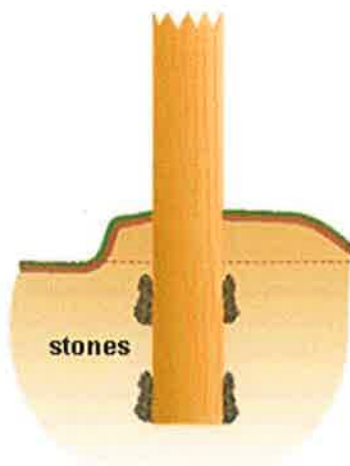


Fig. 3 Back-Filling

Site Set Up and Inspection

Adequate road works guarding must be available and correct layout observed. Vehicle must be positioned correctly.

- Minimum height clearances must be assessed
- All stores, tools and equipment required to complete work must be available on site
- Poles must be tested before climbing or adding new cables
- A check must be made that all wayleave/permission is available as necessary
- Pole sizes must be to the correct standard
- Pull on pole must be within limits
- Pole stays must be fitted where required and Insulators to be fitted where required
- Where replacing a pole to alleviate low wires it must be established before commencing work that the proposed solution will eradicate the low wire problem
- Identify a safe area to dress the pole before pole erecting
- Identify a safe area to rest the pole after recovery
- In general poles must be erected so that the 3-metre mark faces towards the road to facilitate inspection
- Poles should be erected close to boundary walls or hedges. They should also be kept well back from road junctions and entrances to property in order to avoid the necessity of shifting at a later date

- Poles must not be erected in such a manner as to obstruct road traffic signs or to obstruct the view of traffic
- Poles erected along the outer or roadside of a path must be kept 300 mm in from the carriageway
- Poles erected near joint boxes must be sited at least the depth of the joint box away from the joint box
- Poles on railway routes must be at least 2m away from the nearest track and stay rods not less than 1.5m
- Poles must be located greater than 150 mm from underground services.
- Poles must not be erected within a metre of a known hazard.
- Poles must be erected at the specified clearances from ESB plant
- Poles must be positioned such that a standard pole test can be undertaken
- Poles must be erected vertically
- Pole holes must be excavated with due consideration of the loading
- The pole must be erected at the correct depth with due consideration being taken for a change in ground level adjacent to the pole
- All pole steps and ring must be correctly dimensioned, orientated and correctly fitted
- The pole must be correctly numbered before leaving site
- All pole fittings must be positioned correctly
- Correct lightning protection must be fitted to stays and wires
- The correct type of stay for on site conditions, pole and loading must be used
- The correct type of stay wire and anchor must be used
- The stay must be correctly tensioned
- Where required the pole must be blocked correctly
- Cable feeds must be correctly run and cleated
- Capping must be correctly sited and connectors bend fitted

2. ADSS. Aerial Fibre Erection Methods

General

The purpose of this document is to detail the work methods and materials associated with the erection of All Dielectric Self Support (ADSS) cable in the access network.

Fibre optic cable is sensitive to excessive pulling, bending, torsion and crushing forces.

The cable drums must be handled, transported and stored only in a vertical position. Failure to observe this may cause damage to optical fibres or can alter the transmission characteristics of the cable. If the cable must be unreeled during installation, use the figure-eight configuration to prevent kinking or twisting.

The fibre cable bending radius of ten times the cable diameter must not be compromised. The minimum diameter of the smallest coil in a slack loop is 160mm minimum.

Route Preparation

Route preparation general

Route preparation work may include some or all of the following activities and will generally be completed prior to placing the cable along the route:

- pole replacement
- pole straightening and stays remade as necessary.
- tree trimming,
- tensioning of existing cables,
- rod/rope/sub-ducting
- attachment of safety signs on the telecom poles supporting spans of ADSS fibre cable deployed underneath (minimum 1m separation) ESB medium voltage (20KV and 10kV) power lines.
- Attachment of overhead pole fittings on poles

Route preparation for ADSS cable crossing under 10/20kV power lines

At the cable route preparation stage, power line crossings along the route will be investigated and categorised as either suitable or un-suitable for overhead ADSS cable placement.

If the crossing is unsuitable then the ADSS cable must be deployed underground.

APG and the Protection from Power Circuits Manual must be followed when assessing if it is safe to deploy an overhead ADSS cable underneath a medium voltage power line.

A power line crossing is unsuitable for overhead ADSS cable if any of the following are present:

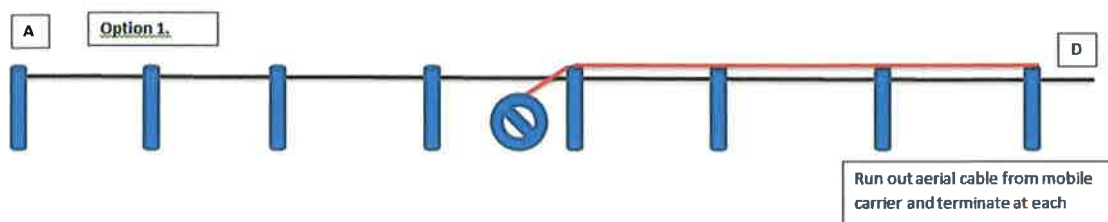
- The power line voltage is 38kV or greater
- The crossing span length exceeds the capability of the cable (65m for standard ADSS cables)
- A minimum vertical separation of 1m between the ADSS cable and the MV conductor is not possible
- Standard cable to road clearance heights cannot be maintained
- The APG or the Protection from Power Circuits Manual guidelines are contravened

Aerial cable placement methods

Option 1 (preferred option).

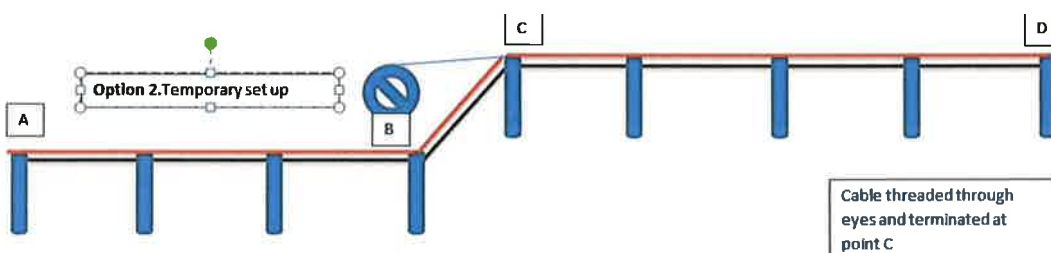
- Terminate cable at point D
- Run out cable span by span and terminate at each pole to end of section.
- Road crossings and cable crossings can be overcome by looping the cable.

Because the Access fibre optic cable can only be tensioned by hand it is necessary to terminate at each span.



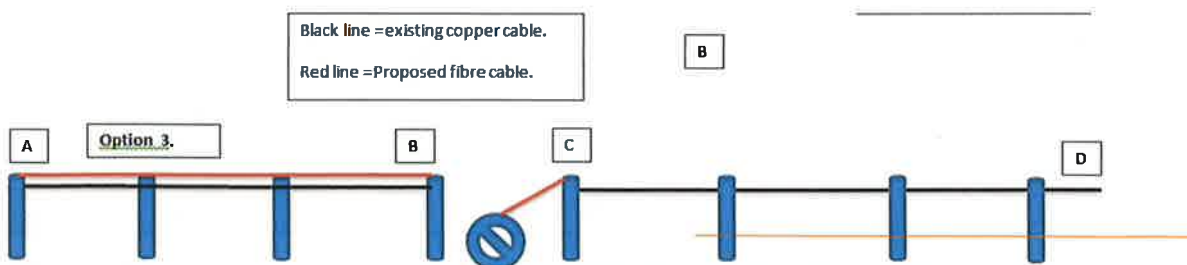
Option 2: Existing A/C crossing road

- Set up cable drum at point C. Pull cable along route to point D and terminate.
- Terminate every span back to point C.
- Pull cable across road at point C to Point B and terminate.
- Run out cable from moving carrier from point B to point A.



Option 3: UG Section in route

- Set up cable drum at point C. Pull cable along route to point D and terminate.
- Terminate every span back to point C.
- Pull off slack at point C (using figure of 8 method) to go through UG and on to point A.
- Pull through UG crossing and on to carrier at point B and continue roll out and terminate at each pole to point A.



Construction Methods

Construction methods general

A traffic management plan should be in place prior to the commencement of work.

The aerial cable should run on the uppermost point of the route and on the front of the pole. Where the front of the pole route already has a fibre cable the next available position for a second fibre cable is the back of the pole route.

The pole bracket must be used to support no more than two dead end terminators.

The OH placement of ADSS cable under 10/20kV conductors

The cable route at the crossing must be free from obstruction by trees and hedges. The trees must be cut from the road into the proposed cable path leaving a clearance of 2m. Tree trimming at the crossing point must be carried out by an ESB approved tree services contractor in accordance with the Health and Safety Authority Approved Code of Practice on Avoidance of Danger from Overhead Power Lines and the ESB Network's publication. The crossing must be sufficiently clear of trees and vegetation so that threading of the ADSS cable through trees is not required as this is likely to lead to a breach of the exclusion zone around the power cable.

Cable Height Measurement

ESB Medium voltage poles are typically, 7 to 10 metres in height above the ground. Cable height measurement is a vital component in determining safe separation at crossings. The cable height measurements must only be taken using a non-contact ultrasonic device. This can be carried out safely and accurately using the Cable Height Meter.

Prior to erecting the ADSS cable, the height of the ESB cables at the crossing point must be measured using the height meter. The height of the ESB cable must be sufficient so that it will be possible to achieve a separation of at least one metre between the ESB power cable and the proposed position of the Eir ADSS cable; the proposed position for the ADSS cable can be estimated by taking a line of sight from the first pole at the MV crossing to the pole at the other side of the crossing.

Taking into account road clearances a minimum ADSS cable to ESB conductor separation of at least one metre must be achieved if the ADSS cable is to be placed overhead; where the minimum separation distance of 1m cannot be achieved the crossing must be underground.

Appropriate Assessment

Please see attached (Appendix III) Screening Report to Inform Appropriate Assessment which was undertaken for the proposed development. The Conclusion states that;

The proposed project has been assessed taking into account:

- the nature, size and location of the proposed project and the associated works and possible impacts arising from same;
- the qualifying interests (QIs) and special conservation interests (SCIs), conservation objectives and conservation status of any European Sites in a 5km zone of influence;
- the potential for impacts arising from the works on any European Sites; and the potential for cumulative impacts.

The proposed fibre cable route and associated pole erection along the corridor of the existing tertiary road between Caher and Cloonagh, Co. Clare is located within and directly adjacent to the Slieve Aughty Mountains SPA. There is no connectivity identified to any other designated European Site. The Appropriate Assessment screening process considered the potential for significant effects which may arise during the construction and operational phases of the development with regard to the installation of the aerial cable along the existing road corridor, in view of the existing telecoms cables, electricity infrastructure and associated pole infrastructure in place along the same road corridor.

This assessment comprised an evaluation of the pathways for effects on the qualifying interests of designated European Sites, with reference to the location, size, scale, and duration (construction and operation) associated with the proposal. The impact assessment takes account of the installation processes involved, the isolated nature of the construction restricted to within and directly adjacent to the existing road corridor and the operation phase which is in line with baseline conditions. Pathways for impacts on any SAC / SPA, and the distance of separation between European Sites in the wider study area, were evaluated to determine that there are no likely significant effects on the qualifying interests or special conservation interests of any designated European Site, with regard to their conservation objectives.

In particular, no potential for significant effects are identified with respect to the Slieve Aughty Mountains SPA, either alone or in combination with other plans or projects. There are no elements of the project which could interact with the special conservation interests (Hen harrier and Merlin) of this SPA via impact pathways; therefore there is no potential for significant effects arising via any such impact pathways. There is no hydrological connectivity identified along the route which would interact with impacts arising from the proposed works which could give rise to potential downstream effects on any European Site. Therefore, taking account of the nature and specific installation methods required for the proposed works, the potential for significant effects via hydrological impact pathways are excluded.

It is concluded that there are no likely potential impacts, whether direct, indirect or cumulative/in-combination, which could give rise to significant effects on the qualifying interests or special conservation interests of any designated European Site, in view of their conservation objectives. Consequently, this proposal does not require Appropriate Assessment process and can be screened out.

Grounds for Exempted Development Status

Article 6 of the Planning and Development Regulations 2001, (as amended) provides that 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 of the mention of that class in the said Column 2.

Class 31 (b) of Schedule 2 of the Planning and Development Regulations 2001 (as amended particularly in S.I. No. 31 of 2018) provides that the following development shall be exempted development subject to Article 9;

Class 31 (b) overhead telecommunications including the erection of poles or other support structures or the use of existing poles or other support structures	Compliance with Conditions and Limitations SI No. 31, 2001(b)
1 Poles or other support structures carrying overhead lines shall not exceed 12 metres in height.	The supplementary poles are 8.5m in height.
2 Poles or other support structures carrying other equipment shall not exceed 12 metres in height and 0.6 metres in diameter measured at the widest point, where "other equipment" means 2 transmitting or receiving dishes (the diameter of which shall not exceed 0.6 metres), or 1 panel antenna (the dimensions of which shall not exceed 0.85 metres in length x 0.65 metres in width x 0.2 metres in depth) used for the provision of a specific telecommunications service and the provision of which would otherwise require an additional pole route carrying overhead wires.	The supplementary poles are 8.5m in height and no greater than 0.6m in diameter measured at their widest point. No transmitting or receiving dishes or panel antennas will be attached to the poles.
3 Where a pole or poles or other support structures carry radio transmitting or receiving apparatus, the field strength of the non-ionising radiation emissions from that installation shall not exceed the limits specified by the Commission for Communications Regulation.	No radio transmitting or receiving apparatus is to be carried by the poles.
Class 31 (bb)	Compliance with Conditions and Limitations SI No. 31, 2001 (bb)
The attachment to a pole or other support structure referred to in paragraph (b) above of any bracket, clamp or other fixture required for the carrying or support of any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing, or required for the carrying or support of any device containing any such cable, wire, tube, pipe, duct or	The dimensions of any such device should not exceed 0.50 cubic metres measured externally. It is confirmed that no device attached to any poles will exceed 0.50 cubic metres measured externally.

<p>similar thing, and the attachment to such fixture of—</p> <p>(i) any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing (including its casing or coating) or any device containing any of the foregoing,</p> <p>(ii) any other equipment or apparatus used for telecommunications purposes, which is exempted development for the purposes of Article 6 and this Class,</p>	
Class 31 (bbb)	Compliance with Conditions and Limitations SI No. 31, 2001 (bbb)
(bbb) the attachment to any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing of any device containing any such cable, wire, tube, pipe, duct or similar thing	<p>The dimensions of any such device should not exceed 0.25 cubic metres measured externally.</p> <p>It is confirmed that no device attached to any cable will exceed 0.25 cubic metres measured externally.</p>

Information Submitted

In support of this Section 5 Application for a Declaration of Exempt Development, the following information is hereby provided;

1. APPLICANT NAME

Eir Mobile (Eircom Limited)

2. AGENT NAME AND ADDRESS FOR ALL CORRESPONDENCE

Entrust Limited, Unit 1D Deerpark Business Centre, Oranmore, Co. Galway H91 X599

3. AGENT CONTACT NAME, PHONE AND EMAIL

Kieran Tarpey, PH: 091 342 511 / M: 0851 211 211, kieran@entrust-services.com

4. RELEVANT FEE

Cheque in the sum of €80.00 enclosed

Appendix 1: Drawings indicating the extent of proposed development

Appendix 2: GIS Planning Designations Maps

Appendix 3: Screening for Appropriate Assessment

Appendix 4: Section 5 Application Form

We trust all necessary information has been provided to enable the Planning Authority to determine this Application for a Declaration of Exempt Development. If, during the Planning Authority's consideration of this application, any further assistance or information is required to please advise us and we would be more than happy to provide any assistance we can.

Yours Faithfully,

A handwritten signature in black ink, appearing to be 'Kieran Tarpey', with a stylized, flowing script.

Kieran Tarpey MIPI, MRTPI

Entrust Limited

for eir Mobile (Eircom Limited)

Email: kieran@entrust-services.com

Tel: 091 342 511



Screening Report to Inform Appropriate Assessment

Project: Eir Aerial Fibre Cable Network, Caher Cross to Cloonagh, Co. Clare

Date: 29 January, 2022

Prepared by: Hibernica Ecology Ltd.

On behalf of: Entrust Planning and Environmental Ltd.

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1 INTRODUCTION

This report provides a Screening Assessment to inform the Appropriate Assessment (AA) process, with regard to a Section 5 Application to Clare County Council on behalf of Eir. The proposal comprises installation of an overhead fibre cable and associated pole erection. The required works extend approximately 2.9 km along the public road corridor from the townlands of Caher to Cloonagh, Co. Clare. The route commences in Caher, at the junction with the R461 and continues west, as shown in the site location map (Figure 1). The fibre cable is a lightweight, non-metallic strength class (12-fibre count) that is suitable for erection by hand, without the need for specialised anchored winches.

The purpose of this Screening Report is to determine, based on objective scientific information, whether the proposed project, alone and in combination with other plans or projects, has the potential for significant effects on any designated European Site, in view of the site's conservation objectives.

The project proposal and Screening to inform AA has been completed following a detailed site walk over and desk study, with specific reference to the European Sites within the zone of influence of the proposal; taking account of the qualifying interests and conservation objectives of all relevant European Sites.

This assessment and associated reporting has been completed by Hibernica Ecology Ltd. on behalf of Entrust Planning and Environmental Ltd. utilising the experience of a qualified professional ecologist. The evaluation and assessment conclusion statement is determined based on the project description and detail provided by Entrust Planning and Environmental Ltd.

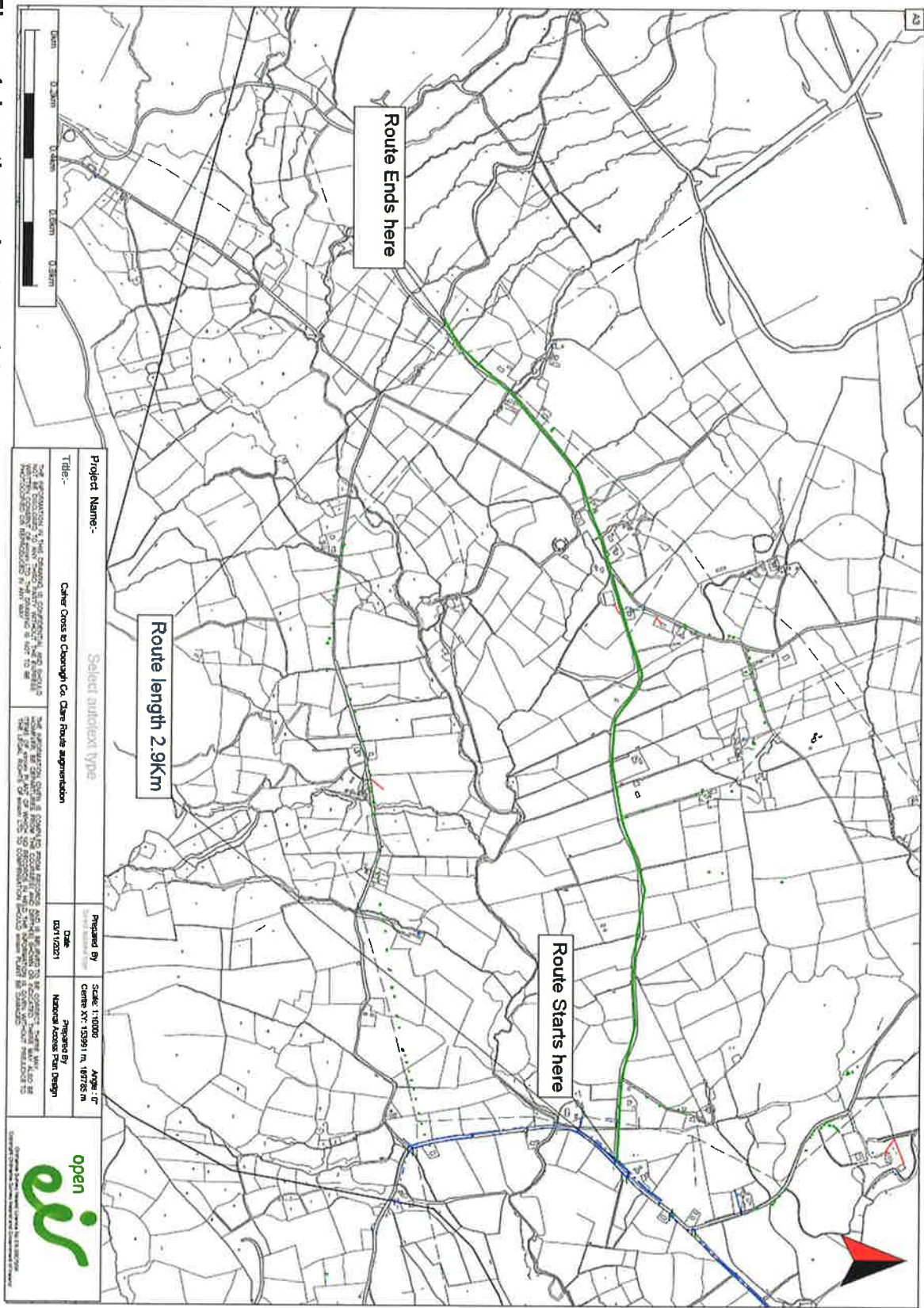


Figure 1. Location and extent of the proposed overhead fibre cable route, Caher to Cloonagh, Co. Clare.

1.1 Legislative context

The purpose of AA screening is to determine, on the basis of a preliminary assessment and objective criteria, whether a plan or project, alone and in combination with other plans or projects, could have significant effects on any European Site in view of the site's conservation objectives. The need to apply the precautionary principle in making any key decisions in relation to the tests of AA has been confirmed by European Court of Justice case law. Therefore, where significant effects are likely, uncertain or unknown at screening stage, AA will be required. Stage 1 Screening for AA is undertaken without the consideration of any mitigation measures, unless potential impacts can be clearly avoided through modification or re-design of the project (DoEHLG, 2010). If significant effects on European Sites cannot be ruled out then a Stage 2 Appropriate Assessment and Natura Impact Statement is required.

The Natura 2000 network provides an ecological infrastructure for the protection of sites that are of particular importance for rare, endangered or vulnerable habitats and species within the EU. The Natura 2000 network in Ireland is made up of European Sites which include: Special Areas of Conservation (SAC) and Special Protection Areas (SPA).

This screening report has been compiled in accordance with Article 6(3) of the Habitats Directive 92/43/EEC which establishes the requirement for Appropriate Assessment. The Habitats Directive is transposed into Irish Law by the European Communities Natural Habitats Regulations S.I. No. 477 of 2011.

Article 6(3) "Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public."

Section 42 (1) of the Birds and Habitats Regulations (2011) states that:

A screening for Appropriate Assessment of a plan or project for which an application for consent is received, or which a public authority wishes to undertake or adopt, and which is not directly connected with or necessary to the management of the site as a European Site, shall be carried out by the public authority to assess, in view of best scientific knowledge and in view of the conservation objectives of the site, if that plan or project, individually or in combination with other plans or projects is likely to have a significant effect on the European site.

Section 177U(4) of the Planning and Development Act provides for screening for Appropriate Assessment as follows:

'The competent authority shall determine that an appropriate assessment of [...] a proposed development [...] is required if it cannot be excluded, on the basis of objective information, that the [...] proposed development, individually or in combination with other plans or projects, will have a significant effect on a European site.'

Section 177U(5) provides for screening as follows :

'The competent authority shall determine that an appropriate assessment of a [...] proposed development, [...], is not required if it can be excluded, on the basis of objective information, that the [...] proposed development, individually or in combination with other plans or projects, will have a significant effect on a European site.'

1.2 Guidelines

This Appropriate Assessment screening has been carried with reference to the following guidelines:

- Appropriate Assessment Screening for Development Management: OPR Practice Note PN01. Office of the Planning Regulator, 2021.
- Assessment of plans and projects in relation to Natura 2000 sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (C437/01). European Commission, 2021.
- Managing Natura 2000 Sites: the provisions of Article 6 of the 'Habitats' Directive 92/43/EEC, Office for Official Publications of the European Communities, Luxembourg (EC 2018).
- Article 6 of the Habitats Directive. Rulings of the European Court of Justice. Final draft September 2014.
- Appropriate Assessment of Plans and Projects in Ireland. Guidelines for Planning Authorities. DoEHLG, 2010.
- CIEEM (2018) Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine. Chartered Institute of Ecology and Environmental Management, Winchester.

2 DESCRIPTION OF THE PROPOSED PROJECT

2.1 Proposed Overhead Fibre Cable Installation

The proposed installation of overhead fibre cable and associated poles will be sited along the corridor of the public road between Caher and Cloonagh, near Feakle, Co. Clare. The works extend approximately 2.9 km along the existing tertiary road commencing at the junction with the R461 and extending west (see Figure 1). The proposed works will be completed following design requirements and methodologies for pole erection and aerial fibre cable (ADSS) installation as specified in: Eir (2010) 'Pole Erecting' and Eir (2017) 'ADSS Aerial Fibre Cable Erection Methods', respectively. Relevant extracts from these methodologies to inform the Screening Assessment are provided below; *however, it is noted that the information herein is the intellectual property of Eircom Ltd. and may not be distributed or copied other than for the purposes of the application.*

Access to the work site will be via the existing road corridor; no additional access requirements are identified for this project. A traffic management plan should be in place prior to the commencement of work. Route preparation work may include some or all of the following activities, and will generally be completed prior to placing the cable along the route:

- pole replacement
- pole straightening and stays remade as necessary.
- tree trimming
- tensioning of existing cables,
- rod/rope/sub-ducting attachment of safety signs on the telecom poles supporting spans of ADSS fibre cable deployed underneath (minimum 1m separation) ESB medium voltage (20KV and 10kV) power lines.
- Attachment of overhead pole fittings on poles

The cable route at the crossing must be free from obstruction by trees and hedges. Where necessary, trees must be cut from the road into the proposed cable path leaving a clearance of 2m. Tree trimming may be required at the crossing point with any overhead powerline and must be carried out by an ESB approved tree services contractor in accordance with the 'Health and Safety Authority Approved Code of Practice on Avoidance of Danger from Overhead Power Lines' and the ESB Network's publication. The crossing must be sufficiently clear of trees and vegetation so that threading of the ADSS cable through trees is not required as this is likely to lead to a breach of the exclusion zone around the power cable.

- Where possible the utility truck with auger will be used.
- Where this is not possible a mechanical digger with the appropriate approved bucket (straight back and minimum width) and mini grab will be used. Hand digging is carried out where above is not possible or undesirable.
- Poles must be placed at adequate depth to ensure its stability in the ground, considering the pole size and site conditions at the pole location.

- The pole must be in a vertical position, viewed from all angles when load is applied. Subject to the minimum depths detailed below, the depth at which a pole shall be placed in the ground varies with the character of the soil and the site conditions. Under average conditions, poles must be placed to a minimum depth of from 1.5 metres to 1.7 metres, according to their length and site conditions.

Pole siting and specification

The proposed aerial fibre cable installation will use medium poles and shall be positioned with a target span length of not more than 50 metres. Holes will be dug with the minimum of ground disturbance. The base of any hole will be punned sufficiently to ensure a solid base for the pole to stand on and care taken to avoid damage to any services, cables, pipes etc. in the area.

The back-filling around the pole must be completed by stoning all around the butt and 200mm below the ground line. Each layer of stones and in-fill material will be firmly compacted using punners. Clause 804 (i.e. stone plus aggregate granular material, as defined by the Department of the Environment) is considered to be a suitable back-filling material, where pole hole has been dug by auger. Permanent reinstatement will be carried out in accordance with the Specification of the Local Authorities.

2.2 Description of the Receiving Environment

An ecological site survey, including a Phase 1 habitat survey of the proposed route alignment was carried out on December 11th, 2021. The proposed aerial cable route is located entirely along the corridor of the Caher to Cloonagh tertiary road, extending west from the junction with the R461.

The works area is characterised as rural, predominantly agricultural pasture (GA1) in the wider landscape. Habitats along the road margin include hedgerow (WL1), treeline (WL2) and earth banks (BL2), with a number of private residences and farm entrances off the public road. Representative photographs from the site survey are presented below.

Datasets from the National Biodiversity Data Centre (<https://maps.biodiversityireland.ie/Map>) were searched for records of ecological sensitivities associated with any European Site within a radius of approximately 200m of the proposed works area along the road corridor route. No records were generated, other than the presence of Rhododendron, an invasive plant species. This species was not recorded from within the road corridor of the proposed cable route. A wider search of the study area to include the 2km grid squares intersecting with the proposed route identified records of both Hen harrier *Circus cyaneus* and Merlin *Falco columbarius*, both of which were associated with general historic records for the Bird Atlas 2007 – 2011. However, it is noted that both of these species are listed as special conservation interests of the Slieve Aughty Mountains SPA, which overlaps with the proposed works area. The site synopsis for this SPA is included in Appendix 1.

2.3 Surface watercourses

A review of EPA river routes data (<https://gis.epa.ie/EPAMaps/>) identifies three minor watercourses crossed by the public road within the proposed route alignment; all of which are first order headwater tributaries of the Graney River (EPA Code: 25G04). The Graney River flows to Lough Graney, to the east, which is designated within the Slieve Aughty Mountains SPA. The installation of poles or erection of the fibre cable by hand will not require works within any surface watercourses identified on or adjacent to the site. All watercourses are culverted beneath the existing public road and will not be affected by the proposed works.

Representative Photographs from the site survey (December 11, 2021).



Plate 1. View west along the public road from the junction with the R461.



Plate 2. View east to the R461 junction and the terminal end of the fibre cable route.



Plate 3. The cable route follows the road corridor due west. The road margin is characterised by treelines and earth banks.



Plate 4. Occasional private residences and farm entrances occur along the route corridor.



Plate 5. In parts the road corridor is narrow, between high earth banks, deciduous treelines present.



Plate 6. View west towards the terminal end of the route. Rough pasture and agricultural grassland dominate.



Plate 7. The terminal (western) end of the route, at an entrance to a conifer plantation.



Plate 8. View east from the terminal western end of the route. Existing poles and ESB powerlines visible along the road corridor.

3 SCREENING ASSESSMENT

3.1 Introduction

This stage of the process identifies any likely significant effects upon European Sites from the proposed works, either alone or in combination with other projects or plans. The Screening Assessment is progressed in order to determine: whether the proposal can be excluded from AA requirements because it is directly connected with or necessary to the management of a European site; and whether the proposal has the potential to give rise to significant effects on a European site, either alone or in combination with other projects or plans, in view of the site's conservation objectives or conversely, that the potential for significant effects cannot be excluded. In the instance of this proposal, it is not directly connected to or necessary for the management of any European site, therefore the potential for significant effects must be evaluated.

3.2 Identification of Relevant European Sites

A standard source-receptor-pathway conceptual model was used to identify a preliminary list of 'relevant' European sites (i.e. those which could be potentially affected due to connectivity via impact pathways). This conceptual model is a standard tool in environmental assessment and follows the current OPR (2021) guidance for AA Screening. In order for an effect to occur, all three elements of this mechanism must be in place. The absence or removal of one of the elements of the mechanism means there is no likelihood for the effect to occur. In the context of the proposed works, the model comprises:

- Source(s) – e.g. noise disturbance, habitat loss, pollution.
- Pathway(s) – e.g. drains and streams connecting to European Sites; increased human activity; creation of barriers to movement/migration.
- Receptor(s) – Qualifying habitats and species of European Sites.

The designated European Sites identified in the wider 15km buffer of the proposed development are presented in Figure 2, in line with published guidance (NPWS, 2010). Potential pathways for impacts affecting European Sites outside of this buffer were also evaluated; however, given the size and scale of the proposed works, within and adjacent to the existing road corridor, no pathways for effects at this extent were identified.

It is vital that an assessment of potential source-pathway-receptor links is undertaken to assess potential impact links between the receptor (European Sites) and source (proposed development) to establish the risk of any likely significant effects. Taking account of the most recent guidance published by the OPR (2021), the zone of influence of the proposed works are evaluated with regard to the scale of impacts of the proposal and identification of connectivity pathways to any European Sites. There is a requirement to consider hydrological connectivity (surface water and groundwater), and a recommendation to evaluate designations within a 5km radius. Therefore, in the context of this project although there are European Sites within a wider 15km radius (NPWS, 2010), only those sites within a

5km radius (OPR, 2021) are considered with regard to the potential for significant effects (Table 2), in the absence of impact pathways in the wider buffer zone.

No additional SPA or SAC sites were considered to be within the zone of influence following this process. Additional designated sites including proposed Natural Heritage Areas (pNHA's), Natural Heritage Areas and RAMSAR sites were also reviewed, as they often provide important supporting functions to European Sites. Information collected on the sensitivity of the Qualifying Interests / Special Conservation Interests (i.e. the stated Conservation Objectives) of each European Site identified in Table 2 was assessed with reference to the proposed development, including any likely significant effects from the construction and operation.

There are two European sites within approx. 5km of the proposed works (Table 2):

- Glendree Bog SAC (site code: 001912) is designated for the conservation of an upland blanket bog, located approximately 2 km due west of the fibre cable route.
- Slieve Aughty Mountains SPA (site code: 004168) is a very large, predominantly upland site designated for the conservation of two Annex I listed bird species: Hen harrier and Merlin. This designation overlaps with the public road corridor within which the proposed works will be undertaken (see Figure 3).

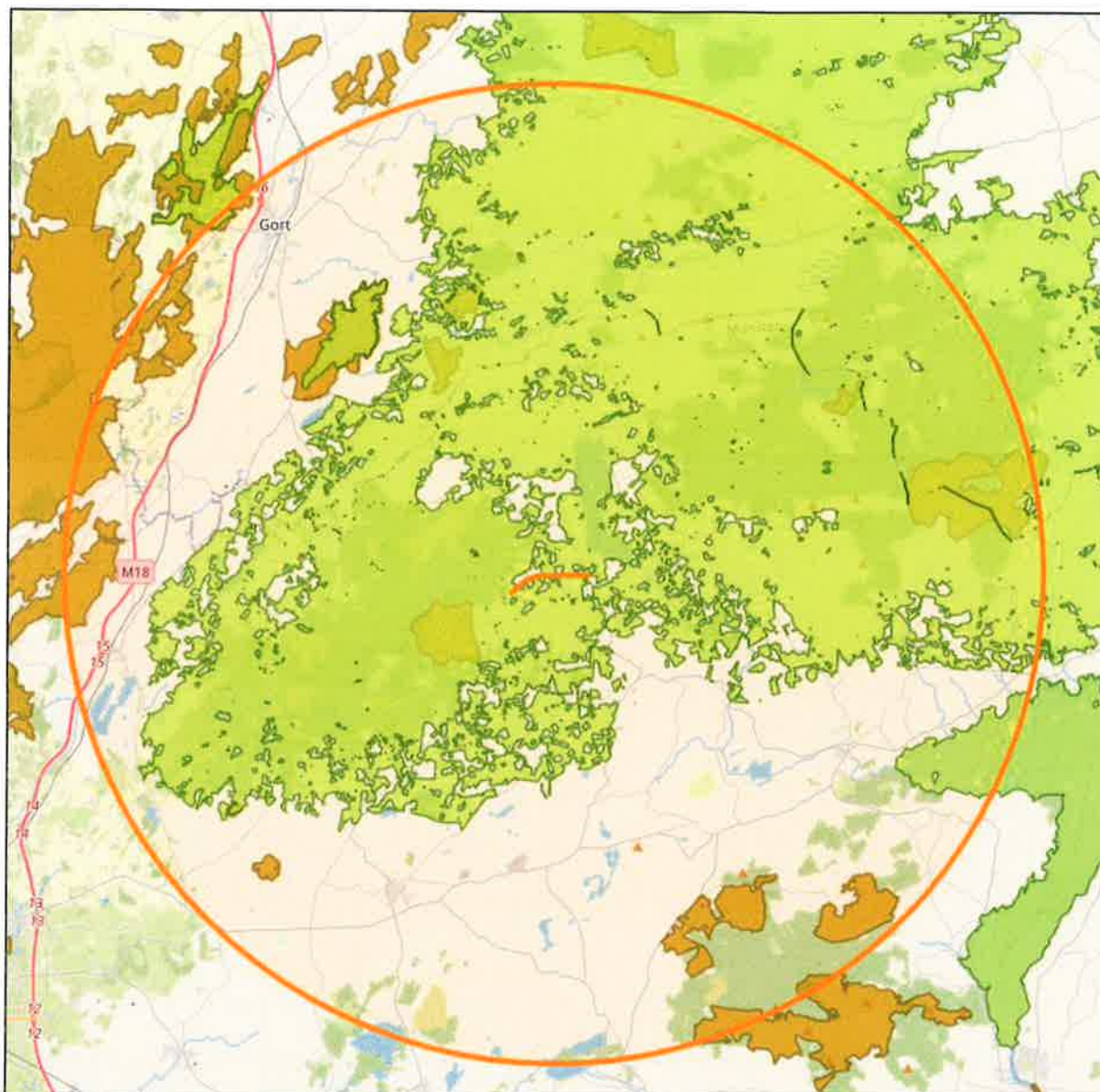


Figure 2. Designated European Sites within a 15km buffer of the proposed fibre cable route (orange line, approx. 2.9 km length).

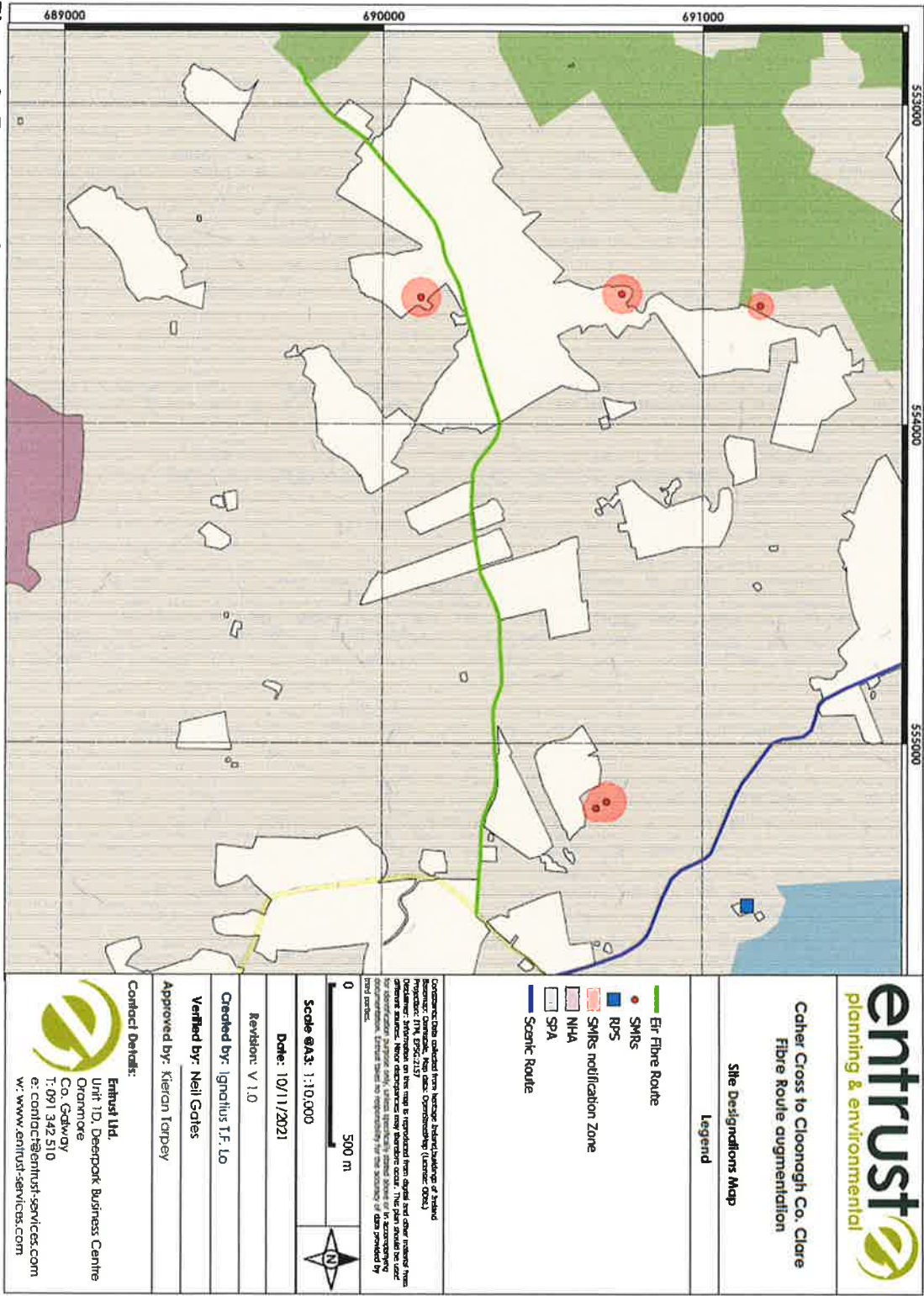


Figure 3. Proposed fibre cable route (green line) along the existing road alignment, partially within the Slieve Aughty Mountains SPA (grey shading).

Table 2 European Sites within the 5km zone of influence of the proposed works

Site Name	Distance To (km)	Qualifying Interests (* denotes a priority habitat)	Conservation Objectives	Pathways for Connectivity
Glendree Bog SAC 001912	2.8	7130 Blanket bogs (* if active bog)	http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO001912.pdf	No. Based on the scale and extent of the development, and in the absence of any hydrological connectivity, there are no pathways or potential connectivity for impacts identified between the proposed works and this designated site. There is no interaction between the proposal and the terrestrial upland peat habitats listed as qualifying interests of this SAC.
Slieve Aughty Mountains SPA 004168	0.0	A098 Merlin (<i>Falco columbarius</i>) A082 Hen Harrier (<i>Circus cyaneus</i>)	http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004168.pdf	Yes. The proposed works are located within and adjacent to this SPA site boundary. The works within the existing public road corridor are adjacent to three minor first order watercourses which are hydrologically connected to Lough Graney, which is also designated within this SPA. Taking account of the scale and extent of the proposed works, the potential for effects requires assessment in view of these connectivity pathways. This is detailed further in the current report.

3.3 Potential for Significant Effects on European Sites

Assessment of the likely effects direct and indirect of the proposed project was undertaken by carrying out an ecological field survey of the proposed site, desktop review, and consideration of the information pertaining to the conservation objectives of the European Sites for which pathways for potential impacts occur. It is vital that an assessment of potential source-pathway-receptor links is undertaken to assess potential impact links between the receptor (European Sites) and source (proposed development) to establish the risk of any likely significant effects.

This Screening Assessment follows the OPR (2021) guidance and utilises the information collected on the sensitivity of the qualifying interests or special conservation interests of each European Site and describes any likely significant effects from the construction, operation and decommissioning stages of the proposed development. This assumes the absence of mitigation measures with the exception of those incorporated in the design stage as specified in the project proposal. The Screening Assessment identifies the likelihood of significant effects arising from the proposal, both in isolation and potentially in combination with other plans or projects, with specific regard to the Slieve Aughty Mountains SPA (Table 3).

Table 3. Screening Assessment for the proposed fibre cable installation, based on OPR (2021).

Description of the project / proposal and local site characteristics	
Brief description of the project / proposal	Erection and installation of fibre cable and associated poles along the existing tertiary road corridor from Caher to Cloonagh townlands, Co. Clare. The route extends approx. 2.9 km due west from the junction with the R461. Works will be undertaken following standard works specifications from the public road, no additional access or landtake is required.
Brief description of the works area / site	An ecological survey was undertaken of the proposed route in December 2021. The study area is predominantly rough agricultural pasture, with hedgerow, treeline, residential dwellings and farm yards. No habitats or species protected under Annex I or Annex II of the EU Habitats Directive or the EU Birds Directive were recorded within the proposed work location. The works are located within the public road which overlaps with the Slieve Aughty Mountains SPA site boundary. The western terminal end of the route is at a junction with a forestry track which connects to the public road.
Prescribed bodies consulted (NPWS, EPA, OPW, IFI, etc.)	There is <u>no suitable breeding or foraging habitat</u> for the two SCI species listed for the SPA within the proposed works area. No potential habitat for these species will be lost within the footprint of the works, where the footprint overlaps with the SPA boundary.
Consultation responses	The proposed works will be undertaken by Eir. Due to the minor scale of the proposed works and given that no in-stream works will take place, it was determined that consultation with prescribed bodies was not required, subject to the findings of this AA Screening. However, the Screening assessment will require review by Clare Co. Co. planning section, in view of the Section 5 application.
Assessment of Likely Significant Effects	N/A
(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:	
Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
Construction phase e.g.: Vegetation clearance, Demolition, Surface water runoff from soil excavation/ infill/ landscaping (including borrow pits) Dust, noise, vibration Lighting disturbance Impact on groundwater/ dewatering Storage of excavated/ construction materials Access to site Pests	<p>The proposed development is located within the public road corridor, which overlaps fully and partially within and adjacent to the Slieve Aughty Mountains SPA site boundary. There are no other European Sites identified for which connectivity exists to the proposal, with regard to the size and scale of the proposed works and impact pathways potentially arising.</p> <p>Potential construction phase impacts are restricted to works from within the existing corridor of the public road and are limited to installation of poles and erection of fibre cable by hand. The scale of the works are highly unlikely to have an effect on the special conservation interests of the stated conservation objectives of the Slieve Aughty Mountains SPA, with specific reference to the limited duration and minor disturbance arising in the context of the baseline human activity along the road corridor.</p> <p>Three minor first-order watercourses are crossed by the road corridor, with culverts in place. There are no works associated with the fibre cable route requiring any instream works, or works directly adjacent to or impacting on these watercourses. There are no impact pathways identified via these minor watercourses which would have the potential</p>

	to give rise to significant effects on water quality or aquatic ecology in the Graney River, which could give rise to impact pathways affecting the SCIs of the SPA in the wider context. This is also with recognition of the two bird species listed as SCIs being birds of prey and not associated with feeding, foraging or breeding in the aquatic environment.	
	Based on the scale and extent of the development, there are no impact pathways in the local context which would have the potential to give rise to significant effects on the Slieve Aughty Mountains SPA, in view of the sensitivities of the SCIs for this European Site and their conservation objectives.	
Operational phase e.g.: Direct emission to air and water Surface water runoff containing contaminant or sediment Lighting disturbance Noise/vibration Changes to water/groundwater due to drainage or abstraction Presence of people, vehicles and activities Physical presence of structures (e.g. collision risks) Potential for accidents or incidents	Once completed, there will be no operational stage activities associated with the proposed fibre cable along the existing road corridor, and no significant change to the receiving environment will occur as a result of the cable along the route, given that it is installed within the context of existing telecoms and electrical aerial cables along the road corridor. <u>As such no potential operational stage impacts are predicted which would have the potential to give rise to significant effects on the SCIs for the Slieve Aughty Mountains SPA.</u>	
In-combination/Other	The proposed fibre cable route is within and directly adjacent to the public road corridor. When considered individually or together with the existing road, the proposal will not result in effects to the conservation objectives of any European site, due to the absence of impact pathways; therefore there are no cumulative impacts anticipated.	
(b) Describe any likely changes to the European site(s) in view of the conservation objectives		
Examples of the type of changes to give consideration to include: Reduction or fragmentation of habitat area Disturbance to CI species Habitat or species fragmentation Reduction or fragmentation in species density Changes in key indicators of conservation status value (water or air quality etc.) Changes to areas of sensitivity or threats to CI Interference with the key relationships that define the structure or ecological function of the site	Taking account of the location, size and scale of the proposal, recognizing that there are no watercourses impacted by the proposed works there are no pathway for effects to the SCIs of the Slieve Aughty Mountain SPA, or any other European sites within the zone of influence of the proposed works. No changes to any European site will occur.	
	The works are located within the Slieve Aughty Mountains SPA; however, the nature of the works do not give rise to any footprint impacts which could result in the loss of existing or potential habitat for the SCI species. There will be no change to the structure or function of the supporting habitats or management requirements of the SPA. There are no elements of the works which could significantly affect the density or key indicators of conservation status for either Hen harrier or Merlin, in view of the conservation objectives. No impact pathways with regard to hydrological pathways are identified via water quality impacts downstream.	

(c) Are mitigation or protective measures necessary to reach a conclusion that likely significant effects can be excluded based on scientific evidence? Yes / No

No.

In the absence of impacts requiring amelioration, mitigation measures or protective measures are not required.

Step 4. Screening Determination Statement

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

An assessment of connections between the proposed works and all European sites has demonstrated, in light of best scientific knowledge, that the proposed works will not give rise to ecological impacts which would constitute significant effects on any site, with particular reference to the Slieve Aughty Mountains SPA and the Conservation Objectives for this site. This finding had regard to the nature, size and location of the proposal and the sensitivities of the special conservation interests of the sites SPA.

In particular, no potential for significant effects are identified with respect to the closest European Site (Slieve Aughty Mountains SPA), either alone or in combination with other plans or projects. There are no elements of the project which could interact with the special conservation interests of this very large SPA complex via impact pathways, no potential for significant effects arising via any such impact pathways are identified. There is no potential for impacts to extend beyond the proposed works via hydrological connectivity which could give rise to significant effects on any European Site.

Conclusion:

	Mark (x) as appropriate	Recommended Action
(i) It is clear that there is no likelihood of significant effects on a European site.	X	The proposal can be screened out.
(ii) It is uncertain whether the proposal will have a significant effect on a European site.		Appropriate assessment not required. No action required.
(iii) Significant effects are likely or cannot be excluded		No action required.

4 CONCLUSION STATEMENT

The proposed project has been assessed taking into account:

- the nature, size and location of the proposed project and the associated works and possible impacts arising from same;
- the qualifying interests (QIs) and special conservation interests (SCIs), conservation objectives and conservation status of any European Sites in a 5km zone of influence;
- the potential for impacts arising from the works on any European Sites; and
- the potential for cumulative impacts

The proposed fibre cable route and associated pole erection along the corridor of the existing tertiary road between Caher and Cloonagh, Co. Clare is located within and directly adjacent to the Slieve Aughty Mountains SPA. There is no connectivity identified to any other designated European Site. The Appropriate Assessment screening process considered the potential for significant effects which may arise during the construction and operational phases of the development with regard to the installation of the aerial cable along the existing road corridor, in view of the existing telecoms cables, electricity infrastructure and associated pole infrastructure in place along the same road corridor.

This assessment comprised an evaluation of the pathways for effects on the qualifying interests of designated European Sites, with reference to the location, size, scale, and duration (construction and operation) associated with the proposal. The impact assessment takes account of the installation processes involved, the isolated nature of the construction restricted to within and directly adjacent to the existing road corridor and the operation phase which is in line with baseline conditions. Pathways for impacts on any SAC / SPA, and the distance of separation between European Sites in the wider study area, were evaluated to determine that there are no likely significant effects on the qualifying interests or special conservation interests of any designated European Site, with regard to their conservation objectives.

In particular, no potential for significant effects are identified with respect to the Slieve Aughty Mountains SPA, either alone or in combination with other plans or projects. There are no elements of the project which could interact with the special conservation interests (Hen harrier and Merlin) of this SPA via impact pathways; therefore there is no potential for significant effects arising via any such impact pathways. There is no hydrological connectivity identified along the route which would interact with impacts arising from the proposed works which could give rise to potential downstream effects on any European Site. Therefore, taking account of the nature and specific installation methods required for the proposed works, the potential for significant effects via hydrological impact pathways are excluded.

It is concluded that there are no likely potential impacts, whether direct, indirect or cumulative/in-combination, which could give rise to significant effects on the qualifying interests or special conservation interests of any designated European Site, in view of their conservation objectives. Consequently, this proposal does not require Appropriate Assessment process and can be screened out.

5 REFERENCES

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

Circular NPW 1/10 & PSSP 2/10. Appropriate Assessment under Article 6 of the Habitats Directive: Guidance for Planning Authorities.

DoEHLG, 2010. Appropriate Assessment of Plans and Projects in Ireland. Guidelines for Planning Authorities.

EC (2021) Assessment of plans and projects in relation to Natura 2000 sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (C437/01). European Commission, 2021.

EC (2018) Managing Natura 2000 Sites: the provisions of Article 6 of the 'Habitats' Directive 92/43/EEC, Office for Official Publications of the European Communities, Luxembourg.

ECJ (2014) Article 6 of the Habitats Directive. Rulings of the European Court of Justice.

OPR (2021) Appropriate Assessment Screening for Development Management: OPR Practice Note PN01. Office of the Planning Regulator, Dublin.

APPENDIX 1 – SLIEVE AUGHTY MOUNTAINS SPA SITE SYNOPSIS

Site Name: Slieve Aughty Mountains SPA

Site Code: 004168

The Slieve Aughty Mountains SPA is a very large site that extends southwards from just south of Lough Rea, County Galway to Scariff in County Clare. The peaks are not notably high or indeed pronounced; the site rises to a maximum 400 m at Maghera west of Lough Graney. The site includes many small- and medium-sized lakes, notably Lough Graney and Lough Atorick; several important rivers rise in the site, including the Owendallulleagh and Graney. Lough Derg occurs immediately to the south-east. The Slieve Aughty Mountains are predominantly comprised of Old Red Sandstone, but outliers of Lower Palaeozoic rocks provide occasional outcrops capping the hills.

The site consists of a variety of upland habitats, though approximately half is afforested. The coniferous forests include first and second rotation plantations, with both pre-thicket and post-thicket stands present. Substantial areas of clear-fell are also present at any one time. The principal tree species present are Sitka Spruce (*Picea sitchensis*) and Lodgepole Pine (*Pinus contorta*). Almost one-third of the site is unplanted blanket bog and heath, with both wet and dry heath present. Well-developed blanket bog occurs at several locations, notably Sonnagh, Loughatorick South and Glendree. The vegetation is characterised by such species as Ling Heather (*Calluna vulgaris*), Bilberry (*Vaccinium myrtillus*), Common Cottongrass (*Eriophorum angustifolium*), Hare's-tail Cottongrass (*Eriophorum vaginatum*), Deergrass (*Scirpus cespitosus*) and especially Purple Moor-grass (*Molinia caerulea*). Bog mosses (*Sphagnum* spp.) are well-represented. The remainder of the site is mostly rough grassland that is used for hill farming. This varies in composition and includes some wet areas with rushes (*Juncus* spp.) and some areas subject to scrub encroachment.

The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for Hen Harrier and Merlin. The Slieve Aughty Mountains are a stronghold for Hen Harrier and support the second largest concentration in the country. A survey in 2005 recorded 27 pairs, which represents over 12% of the all-Ireland population. A somewhat lower count of between 15 and 23 pairs in the 1998-2000 period is considered to reflect poorer coverage then. The mix of forestry and open areas provides optimum habitat conditions for this rare bird, which is listed on Annex I of the E.U. Birds Directive.

The early stages of new and second-rotation conifer plantations are the most frequently used nesting sites, though some pairs may still nest in tall heather of unplanted bogs and heath. Hen Harriers will forage up to c. 5 km from the nest site, utilising open bog and moorland, young conifer plantations and hill farmland that is not too rank. Birds will often forage in openings and gaps within forests. In Ireland, small birds and small mammals appear to be the most frequently taken prey. The site also supports a breeding population of Merlin. The population size is not well known but is likely to exceed five pairs. Red Grouse is found on many of the unplanted areas of bog and heath – this is a species that has declined in Ireland and is now Red-listed.

The Slieve Aughty Mountains SPA is of ornithological significance, as it provides excellent nesting and foraging habitat for nationally important breeding populations of Hen Harrier and Merlin, two species that are listed on Annex I of the E.U. Birds Directive. Some woodlands within the Slieve Aughty Mountains SPA are designated as Statutory Nature Reserves.

NPWS: 20.1.2015

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004168.pdf>

553000

554000

555000

691000








690000

689000

Caher Cross to Cloonagh Co. Clare Fibre Route augmentation

Site Designations Map

Legend

-  Eir Fibre Route
-  SMRs
-  RPS
-  SMRs notification Zone
-  NHA
-  SPA
-  Scenic Route

Constraints: Data collected from heritage Ireland, buildings of Ireland
 Basemap: Omniscience, Map data: OpenStreetMap (License: ODbL)
 Projection: ITM, EPSG:2157

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Scale @A3: 1:10,000

Date: 10/11/2021

Revision: V 1.0

Created by: Ignatius T.F. Lo

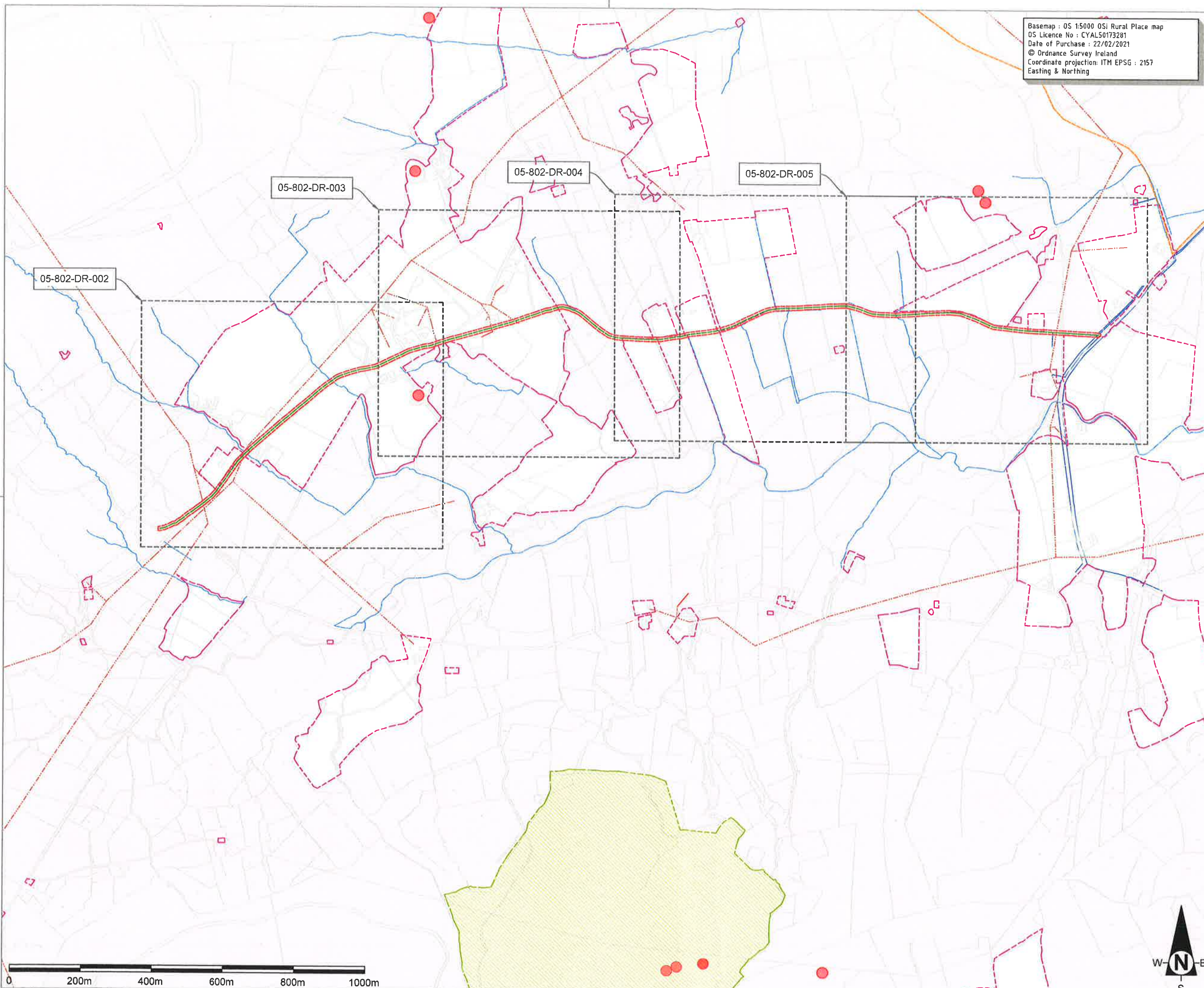
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Basemap : OS 1:5000 OSi Rural Place map
OS Licence No : CYAL50173281
Date of Purchase : 22/02/2021
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Coordinate projection: ITM EPSG : 2157
Easting & Northing

- LEGEND**
- Fibre Route-Site Boundary
 - Eir Fibre Route (35x8.5m Poles)
 - National Heritage Area (NHA)
 - Special Protection Areas (SPA)
 - Scenic Route
 - Water feature
 - SMRs
 - Electric MV/LV Overhead
 - Electric MV/LV Underground

Notes:

Approx. Route Length
2.90Km

Poles are to be erected at 50 metre intervals along the road in locations where no existing poles exist today

Project Description
Caher Cross to Cloonagh Section 5
Fibre Route augmentation

Project No.: 05-802	Sheet No.: DR-001
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Scale 1:10000	Page Info A3	Date 18/01/2022
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Title
Site Designations Map



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