



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

Registered Post

Jane Gilleran
Inland Fisheries Ireland
Dock Road
Ashbourne Business Park
Limerick
V94 NPEO

RL 5660 3317 51E

12th May, 2022

Section 5 referral Reference R22-27 – Jane Gilleran, Inland Fisheries Ireland

Is the installation of a temporary rope (to improve passage of migrating juvenile eels) on the rock face at the falls at Ennistymon, Co. Clare considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 28th April 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 Stiúrthóireacht 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.: R22-27



Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R22-27

Is the installation of a temporary rope (to improve passage of migrating juvenile eels) on the rock face at the falls at Ennistymon, Co. Clare considered to be development and if so, is it exempted development?

AND WHEREAS, Jane Gilleran, Inland Fisheries Ireland 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) The details as indicated in submitted documents from the referrer whereby the proposal involves the temporary placing of a mussel spat rope on the Inagh River.

And whereas Clare County Council has concluded:

- (a) the proposal does not constitute "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the proposal does not constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 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 installation of a temporary rope (to improve the passage of migrating juvenile eels) on the rock face at the falls at Ennistymon does not constitute development, as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.


Anne O'Gorman
Staff Officer
Planning Department
Economic Development Directorate

12th May, 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: 79760

Reference Number: R22-27

Date Referral Received: 28th April 2022

Name of Applicant: Jane Gilleran, Inland Fisheries Ireland

Location of works in question: Ennistymon, Co. Clare

Section 5 referral Reference R22-27 – Jane Gilleran, Inland Fisheries Ireland

Is the installation of a temporary rope (to improve passage of migrating juvenile eels) on the rock face at the falls at Ennistymon, 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) The details as indicated in submitted documents from the referrer whereby the proposal involves the temporary placing of a mussel spat rope on the Inagh River.

AND WHEREAS Clare County Council has concluded:

- (a) the proposal does not constitute "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the proposal does not constitute "development" which comes within the scope of section 3 (1) of the Planning and Development Act 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 installation of a temporary rope (to improve the passage of migrating juvenile eels) on the rock face at the falls at Ennistymon does not constitute development.

Signed:



GARETH RUANE
SENIOR EXECUTIVE PLANNER *As/*

Date:

12th May, 2022

**CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT**

FILE REF: R22-27
APPLICANT(S): Jane Gilleran (Inland Fisheries Ireland)
REFERENCE: Whether the installation of a temporary rope (to improve the passage of migrating juvenile eels) on the rock face at the falls at Ennistymon Co. Clare is or is not development and is or is not exempted development.
LOCATION: Ennistymon, County Clare
DUE DATE: 24th May 22

Site Location

The site is located on the River Fergus within the Inagh River estuary SAC within Ennistymon.

Recent Planning History on Site

None

Background to Referral

This Referral under Section 5(3)(a) of the Planning and Development Act 2000 (as amended) has been made by Inland Fisheries Ireland. The applicant is seeking a Section 5 Declaration as to whether the installation of a temporary rope (to improve the passage of migrating juvenile eels) on the rock face at the falls at Ennistymon County Clare is or is not development and is or is not exempted development.

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.

Assessment

Basis of Referral

The applicant is seeking a Section 5 Declaration as to whether the installation of a temporary rope (to improve the passage of migrating juvenile eels) on the rock face at the falls at Ennistymon County Clare is or is not development and is or is not exempted development.

Particulars of Proposal

The particulars of the proposal and site are set out below:

- The proposal is to temporarily bolt a large diameter mussel spat rope to the rock face of the falls at Ennistymon to improve passage migrating juvenile eels up and over the falls to the Inagh catchment above. The bolts and ropes will be concealed in the rock breaks.
- An AA screening report accompanies the section 5 query which concludes no significant effects on the qualifying interest of the Inagh River estuary SAC.
- Map scale 1 : 2500 showing location of the proposed rope installation.
- Jane Gilleran has advised me by phone 10th May 22 that the temporary period is from now to end of June and the rope diameter is 10 -15 cm. The rope will be reinstalled for a similar period in the next migratory season and so on.
- Photos of the rope
- Photos of juvenile eels
- Photo of the falls showing location where rope will run along rock surface.

Having regard to the definition of 'works' and 'development' as set out in the Planning and Development Act which excludes the act of 'installation' and having regard to the description of the full nature and extent of the proposal together with its temporary period of installation (approx. 6 week migratory season), it is considered that the proposal constitutes neither works, nor development. The issue of whether the proposal constitute exempted development does not arise.

Recommendation

I recommend that the following is issued to the applicant by the Planning Authority in this instance:

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) The details as indicated in submitted documents from the referrer whereby the proposal involves the temporary placing of a mussel spat rope on the Inagh River.

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

- (a) the proposal does not constitutes "works" which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended
- (b) the proposal does not constitutes "development" which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended

Now therefore Clare County Council (Planning Authority), hereby decides that the installation of a temporary rope (to improve the passage of migrating juvenile eels) on the rock face at the falls at Enistymon does not constitute development .

Ellen Corey

Executive Planner

Date: 10/05/22

SEP

Senior Planner

Date:

11/05/22

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	R 22/27
Applicant Name	Inland Fisheries Ireland (Jane Gilleran)
Development Location	The falls , Ennistymon (River Inagh)
Application accompanied by an EIS	
Application accompanied by an NIS	
Description of the project (To include a site location map):	
<p>Section 5 referral</p> <p>Whether that the installation of a temporary rope (to improve the passage of migrating juvenile eels) on the rock face at the falls at Ennistymon is or is not development and is or is not exempted development.</p>	

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 with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects. Qualifying Interests/Special conservation Interests for each site and the distance relevant to the proposal are listed (Table 2 (a)).

Table 2 (a): European Sites within 15km 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)
Inagh River estuary SAC	<p>Annex I Habitats</p> <ul style="list-style-type: none"> • <i>Salicornia</i> and other annuals colonising mud and sand [1310] • Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritima</i>) [1410] • Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] • *Fixed coastal dunes along the shoreline with herbaceous vegetation (grey dunes) [2130] 	Within the SAC

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?	Within Inagh River estuary SAC
2	Impacts on terrestrial habitats & species.	Is the development within 1km of a European site with terrestrial based habitats or species?	Within
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:	no

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.

		<i>Mudflats, sandflats, saltmarsh, shingle, reefs, sea cliffs</i>	
4	Impacts on birds in SPAs	<i>Is the development within 1km of a Special Protection Area</i>	No
5	Indirect effects	<i>Is the development, in combination with other existing or proposed developments likely to impact on an adjacent European site?</i> <i>Is any emission from the development (including noise) likely to impact on an adjacent habitat or species?</i>	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 is *unknown* or *yes* proceed to Table 3 and refer to the relevant sections of Table 3.

Table 3: Identification of potential impacts.

1	Impacts on designated rivers, streams, lakes and fresh water dependant habitats and species. <i>Please answer the following if the answer to question 1 in table 2 was "yes" or "unknown". Does the development involve any of the following:</i>	
1.1	Removal of or interference with habitat within a European site. This may include any element of a project liable to interfere with breeding, nesting or roosting sites of birds, bats, water based species	NA
1.2	Discharges either directly (via pipe from the development) or indirectly (via sewer) to surfacewater or groundwater What is the likely volume of the discharge?	NA
1.3	Abstraction from surfacewater or groundwater in or adjacent to a European site, where hydrology is a critical element in the protection of habitat and species at the site? What is the likely volume of the abstraction?	NA
1.4	Is removal of topsoil proposed within 500m of watercourses? What transportation requirements are provided? Does the removal involve reduction in area, population density or fragmentation of area of any habitat or species?	NA
1.5	Infilling or raising of ground levels within 500m of watercourses? What transportation requirements are provided? Does the infilling or raising involve interference with area, population density or fragmentation of area of any habitat or species?	NA
1.6	Construction of drainage ditches - (scale?) Where the run off is directed to? Is the drainage run off directed to a European site where species are identified and whose conservation status may be impacted by this drainage?	NA
1.7	Installation of waste water treatment systems; percolation areas; septic tanks within 500m of watercourses?	NA
1.8	Construction within a floodplain or within an area liable to flood (See www.floodmaps.ie , internal flood risk maps, County Development Plan SFRA and www.cframes.ie)	NA
1.9	Crossing or culverting of rivers or streams, installation of weirs, temporary watercourse crossings or any interference with a watercourse.	NA

1.10	Storage of chemicals or hydrocarbons (including oils and fuels) within 500m of a watercourse	NA
1.11	Development within catchment of a European site of a scale or type which involves the production of an EIS	NA
1.12	Consideration of effects in combination with existing development?	NA
2	<p align="center">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></p>	
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?	NA
2b	Construction of roads or other infrastructure on peat habitats within 1km of bog, marsh, fen or heath habitat within a European site	NA
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?	NA
2d	Development within 1km of terrestrial European site of a scale or type which involves the production of an EIS.	NA
3	<p align="center">Impacts on designated marine habitats and species. <i>Please answer the following if the answer to question 3 in table 2 was yes.</i> <i>Does the development involve any of the following:</i></p>	
3a	Removal of or interference with habitat within the European site. This includes timing of the project if there is potential to interfere with nesting or breeding periods, either directly or indirectly (e.g. by noise emission) or any aspect of the life cycle of a protected species. This also includes potential fragmentation, size reduction of habitat, or reduction in species density.	NA
3b	Coastal protection works on intertidal or marine habitats within 5km of a European site supporting coastal or marine habitats or	NA

	species. This includes any works which may give rise to potential changes in hydrology or salinity of these areas.	
3c	Development of piers, slipways, marinas, pontoons or any other infrastructure within 5km of a European site that was designated because it supports marine habitats and/or species.	NA
3d	Dredging within 5km of a European site supporting coastal or marine habitats or species.	NA
3e	Removal of topsoil or infilling within 100m of marine habitats within the designated site.	NA
3f	Land based development within 1km of a European site of a scale or type which involves the production of an EIS.	NA
3g	Marine or intertidal based development within 5km of a European site of a scale or type which involves the production of an EIS.	NA

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	NA
4b	Erection of wind turbines within 1km of an SPA.	NA
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	NA
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	NA
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	NA
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	NA
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	NA

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	R22/27
Proposed Development	Section 5 referral
Development Location	The Falls , Inagh River , Ennistymon
European sites within impact zone	Inagh River estuary SAC
Description of the project:	
As above	
Qualifying Interests (QIs)/Special Conservation Interests (SCIs) of European site	
As above	
Describe how the project or plan (alone or in combination) is likely to affect the European site(s).	
Not likely- nature of proposal being the placing of a rope on the river for approx. 6weeks to assist juvenile eel migration	
If there are potential negative impacts, explain whether you consider if these are likely to be significant, and if not, why not?	
Not significant	
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 planning application - EPA Code of Practice 	
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	No
(b) There is no potential for significant effects to European Sites ³	There is no potential for significant effects to European Sites ³

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.

(c) The potential for significant effects to European Site(s) cannot be ruled out⁴	The potential for significant effects to European Site(s) can 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	N/A
Completed By	Ellen Carey
Date	10 th May 22

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.

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.



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

**Jane Gilleran
Inland Fisheries Ireland
Dock Road
Ashbourne Business Park
Limerick
V94 NPEO**

29/04/2022

Section 5 referral Reference R22-27 – Jane Gilleran, Inland Fisheries Ireland

Is the installation of a temporary rope (to improve passage of migrating juvenile eels) on the rock face at the falls at Ennistymon, Co. Clare considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 28th April 2022 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above.

Please note that the Planning Authority is considering the matter and a reply will issue to you in due course.

Mise, le meas

Tadhg Holmes

**Tadhg Holmes
Planning Department
Economic Development Directorate**

**An Roinn Pleanála
An Stiúrthóireacht 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

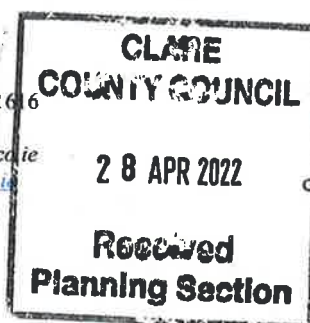


P07

**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	<p>JANE GILLERAN</p> <p>INLAND FISHERIES IRELAND, DOCK RD.</p> <p>ASHBOURNE BUSINESS PARK. LIMERICK</p> <p>Eircode: V94NPEO</p>
(b) Telephone No.:	<p>061 300238 - 087 6878568</p>
(c) Email Address:	<p>jane.gilleran@fisheriesireland.ie</p>
(d) Agent's Name and address:	<p></p> <p></p> <p></p> <p></p> <p>EIRCODE:</p>

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?

Is the installation of a temporary rope on the rock face at Ennistymon falls development and if so is it exempted development?

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

Inland Fisheries Ireland propose to temporarily bolt a large diameter mussel spat rope to the rock face of the falls at Ennistymon to improve passage of migrating juvenile eels up and over the falls to the Inagh catchment above. The bolts and rope will be concealed in the rock breaks. An AA screening report is appended to this request.

- (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)

AA Screening Report

Map

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	N/A
(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):	In state ownership
(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>	In state ownership
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	Yes
(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:	May, 2022

SIGNED: Jane Gillerson

DATE: 28.04.2022

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:	

Tadhg Holmes

From: Planning Office
Sent: Thursday 28 April 2022 15:39
To: Tadhg Holmes
Subject: FW: The Falls - Ennistymon Section 5 Application
Attachments: Elver Passage Improvement Ennistymon 28.04.2022.pdf; Layout1.jpg; 00206B391B85220428155039.pdf; Project Description.pdf

CLARE
COUNTY COUNCIL

28 APR 2022

Received
Planning Section

From: Jane Gilleran <Jane.Gilleran@fisheriesireland.ie>
Sent: Thursday 28 April 2022 15:27
To: Planning Office <planoff@clarecoco.ie>; Ellen Carey <ecarey@clarecoco.ie>
Subject: RE: The Falls - Ennistymon Section 5 Application

Dear Ellen, & Planning Office,

Please find attached a completed Form PO7, AA Screening Report and 1:2500 scale map of the location of the proposed rope installation at the Falls, Ennistymon.

As the elver migration season for 2022 has just started, we do hope to install this rope, once permission has been granted, as soon as possible.

Thank you for your help and cooperation in this matter.

Best regards,

Jane

Jane Gilleran
Fisheries Environmental Officer
Inland Fisheries Ireland - Limerick

Iascach Intíre Éireann
Inland Fisheries Ireland

Tel (061) 300238 (087) 6878568
Email jane.gilleran@fisheriesireland.ie
Web www.fisheriesireland.ie

Ashbourne Business Park. Dock Rd. Limerick. V94 NPE0

From: Jonathan CoatesFarrell <Jonathan.CoatesFarrell@fisheriesireland.ie>
Sent: Tuesday 19 April 2022 15:09
To: Jane Gilleran <Jane.Gilleran@fisheriesireland.ie>
Subject: FW: The Falls - Ennistymon

From: Ellen Carey <ecarey@clarecoco.ie>

Sent: Monday 28 March 2022 15:03

To: Jonathan CoatesFarrell <Jonathan.CoatesFarrell@fisheriesireland.ie>

Subject: FW: The Falls - Ennistymon

*****CYBER SECURITY WARNING***:** This email originated from outside of Inland Fisheries Ireland email system and contains an attachment(s). Do not open attachments from unknown sources.

Jonathan,

Thanks for taking my call.

Please submit a description of the full nature and extent of the proposed development together with site location map showing where the development will be located.

Please also submit details of any AA screening carried out by suitably qualified person having regard to the Inagh River estuary SAC.

Section 5 application form is attached above .

All queries should be sent to planoff@clarecoco.ie

Regards and thanks

Ellen Carey E.P.

Ellen Carey

Executive Planner

Planning Department

Economic Development Directorate

Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2

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COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL

From: Gareth Ruane <GRuane@clarecoco.ie>

Sent: Monday 28 March 2022 12:50

To: Ellen Carey <ecarey@clarecoco.ie>

Subject: RE: The Falls - Ennistymon

Ellen,

Can you deal with this please.

Thanks

From: Planning Office

Sent: 28 March 2022 09:13

To: Ellen Carey

Cc: Gareth Ruane

Subject: FW: The Falls - Ennistymon

From: Jonathan CoatesFarrell <Jonathan.CoatesFarrell@fisheriesireland.ie>
Sent: Saturday 26 March 2022 09:39
To: Planning Office <planoff@clarecoco.ie>
Subject: The Falls - Ennistymon

Hello,

I'm hoping you may be able to assist me. We're looking to erect an Elver pass at the waterfall in Ennistymon. We've currently in mind a mussel or hessian rope that would be fixed to the front face of the rock at the lowest flow point to assist Elvers in overcoming the barrier. I appreciate this is a prominent local and tourism feature and the choice of pass is to minimise visual impact. Would yourselves have any objection to this or do you know if I would need to seek approval to fit this?

Best regards,

Jonathan Coates-Farrell
Assistant Inspector
Inland Fisheries Ireland - Clare

Iascach Intíre Éireann
Inland Fisheries Ireland

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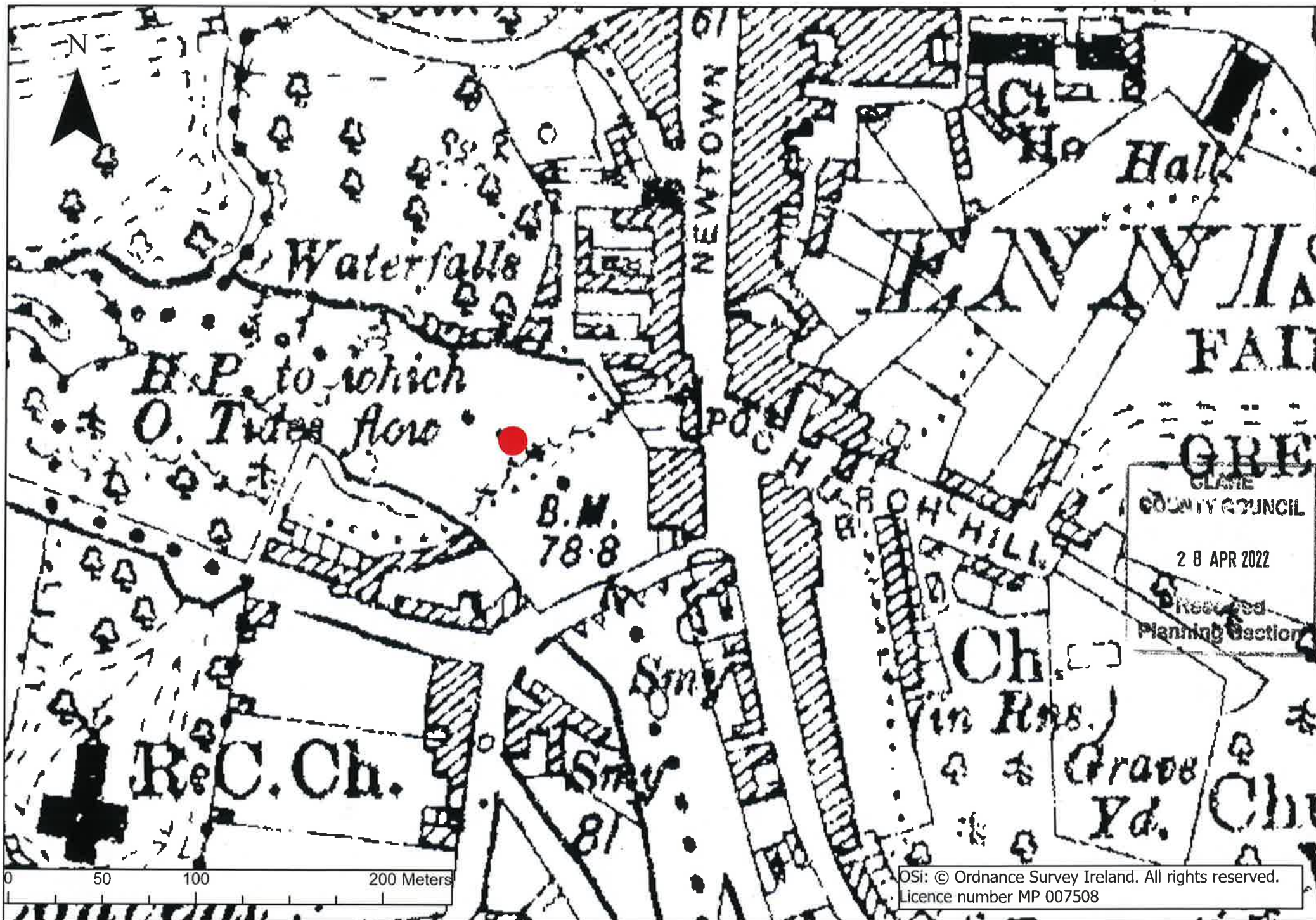
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SÉANADH: Is eolas rúnda atá sa teachtaireacht seo agus d'fhéadfadh sé bheith faoi phribhléid dhlíthiúil. Is don seolai amháin atá sí ceaptha. Is neamhúdairithe i an rochtain ar an teachtaireacht seo ag duine ar bith eile. Tá toirmeasc ar aon nochtheadh, cóipeáil nó leithdháileadh den teachtaireacht, nó aon ghníomh nó neamhghníomh a ghlacann tusa agus tú ag brath uirthi, mura tusa an faighteoir a bhí ceaptha di. Téigh i dteagmháil leis an seoltóir láithreach má fuair tú an teachtaireacht seo trí earráid, le do thoil. Go raibh maith agat.





**Iascach Intíre Éireann
Inland Fisheries Ireland**

28.04.2022

**Re. Exempted Development Application for Installation of Elver Passage Rope at
The Falls, Ennistymon, Co. Clare**

To whom it may concern,

Following discussion with Ellen Carey of the Planning Office, Inland Fisheries Ireland have been advised to submit a Section 5 application in relation to our proposal to ease elver passage upriver at The Falls.

While juvenile elvers are able to climb near-vertical structures when they have moss or algae as a substrate, and given their critically endangered status IFI are planning on installing additional climbing substrate on a trial basis to assist their migration over the falls. This will involve attaching a small number of eyed bolts to the rock face and threading through mussel spat rope. This heavily braided rope has a large surface area making it especially suitable for elvers to climb up. Clamps or eyed bolts that will be sprayed black to reduce their visibility will be bolted to the rock face. It is anticipated that only 3 to 4 bolts will be needed. The rope will then be threaded through the clamps or bolts and attached with cable ties.

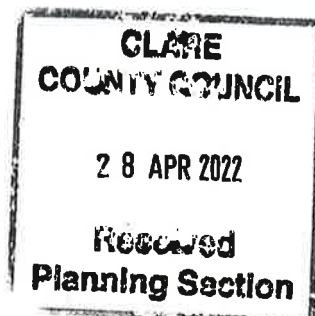
The rope will be tucked into the rock break to disguise its presence. The use of rope by elvers will be monitored throughout the migration season and removed once it has been established that elvers have stopped arriving into the Inagh catchment. The rope climbing aid will therefore be a temporary structure. IFI Biosecurity protocols will be observed by staff installing the rope with all tools and PPE disinfected before use on site. Works are expected to take approximately 3 hours.

AA Screening, location map completed Section 5 application form are attached.

Yours sincerely,

Jane Gilleran

.....
Jane Gilleran
Fisheries Environmental Officer
Inland Fisheries Ireland - Limerick





**Iascach Intíre Éireann
Inland Fisheries Ireland**

Report for the Purpose of Appropriate Assessment Screening

**Improvement of Elver Passage at
Ennistymon Falls, Co. Clare**

April 2022

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1. Introduction

1.2 1.1 Purpose of Assessment

This Screening for Appropriate Assessment has been undertaken to determine the potential for significant impacts of the proposed improvement of elver passage at the falls, Ennistymon, Co. Clare on nearby Natura 2000 sites. The screening exercise determines the need for a full appropriate assessment, in which case a Natura Impact Statement would need to be prepared. This Screening for appropriate assessment has been undertaken by competent staff of Inland Fisheries Ireland.

This Appropriate Assessment Screening Report is in accordance with the requirements of Articles 6(3) and 6(4) of Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora; the Planning and Development Acts, 2000-2015 and the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477/2011) as amended.

The current proposal is not connected with or necessary to the conservation or management of any Natura 2000 site.

2. The Appropriate Assessment Process

2.2 2.1 Stages in the Appropriate Assessment process

The requirement for Appropriate Assessment (AA) is outlined in Article 6(3) of the EU Habitats Directive where it is stated that:

"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"

The Commission's guidance (EC, 2002) recommends a staged approach to complete the AA with each stage determining whether a further stage is required:

Stage One: Screening

The process which identifies, on the basis of a preliminary assessment the likely impacts upon a Natura 2000 site of a project or plan, either alone or in combination with other projects or plans and considers whether these impacts are likely to be significant. There is no necessity to establish such an effect, it is simply necessary for the competent authority to determine that there may be such an effect. Plans or projects that have no appreciable impact on a European site may be excluded.

Where significant effects are likely, uncertain or unknown at screening stage, a second stage AA is required. Screening determines whether AA is necessary by examining:

- Whether a plan or project can be excluded from AA because it is directly connected with or necessary to the management of a European site; and
- Any possible effects of a project or plan either alone or in-combination with other projects or plans on the conservation objectives of a European site.

The assessment is carried out in the absence of any consideration of protective mitigation measures to reduce the plan or project's impact on a European site.

Stage Two: Appropriate Assessment

The consideration of the impact on the integrity of the Natura 2000 site of the project or plan, either alone or in combination with other projects or plans, with respect to the site's structure and function and its conservation objectives. Additionally, where there are adverse impacts, an assessment of the potential mitigation of those impacts.

Stage Three: Assessment of alternative solutions

This process examines alternative ways of achieving the objectives of the project or plan that avoid adverse impacts on the integrity of the Natura 2000 site.

Stage Four: Assessment where no alternative solutions exist and where adverse impacts remain

An assessment of compensatory measures where, in the light of an assessment of imperative reasons of overriding public interest (IROPI), it is deemed that the project or plan should proceed.

3. Methodology

The assessment in this report is based on a desk study and a walkover survey and has been prepared with reference to the EC document *Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites: Methodological Guidance on the Provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EEC* (EC, 2002). The desktop study was undertaken to identify the possible Zone of Influence of the proposed works and to identify any European sites within that area which could be potentially impacted upon. Sources of information consulted include the following:

- NPWS site boundary and site objective data
- OSI mapping and aerial photography
- EPA rivers and stream data
- Status of EU protected Habitats in Ireland, (NPWS, 2013)
- Relevant local area plans
- National Biodiversity Data Centre public records
- IFI records and publications
- Water Framework Directive via EDEN
- Irish Wetland Bird Survey on-line mapping

Relevant shapefiles were downloaded from the EPA, NPWS and from in-house IFI databases were used to generate maps on a Geographic Information System (GIS) platform. The resultant mapping has been used to illustrate information, including SAC and SPA boundaries.

4. Description of Project

4.1 Outline Project Description

This project aims to improve the passability of The Falls on the Inagh River at Ennistymon, Co. Clare through the provision of a rope climbing structure on the face of the rock. Elvers are the juvenile stage of the European eel (*Anguilla anguilla*), a catadromous fish that as an adult typically reaches a length of 60 to 80cm. They are regarded as critically endangered by the IUCN. Eels are migratory with the adults travelling to the Sargasso sea to breed with juveniles crossing the Atlantic and returning to our shores in early summer where they ascend rivers and begin their transition to the adult growth phase. Ennistymon is also the location of a national monitoring site for returning elvers. A trap operates on river-left downstream of the falls during the migration season (May to August) to record the numbers and life stage of returning elvers. After capture elvers are returned alive to the water upstream.



Figure 1: Juvenile 'glass' eel (left) and older pigmented elvers (right)



Figure 2: Elver trap installed on a temporary basis at Ennistymon

Ennistymon is also the location of a national monitoring site for returning elvers. A trap (Fig. 3) operates on river left downstream of the falls during the migration season (May to August) to record the numbers and life stage of returning elvers. After capture elvers are returned alive to the water upstream.

4.2 Site Location

The River Inagh main channel is 37km long and drains an area of west Clare covering Slieve Callan, Booltiagh, Inagh and north to Lickeen Lough. It is currently closed for salmon angling as it is not meeting its conservation limit. Catchment-wide electrofishing surveys carried out by Inland Fisheries Ireland (IFI) returned good numbers of juvenile salmonids throughout the catchment. The most recent EPA sampling on the Inagh, carried out in 2021 showed an improvement in water quality by one category at 4 out of 5 sites compared to 2018. The 5th site maintained its moderate (3-4) status. This is a welcome development and should improve survival for eels and salmonids in the system.

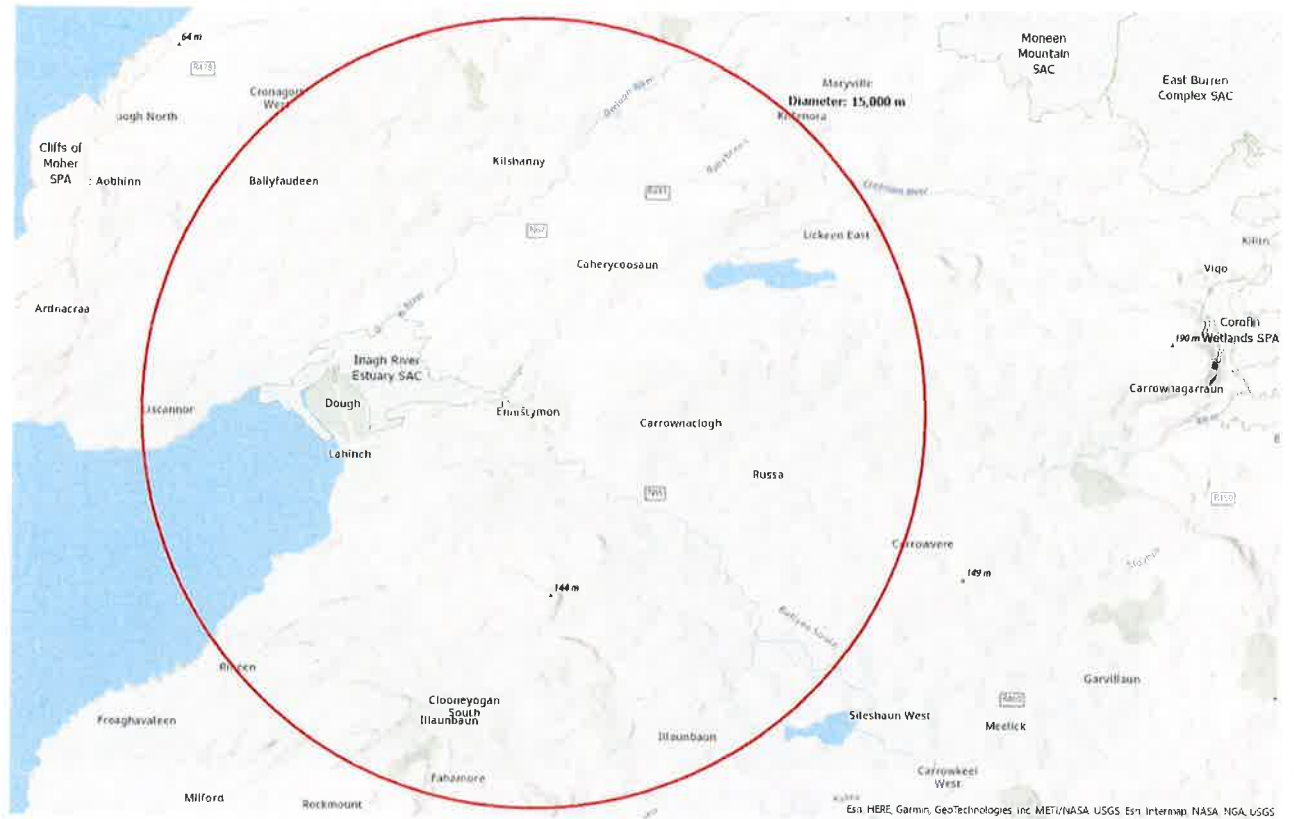


Figure 3: Ennistymon with SAC (Green) and SPA (Orange) within 15km highlighted



Figure 4: The Falls where it is proposed to attach the rope climbing material

4.3 Detailed Project Description

While juvenile elvers are able to climb near-vertical structures when they have moss or algae as a substrate, given their critically endangered status IFI are planning on installing additional climbing substrate on a trial basis to assist their migration over the falls. This will involve attaching a small number of eyed bolts to the rock face and threading through mussel spat rope. This heavily braided rope has a large surface area making it especially suitable for elvers to climb up.



Figure 5: The rope that will be used to facilitate elver passage



Figure 6: Example of mussel rope used to pass elvers over low-head weir (L) and mussel rope attached used bolt (R)

Clamps or eyed bolts that will be sprayed black to reduce their visibility will be bolted to the rock face. It is anticipated that only 3 to 4 bolts will be needed. The rope will then be threaded through the clamps or bolts and attached with cable ties.

The rope will be tucked into the rock break to disguise its presence. The use of rope by elvers will be monitored throughout the migration season and removed once it has been established that elvers have stopped arriving into the Inagh catchment. The rope climbing aid will therefore be a temporary structure. IFI Biosecurity protocols will be observed by staff installing the rope with all tools and PPE disinfected before use on site. Works are expected to take approximately 3 hours.



Figure 7: Line of attachment on the face of the rock at the falls indicated by the red line

4.5 Determination of likely zone of Influence

Guidance on Appropriate Assessment in Ireland recommends that a distance of 15km is used in assessing any potential impacts of plans on European sites. This was combined with the source-pathway-receptor model, to examine any potential impacts further downstream where hydrological connections exist to other European Sites outside of this 15km threshold.

4.6 Identification of relevant European sites

Using the model as described above the following European sites are considered to be within the Zone of Influence:

- Inagh River estuary SAC (Site Code 000036)

The significance of any impacts from the proposed plan on these sites and on their qualifying interests are considered in Table 1 below:

Table 1: Brief Description of European sites within Zone of Influence

European site description	Qualifying Interest	Conservation Objectives	Possibility of Likely Impacts
<p>Inagh River Estuary SAC</p> <p>The Inagh River Estuary is an estuarine channel that flows westwards to the sea from Ennistimon, in the south-west of Co. Clare. The site includes the estuaries of both the Inagh and Deaugh Rivers. These channels meander through a wide, flat valley, which is sheltered from the sea by an extensive sand dune system to the west. Low undulating hills surround the valley, giving it a secluded nature. The soils vary from gleys to peats. A diverse mosaic of habitats occurs within the site, ranging from coastal dune system, estuarine channel and its associated saltmarsh habitat, to freshwater and terrestrial habitats further inland. The bulk of the site is made up of low-lying wet grasslands.</p>	<p>Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>	<p>There is no record of common cordgrass (<i>Spartina anglica</i>) in the SAC and its establishment should be prevented</p> <p>Area stable or increasing, subject to natural processes including erosion and succession</p> <p>Maintain more than 90% of the area outside of creeks vegetated</p> <p>Maintain range of sub-communities with typical species listed in McCorry and Ryle (2009)</p>	<p>Given the temporary nature and small scale of the works there is no possibility of impacts on the integrity of the SAC or on any of the qualifying interests</p> <p>No significant effects are likely</p> <p>Screened Out</p>

5. Report Conclusion

The proposed relates to the improvement of elver passage the falls in Ennistymon, Co. Clare. The works are limited in nature and restricted geographically. Given the nature of the activity, the temporary installation time and the small works footprint there are no potential likely impacts from the proposal that could impact on the European sites assessed.

There are no other projects in the vicinity that in combination with the current proposal will likely impact on the European site its qualifying interests.

The outcome of screening for this project is that it can be objectively concluded that there are not likely to be significant effects on any European sites. Therefore, no further assessment is required. Table 2 below (Screening report matrix) provides a summary of the information gathered for in reaching this conclusion.

Table 2: Finding of No Significant Effect Matrix	
Information about the project	
Brief description of project	Elver passage improvement works
Brief description of European sites within 15km	N/A
Is the project directly connected with or necessary to the management of the site?	No
Are there other projects or plans that together with the project being assessed could affect the sites	There are no other known projects that would combine with the effects of the proposed developments to give rise to likely significant effects.
Assessment of significance of effects	
Describe the individual elements of the project (either alone or in combination with other plans or projects) likely to give rise to impacts on the European site.	No likely significant impacts have been predicted.
Describe any likely direct, indirect or secondary impacts of	No likely significant impacts have been predicted.

the project (either alone or in combination with other plans or projects) on the European site by virtue of: Size and Scale, land-take, distance from the European site or key features of the site.	
Describe any likely changes to the site arising as a result of reduction of habitat area, disturbance to key species, habitat or species fragmentation, reduction in species density, changes in key indicators of conservation value and climate change	No likely changes have been predicted.
Describe any likely impacts on the Natura 2000 site as a whole in terms of interference with the key relationships that define the structure or function of the site:	No likely significant impacts have been predicted.
Provide indicators of significance as a result of the identification of effects set out above in terms of loss, fragmentation, disruption, disturbance or change to elements of the site.	No likely significant impacts have been predicted.
Describe from the above those elements of the project or plan, or combination of elements, where the above impacts are likely to be significant or where the scale or magnitude of impacts is not known:	No likely significant impacts have been predicted.

AN CHLAIR

Clare County Council
Aras Contae an Chlaíir
New Road
Ennis
Co Clare



29/04/2022 09:24:54

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