



An
Bord
Pleanála

Inspector's Report ABP-303503-19

Development	Turf cutting and peat extraction and all ancillary works
Location	Coolree Bog, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	181280
Applicant(s)	Minister of Culture, Heritage & An Gaeltacht.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Minister of Culture, Heritage & An Gaeltacht.
Observer(s)	Irish Peatland Conservation Council Peter Sweetman, An Taisce & Others
Date of Site Inspection	7 th of May 2019
Inspector	Caryn Coogan

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1.0 Site Location and Description

- 1.1. The site, Coolree Bog, is located 2km north west of Prosperous village in Co. Kildare. Coolree Bog is located alongside two designated sites,
 - (a) Ballynafagh Bog SAC (east) and
 - (b) Ballynafagh Lake SAC to the North-west.
- 1.2. The subject site area is 11.43Ha with a proposed extraction area of 4.6ha. Coolree Bog is a high bog with existing drains and trenches throughout. It was previously an active bog, circa 25 years ago, and has revegetated.
- 1.3. The bog is accessed from two roads, from the east and west. The eastern access road is a local road which serves a high level of one-off dwellings and runs along the southern boundary of Coolree Bog, and also the northern boundary of Ballynafagh Bog SAC.. The eastern access road is narrow and includes a right-angled narrow bridge. There are a number of existing vehicular access points into Coolree Bog of the eastern access road. In addition a wide open drain runs alongside Coolree Bog and the eastern access road. The road as stated serves 20No. one off houses and at the very end there are 3No. dwellings.
- 1.4. The unclassified road to the west, the western access, runs along the northern axis of the bog with direct access onto the Regional Road at Cross of Brockagh crossroads. This access road runs parallel to the Blackwood Feeder (which is part of Ballynafagh Lake SAC). The western access is poorly surfaced and serves the sourcing agricultural holdings and Coolree Bog. It will carry the heavy machinery to the bog in particular, during the construction phase.
- 1.5. Coolree Bog is typical bogland topography, flat and low lying covered by a bogland vegetation. The views into the bog are from the western and eastern access roads. Coolree Bog has revegetated, and it currently a wilderness with no apparent use.

2.0 Proposed Development

- 2.1. The proposed development will consist of turf cutting and peat extraction for domestic peat fuel supply from a raised bog area of 11.43Ha, with the actual peat extraction occurring on 4.6Ha.

2.2. The proposed development will include the following enabling and ancillary roads:

- Levelling part of the raised bog to create 9No. spread grounds;
- Construction of 5No. floating road entrances from private roadway into spread grounds area including one turning area;
- Creation of new faceback and facebank drain;
- Provision of new drainage channels around spread grounds to connect to existing central drain;
- Backfilling, cleaning and deepening of existing drains where necessary;
- Construction of piped culverts at drain crossings;
- Provision of new silt pond of 225sq.m. with new post and wire fencing and gate;
- Provision of new outlet pipe to discharge from silt pond to boundary drain;
- The provision of a temporary compound 900sq.m.

There will be a machinery access route from L1019 along access track via Blackwood Feeder to northwest of site.

The proposed development will take place on an overall site area of 11.43Ha.

The planning application includes a Natural Impact Statement.

3.0 Planning Authority Decision

3.1. Decision

Kildare County Council **REFUSED** the proposed development for 3No. reasons:

1. Policy BL2 of the Kildare County Development Plan 2017-2023 seeks to balance between peat extraction potential of the county, whilst ensuring the protection and conservation of bogland habitats. The Plan seeks to limit extraction to those bogland areas currently under development, to minimise impacts by localising effects and thus protect the bog landscape character areas within the county. There is no active turf cutting being carried out at Coolree Bog. To reactivate the use of the site for turf cutting would

contravene the aforementioned policy and would be contrary to ensure that a balanced approach is taken to the development of the county's peat resources and the restoration of cutaway bogs. To permit the proposed development would lead to further degradation of the County's peatlands, would set an undesirable precedent for similar proposals on inactive bogs within the County and would therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the inactive nature of Coolree bog, the absence of existing development on the lands, as required under Policy BL2 of the Kildare County Development Plan 2017-2023, the substandard quality of the proposed access routes to the site and to the level of enabling works required to facilitate turf cutting on 9No. plots, the site is considered to an unsuitable location for the scale and nature of the development proposed. To permit the proposed development, would lead to a traffic hazard and obstruction of road users, would set an undesirable precedent for further development this nature on inactive bogs throughout the County and would therefore be contrary to the proper planning and sustainable development of the area.
3. Notwithstanding the rationale for the proposed development and the mitigation measures set out in the environmental reports submitted with the application and having regard to the highly sensitive Landscape Character of the site and to Section 13.1 of the Kildare County Development Plan 2017-2023, it is considered that the site of the proposed development which appears to have regenerated itself over the period since extraction ceased, supports a variety of species and ecosystems that contribute to the unique biodiversity of Co. Kildare, particularly having regard to the location of the site in close proximity to Ballynafagh Bog SAC, Ballynafagh Lake SAC and Blackwood Feeder. Furthermore, there are uncertainties arising from the Ecological Impact Assessment and the Natura Impact Statement Assessment regarding ecology and construction impacts. To permit the proposed development would lead to a loss of the natural landscape character of the area, with a consequent negative impact on the habitats and ecosystems in the area, would set an undesirable precedent for similar proposals of this

nature on and adjacent to, sensitive/ designated sites and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

EIA Screening: The applicant has submitted an EIA screening report. The Planning authority's assessment of the EIA screening report.

- The turf cutting and peat extraction for domestic purposes from a raised bog area of 4.6Ha. The total site area is 11.43Ha. The site is located less than 10metres from western boundary of Ballynafagh Bog SAC. The types and characteristic of potential impacts are outlined in terms of Population and Human Health, Biodiversity , Flora and Fauna, Water Quality and Fisheries, Hydrology and Drainage, Air, Noise and Climatic Factors, Traffic and Transportation, Landscape, Cultural Heritage. The proposal is a sub-threshold EIA development, whilst there are issues of an environmental nature arising, it is considered the proposed development having regard to its limited extent together with the mitigation measures proposed would not have a significant effect on the environment and therefore submission of an EIAR is not required.

Planning Report (13/12/18)

The report determined the recommendation to refuse in this case. The most important points raised in the assessment include:

- Kildare County Development Plan's policy limits extraction to boglands to areas currently under development.
- The Plan also acknowledges that burning of carbon based fossil fuels is responsible for over the greenhouse gas emissions.
- The level of works required including the removal of 175,500sq.m. of top layer peat to get to the fuel peat is considered to be disproportionate to the requirements for 9No. plots for turf cutting for domestic fuel purposes.
- A refusal is recommended.

3.2.2. **Other Technical Reports**

District Engineer: Autotract analysis is required of the bridge along the eastern access road details of turning areas.

Environment: Details of silt pond is required, with final destination of water outlet pipe. The anticipated concentration of ammonia and suspended solids. Cleaning of silt pond, all occupied buildings within 500metres of operational works area. Noise study. State the maximum number of days per year for the heavy peat extraction machinery. Both accesses to be clearly indicated.

Roads: Suitability of eastern access road for traffic such as tractors and trailers is questionable. There are 20No. private residences using the road with no pull in areas. Anticipated traffic figures during annual peak operation and maintenance of access road over the lifetime of the bog is required.

Environmental Health Office: No objections

Heritage Officer: In terms of the EclA it lacks information on monitoring and management of the cutting area and the silt pond. There are no details on breeding birds. It does not address the impact on the ecology of Ballynafagh Lake or Ballynafagh Bog (beyond the qualifying interests).

The NIS does not address potential impacts of construction and enabling works on the SAC sites, the potential impacts of a spread area, and no clear detail on the exclusion zone or how silt pond will be monitored and managed. A list of further information is provided, and conditions prescribed.

3.3. **Prescribed Bodies**

Inland Fisheries Ireland stated the site is located at the headwaters of the Slate River, which is an important salmonid tributary of the River Barrow SAC. The fisheries potential of the Upper Slate River system is currently underutilised because of a number of water quality issues such as run-off from associated cut-over peatlands. The drainage channels throughout the site and the deepening of the drains which flow through the site will lower the water table within the peats on-site and in the surrounding peatlands. As water levels drop within the remaining peats

this will facilitate the rapid breakdown of the organic matter, releasing nutrients, principally ammonia to waters. The drying out of peats throughout the site will exacerbate the washout of this organic matter to surface waters.

An Taisce

The site is located in area where the legal status has not been resolved. Bord Na Mona are applying at a number of locations. These new locations arise from negotiations carried out by the National Parks and Wildlife Service to secure cessation of peat cutting on the Raised Bog SAC to meet Ireland's obligations under the Habitats Directive 92/43/EEC. At certain locations a number of alternative new plots in the immediate area are being sought under a 'Relocation of Turf Cutters' project as part of a compensation scheme. The proposal is part of a wider programme to create new turf cutting sites, the location and cumulative impact needs to be assessed for EIA and Habitats Directive compliance. The effect of the application is to create a new bog undermining its rehabilitation. The application fails to reconcile continued peat extraction and burning with the objectives of the *Climate Action and Low Carbon Development Act 2015*.

Birdwatch Ireland

There is no detail of the methodologies used to detect wintering and breeding birds or survey times or frequency, this is a significant omission. The site may be occupied by merlin, which is an Annex 1 species. Further assessment of the site for merlin is required.

3.4. Third Party Observations

1. Peter Sweetman and Associates

Priority Habitats under the EU Habitats Directive indicate that active raised bogs are priority habitats. An EIA Directive applies to the whole areas, and it must be screened for Environmental Impact Assessment 2014-52-EU.

The planning authority must have regard to the following CJEU Judgements:

Case C-461/17

Case C 258/11

The Commission has opened an infringement against Ireland on bogs.

2. *Kildare Turf Cutters Association*

Wish to be kept informed of the planning process associated with the application.

3. *Irish Peatland Conservation Council*

The body is objecting to the proposal, it is accepted there needs to be a site for turf cutters from the SAC to practice their cultural heritage so that the SAC can be managed for nature conservation, the relocation site is not appropriate. There is a complex geophysical environment beneath the peat deposits. The IPCC are not convinced there is no risk to the SAC from the proposed drainage and landscaping works associated with the project. Coolree is part of a larger integrated bog that cannot be separated for development activity. The proposal forms a continuation with the SAC and is directly on the SAC boundary. Its development will represent a depletion of the local biodiversity. It is poor judgment on behalf of the Department to choose this site in a conservation area. The endangered curlew might be displaced or disturbed, and there is good quality wetland +habitats in terms of frogs etc. How was the site selected? Where the turf cutters encouraged to find alternative heat resources in terms of the climate strategy?

4. *Friends of the Irish Environment*

The Government Scheme to end turf cutting on designated bogs, and relocation of turf cutting from SACs. The current application is not part of any legal instrument, it is purely a policy decision to allow 9 turf cutters to extract turf for 65 years. The proposal will compromise the hydrological integrity of the protected SAC, and the AA screening should not have excluded this issue as it is the adjoining lands. There is hydrological connectivity in the area and this cannot be excluded. The breeding pair of merlin on the site have not been mentioned. The issue of Greenhouse Gas emissions is not mentioned, against the current decision to accelerate the end of turf cutting for power generation with the loss of 440No. jobs, and this application for 9No. turf cutters must be weighed. The cubic metres of peat extraction requirement for fuel is 64,350sq.m. of peat or 3358tons of carbon. Calculating the top 3metres to be removed of 'waste' turf gives 169, 875 cubic metres of turf or

8866 tons of carbon. This means each person emits 985 tons of carbon over 65 years which works out at 15.15 tons carbon per person.

5. Local Third Party Objections

Coolree Bog hosts an abundance of birdlife and fauna. The 11 Ha will become nothing more than a dust bowl, and their house is 500metres south west. The residents preserve the laneway in terms of its structure and natural beauty. Release of carbons.

There is a need for EIA of the proposal. The development is a subthreshold development. Coolree Bog is part of Ballynafagh Bog SAC. There is no logical reason to have this 11ha excluded from the SAC except incompetence or incomplete compliance with the requirements of the Habitats Directive when it was been designated. The planning authority is not empowered to interfere with a source of water that is required for navigational purposes, therefore Waterways Ireland should be notified.

4.0 Planning History

There is no relevant planning history.

5.0 Policy and Context

5.1 National Policy

5.1.1. National Raised Bog SAC Management Plan / Peatlands Strategy/ NHA Review

The National Raised Bog Special Areas of Conservation (SACs) Management Plan 2017 - 2022* sets out a roadmap for the long-term management, restoration and conservation of protected raised bogs in Ireland. This Plan was published on 21 December 2017.

The Plan strikes an appropriate balance between the need to conserve and restore Ireland's raised bog network and the needs of stakeholders and gives recognition to the important role that communities have to play in the conservation and restoration of raised bogs.

The National Raised Bog Special Areas of Conservation (SACs) Management Plan 2017-2022 is part of the measures being implemented in response to the on-going infringement action against Ireland in relation to the implementation of the EU Habitats Directive, with regard to the regulation of turf cutting on the Special Areas of Conservation (SACs) and on foot of the recommendation of Mr. Justice Quirke that a National Raised Bog SAC Management Plan be drawn up, arising from the Peatlands Forum (2012). Subsequently, Dáil Éireann unanimously supported the recommendation for a national plan to be put in place for Ireland's protected raised bogs.

In 2014, following approval by Government, the then Minister for Arts, Heritage and the Gaeltacht, published three documents, a draft National Peatlands Strategy a draft National Raised Bog Special Areas of Conservation (SACs) Management Plan and a Review of Raised Bog Natural Heritage Area Network.

The National Raised Bog Special Areas of Conservation (SACs) Management Plan 2017-2022 has been developed taking account of the various viewpoints and offers a way forward by outlining how a representative network of raised bogs will be conserved, restored and managed.

The Wildlife (Amendment) Bill 2016 has been presented to Dáil Éireann and published. It provides for the implementation of a reconfiguration of the raised bog Natural Heritage Area Network arising from the 2014 Review of Raised Bog Natural Heritage Area Network. The Bill is proceeding through the necessary stages in the Houses of the Oireachtas.

The National Peatlands Strategy was published in 2016.

Climate Action and Low Carbon Development Act 2015

The enactment of the Climate Action and Low Carbon Development Act 2015 was a landmark national milestone in the evolution of climate change policy in Ireland. The *Climate Action and Low Carbon Development Act 2015* provides the statutory basis for the *national transition objective laid out in the national policy position*. As provided for in the 2015 Act, in order to pursue and achieve the *national transition objective*, the Minister for Communications, Climate Action and Environment must make and

submit to Government a series of successive National Mitigation Plans (NMPs) and National Adaptation Frameworks (NAFs). When considering these plans and frameworks, Government must ensure that the *national transition objective* is achieved by the implementation of measures that are cost-effective.

5.2 Development Plan

10.4.6 Boglands

24,300 ha (60,045 acres) of land in County Kildare is covered by bogs, which represents 14% of the total land coverage of the county. Most of the bogland resources in Kildare are located in the north-west and south-west of the county, the majority of which are raised bogs with smaller blanket bog areas. Bórd na Móna owns c. 8,500ha of peatlands in the county, representing c.10% of its national landholding.

Extensive peat production takes place at various sites within the county, including sites at Kilberry, Ballydermot/Lullymore, Timahoe, Giltown bog, Prosperous bog and Allen bog, for energy supply and to support the horticulture business. A further two bogs, Derrylea and Umeras to the east of Portarlington are on the Kildare/Offaly border.

Many of the county's peatland resources are designated Special Areas of Conservation and Natural Heritage Areas. Under the Habitats Directive, it is a legal requirement to protect bogs. It is an objective of the Government that domestic turf cutting on these designated raised bogs will be phased out over the coming years. The potential for the utilisation of protected peatland areas for tourist, amenity, educational and research purposes is acknowledged and promoted.

Bórd na Móna has produced a 15 year strategy, Sustainability 2030, which outlines the company's plan to complete the transition from energy peat production into new sustainable business. The strategy recognises the role and responsibility of Bord na Móna in the rehabilitation of its peatlands to an environmentally sustainable condition with a higher biodiversity value. The potential for eco-tourism based on the unique

characteristics of the peatlands and the biodiversity habitats they provide is also being investigated.

Policies: Boglands

It is the policy of the Council to:

BL 1 Ensure that a balanced approach is taken to the development of the county's peat resources and the restoration of cutaway bogs, in order to minimise the negative

impact on biodiversity and the archaeological and cultural heritage of the county.

BL 2 Seek a balance between the peat extraction potential of the county, whilst ensuring the protection and conservation of bogland habitats. Limiting extraction to those bogland areas currently under development will help to minimise impacts by localising effects and thus protect the bog landscape character areas within the county.

BL 3 Take a balanced approach to the redevelopment of cutaway bogs recognising their significant landscape, environmental and heritage value. Future development should seek to conserve cutaway bogs and maximise their potential for wildlife, biodiversity, conservation and amenity in the first instance, whilst the potential for economic uses such as grassland, forestry and renewable energy in some circumstances is acknowledged, subject to the protection of the environment and landscape character.

BL 4 Liaise with Bord na Móna, the Irish Peatland Conservation Council, Coillte and the National Parks and Wildlife Service of the Department of Housing, Planning, Community and Local Government to ensure the sustainable use of cutaway bogland, with due consideration given to their ecological and amenity value.

BL 5 Seek a Hydrological Report which will also incorporate Flood Risk Assessment in accordance with the Planning Guidelines

“The Planning System and Flood Risk Management (2009)” for significant developments within boglands, so as to ensure that the quality of ground or surface water is assessed and mitigation measures identified. This assessment should address the issue of ground and slope stability.

BL 6 Support the development of the peatlands within the county for appropriate alternative uses, subject to environmental considerations and nature designations.

BL 7 Recognise the potential and support the appropriate development of eco tourism developments based on the unique characteristics and biodiversity of bogland in Kildare.

Heritage is recognised as an important environmental and economic resource that requires care and management through the planning process. Kildare has a wide range of habitat types and landscapes supporting diverse species both in natural and seminatural state and managed locations. These include grassland, woodland, stream and canal habitats, bogland and riparian habitats. These habitats support a variety of species and ecosystems that contribute to the unique biodiversity of Kildare. Many of these areas are coming under pressure as development intensifies the demand for land. It is imperative that measures are put in place to respond to these pressures and that any development will not have a detrimental effect on the natural environment.

Policies: **General Natural Heritage**

It is the policy of the Council to:

NH 1 Facilitate, maintain and enhance as far as is practicable the natural heritage and amenity of the county by seeking to encourage the preservation and retention of woodlands, hedgerows, stone walls, rivers, streams and wetlands. Where the removal of such features is unavoidable, appropriate measures to replace like with like should be considered, subject to safety considerations.

NH 2 Promote the carrying out of basic habitat assessments to inform the design of new developments in order to ensure that proposals for development integrate the protection and enhancement of biodiversity and landscape features wherever possible, by minimising adverse impacts on existing habitats (whether designated or not) and by including mitigation and/or compensation measures, as appropriate.

NH 3 Require compliance with Article 10 of the Habitats Directive with regard to encouraging the management of features in the landscape which are of major

importance for wild fauna and flora. Such features are those which, by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems for marking field boundaries) or their function as stepping stones (such as ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild species.

There are 8 Natura 2000 sites within the county (Table 13.1 and Map 13.1 Refer).

Table 13.1:

Pollardstown Fen 000396 SAC
Ballynafagh Bog 000391 SAC
Ballynafagh Lake 001387 SAC
Rye Water Valley at Carton 001398 SAC
Mouds Bog 002331 SAC
River Barrow and Nore 002162 SAC
Red Bog 000397 SAC
Poulaphouca Reservoir 004063 SPA

It is a requirement under the Planning and Development Act 2000 (as amended), for each County Development Plan to include objectives for the conservation and protection of Natura 2000 and other sites. Development within the county has the potential to impact on the integrity of European Sites located both within and outside of the county.

A planning authority must have regard to any European Site when making a decision in relation to a plan or project. All plans or projects, unless they are directly connected with or necessary to the management of a Natura 2000 site, are required to be subject to screening for Appropriate Assessment, to determine if they are likely to have a significant effect on a Natura 2000 site, either individually or in combination with other plans or projects.

14.8 Landscape Policies

14.8.2 Lowland Plains and Boglands Character Area

It is the policy of the Council to:

LL 1 Recognise that the lowlands are made up of a variety of working landscapes, which are critical resources for sustaining the economic and social wellbeing of the county.

LL 2 Continue to permit development that can utilise existing structures, settlement areas and infrastructure, whilst taking account of the visual absorption opportunities provided by existing topography and vegetation.

LL 3 Recognise that this lowland landscape character area includes areas of significant landscape and ecological value, which are worthy of protection.

LL 4 Recognise that intact boglands are critical natural resources for ecological and environmental reasons.

LL 5 Recognise that cutaway and cut-over boglands represent degraded landscapes and/or brownfield sites and thus are potentially robust to absorb a variety of appropriate developments.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 Reason No. 1

Reason No. 1 centres on the alleged contravention of two policies in the current Kildare County Development Plan, namely BL1 and BL 2 which considers the balance between peatland protection, conservation and restoration, and peat as a resource. The reason for refusal considers that the proposal will lead to further degradation of Kildare's peatlands and would set a precedent for similar developments.

6.1.2 Compliance with Policy BL2

The correct balance is to protect the European designated site at Ballynafagh Bog SAC from further damage in line with Ireland's obligation under European Law, to allow raised bog habitats at the site to be restored and to accommodate a very small number of turf cutters on to a damaged bogland habitat. This balance complies with policy BL2, the current proposal allows a small domestic and localised level of peat extraction and serves as a conservation function to protect an important bogland

habitat in line with national strategy for peatland protection, noting that such habitats have been damaged notwithstanding legal protection.

The planning authority's assessment relates to a policy that wants to limit extraction to bogland areas currently under development. The policy does not state that all peat extraction must be carried out on areas currently under active development, and it can be reasonably concluded that the turf cutting on sites that are not actively being cut for turf at present is not precluded by BL2.

The appellant states that KCC approach is a blinkered one. The proposal is part of a relocation process. The development will not proceed if there is active cutting at Ballynafagh Bog SAC by individual turf cutters who are to be allocated plots at Coolree Bog. The planning authority appears to have concluded the proposed development will increase the amount of turf cutting within Co. Kildare, which is not the case. A small number of turf cutters that were actively extracting peat from the protected bogland will carry out turf cutting on an alternative bog in agreement with the Department of Culture, Heritage and An Gaeltacht and within stated parameters of their agreement. The overall outcome is a reduction in the number of people cutting turf on Ballynafagh Bog from 60No. turf cutters to 9No. since 2010.

The Environment Impact Screening Assessment by Kildare Co. Co. concluded that no significant environmental impacts will arise, referencing the limited extent of the development and the mitigation measures incorporated into the proposal. The activity will be subject to increased environmental controls at the subject site (verses activities at Ballynafagh Bog SAC) if been carried out in accordance with a planning permission as any relevant conditions require to be complied with.

It is considered appropriate to refer to policies LL 4 and LL5. It should be noted from the detailed ecological reports that subject site is not an intact habitat and not indicative of good quality peat forming raised bog. The vegetation, due to previous turf cutting and associated drainage activities is not representative of an active raised bog. These previous activities have dried out the site to a point it cannot be restored to active raised bog. The boglands is cutover bog due to historic turf cutting and turf has been stored on the site in the recent past.

A statement in the Planner's Report is of particular concern, *'to the naked eye, it could be viewed as a relatively intact bog or one that has been allowed to regenerate*

itself in the period since extractive turf cutting ceased. The landscape is natural and unspoilt, with evidence of plants and other species of flora and fauna on site.' The assessment hinges on visual appearance whereas scientific assessment confirms otherwise; the bog is not intact or natural and has not regenerated since the previous extraction activity occurred. The planning authority has not afforded any merit to the current ecological condition of the raised bog habitat, which has significant implications on the carbon sequestration, water quality regulation and biodiversity support potential of raised bog habitats.

LL5 is the more appropriate planning policy statement is more appropriate to Coolree Bog as it relates to cutover bog, whereas LL4 relates to intact bogland. Such cutaway and cutover bogs are acknowledged as degraded landscapes which may be robust enough to absorb a range of appropriate developments. The proposed cutting of turf for domestic purposes can be appropriately located at this site without contravening the policy objectives of KCC.

The proposal does not contravene Policy BL2 of the CDP as the proposed development is not precluded by same and a balanced approach has been taken to the protection and conservation of bogland habitats within the county.

6.1.3 Compliance with Policy BL1

Policy BL1 again seeks balance. The balance is sought between the development of peat resources and the restoration of cutaway bogs. The aim of the objective is to minimise the negative impact on biodiversity and on archaeological and cultural heritage of the county.

The proposed development must be considered in the context of its wider purpose. The proposed use of peat resources is to be relocated from a more sensitive SAC site, which currently holds areas of active raised bog and also has potential for regeneration of active raised bog habitats and for which restoration measures are planned. The restoration measures cannot proceed if turf cutting continues at Ballynafagh Bog, as the Department can only undertake restoration work in agreement with the landowners and turf cutters.

In the context of impacts on biodiversity, we reiterate that Coolree Bog has previously been drained and significant peat extraction has occurred. An NIS and EclA have been prepared to take careful account of the potential impact on

biodiversity of both nearby European sites and on the local flora and fauna; adverse effect on the integrity of European sites has been ruled out and localised biodiversity impacts have been quantified and documented within the EclA.

An Archaeological and Architectural Heritage Assessment has been carried out and no significant adverse impacts are anticipated to arise. The Department will ultimately be responsible for any archaeological monitoring to occur at the site.

The proposal does not contravene the policy; the ceasing of turf cutting at Ballynafagh Bog SAC to facilitate restoration of the designated site on which cutting has occurred would be a substantial environmental gain in keeping with the policy objective. Allowing a very small number of cutters from Ballynafagh Bog to the ecologically damaged Coolree Bog, is on balance a more acceptable impact.

6.1.4 Further Degradation of County Kildare Peatlands and Undesirable Precedent

Any consideration of degradation of Co. Kildare's peatlands must consider both the quality of the peatlands habitats along with the quantum of degradation. While clearly the extraction of peat from any peatland will further degrade from that peatland, it would be more damaging on a raised bog SAC than Coolree where the raised bog habitat is damaged and not capable of regeneration.

Any private proposal for turf cutting would not constitute a similar proposal to the current proposal and would set an undesirable precedent.

6.1.5 Reason for Refusal No. 2

It is clear from the internal reports that the relevant sections wanted to seek further information regarding the traffic issue. Reason No. 2 again references BL2 in the context of the access routes, which are considered to be substandard by the local authority.

Reason no. 2 refers to BL2 of the CDP and the fact there is no active turf cutting on site. Whilst there is no active turf cutting on site, the site is significantly damaged ecologically owing to past drainage and turf cutting (estimated to have occurred 20-25 years ago), and the spreading of turf has occurred on the high bog near the northern site boundary in more recent years. BL 2 does not preclude peat extraction at inactive sites and it is not a requirement that new turf cutting must always be

carried out on lands already actively cut. Such a rigid requirement could favour cutting on active sites that are designated above inactive sites that are not.

6.1.6 Nature of Access Routes and Potential for Traffic Hazard and Obstruction of Road Users.

The proposed access routes are considered to substandard by KCC.

Traffic Generation

The KCC Roads Engineer expresses concern regarding the impact on the access routes arising from heavy traffic over a long period of time. The traffic will not be heavy and it will be temporary in nature during enabling works and seasonable in nature thereafter.

Construction Phase Traffic

Construction works will take place during the drier summer months. Large machinery will access the site from the western access, whereas light machines will use the eastern access. The construction phase is expected to last 4-6 weeks with less than 20 traffic movements per day.

It may be necessary to remove existing gates and associated posts on the western access route to facilitate construction access. These works would be exempt from planning. This is an elevated track both physically and hydrologically and there is no potential on the conservation objectives or integrity of the site. There will be 4-6 persons on the site during the construction period and they will access the site using a van or car.

Operational Phase Traffic

The traffic to be generated by the proposal will be negligible. Anticipated movements by the turf cutters are likely to consist of:

- 8-10 movements by car to facilitate stacking and turning of peat sods
- 4-5 movements by car or small tractor and trailer to facilitate collection of the turf.

These movements would generally take place between April- August.

There will be fewer than 300 vehicle movements per annum during the site's operational phase.

6.1.7 Traffic Generation Context

The KCC Roads Engineer refers to the 20No. dwellings served by the eastern access route and 3No. dwellings located along the western route. It is likely that any one of the houses would generate more traffic than the purposed development.

Clarifications

The Environment Section of KCC asked for clarification on the western and eastern access points. These are described within the RPS planning report Section 4.1. The eastern access will not be used for heavy construction traffic or harvesting machinery. The western access will not be used for the removal of turf.

The peat is to be extracted using a specifically adapted tracked excavator assisted by a sod hopper, and all of the turf could be cut on site over 1-2days of the year.

Eastern Access

The Area Engineer requests items in his report regarding the narrow bridge on the eastern route and an auto track analysis of the bridge with a car and trailer. The Roads Report states there are no pull in areas, and the road is narrow. It is stated the road is potholed and unsuitable for heavy traffic. The eastern access is not intended for heavy traffic.

Navigation of Narrow Bridge and Passing opportunities

Appendix C includes an autotrack analysis, and demonstrates all vehicle combinations can be accommodated on the structure There is clear visibility from the bridge. There are agricultural properties at the end of the eastern access which would use the road. Turf has been cut and stored on the site in the past.

A condition may be attached requiring the Department to include a clause agreement within the agreement with turf cutters limiting the vehicles to be used for collection and/ or generally on the eastern access road to a specific size or nature. Signs could be erected at the narrow bridge to advise road users of the narrow structure.

Sightlines at Access Points

A total of 5No. access points to the spread grounds are proposed. These access points are to be connected to the private surfaced road which runs along the south eastern boundary of the site.

There is a visibility splay available at each entrance that varies from 55-90metres. Given the alignment and narrow width of the road, traffic speeds are low with low volumes of traffic. The movements in and out of the spread lands are seasonal.

Western Access

KCC considers the western access to be potholed and unsuitable for heavy traffic associated with the construction. The route also serves agricultural land. It should be noted that the route was considered suitable for construction traffic previously. The route is currently used by agricultural vehicles and in part to serve residential developments. The construction period will take place over 6 weeks. The operational phase will only involve the excavator and sod hopper traversing the route on a small number of occasions. The onsite turning area will comply with the Site Development works Manual DOE 1998.

Maintenance of Access Routes

The applicant is satisfied to provide for the reasonable reinstatement of any damages done to the access routes during the construction period, and in the context of the ongoing use of the privately-owned section of the western access, it will make a reasonable contribution towards maintenance with and in agreement with other road users.

6.1.8 Scale of Enabling Works

The planning authority consider significant enabling works are required to facilitate the proposed development. The EIA Screening report indicates the enabling works are proportionate to the scheme. The site is already modified by drainage, existing drains including a large central drain will be upgraded. The enabling works required will take 6 weeks. These are all included in the project proposal, including the silt pond. The silt pond will trap sediment to protect surface waters off site with fencing provided for safety. The new access and turning area will prevent obstruction to road users.

The works are temporary on site, the site is already modified and will revegetate, and the impacts visually are localised. The works will also facilitate the restoration of the bogland landscape at Ballynafagh Bog.

The KCC Planning report states the removal of 175,500sq.m. of peat is disproportionate to the requirements of 9No. plots for turf cutting. This is indicative of domestic turf cutting being carried out on raised bogs. Peat from raised bogs is typically 90-95% water. Since peat has already been extracted from the surface layer at Coolree Bog, and the peat depth varies between 4m to 4.7m across the area proposed for turf cutting, the volume of upper peat layers to be removed is significantly lower than if turf cutting were proposed at many other raised bog sites in Ireland, where significantly deeper deposits of peat are encountered.

6.1.9 Reason for Refusal No. 3

Refusal reason no. 3 centres on potential impacts to landscape character of the locality and the natural heritage of Co. Kildare. The highly sensitive landscape character as assigned with the CDP along with section 13.1 of the CDP and proximity to designated sites are relied upon. The reason for refusal states that Coolree Bog has regenerated itself following peat extractions. It also states that the EclA and the NIS leave uncertainty with respect to ecology and construction stage impacts. This reason for refusal centres on the Heritage Officer's report, the report does not recommend a refusal on that basis. The internal reports recommend requesting further information to clarify certain items in order to inform a decision or attach conditions. The information provided now will address any queries raised within those certain reports.

6.1.10 Impact on Landscape Character

The site is located in the Western Boglands Landscape Character Area (LCA) which is defined as a high sensitivity landscape area. It must be noted the proposed development involves the relocation from one peatland to another, both of which are afforded the same landscape character, but Ballynafagh Bog is more ecologically sensitive. Therefore there is no net increase in potential adverse impacts to the Western Boglands Landscape Character Area. The movement of cutters from the protected SAC onto Coolree will allow for the restoration of the protected bogland.

The central area of Ballynafagh Bog displays a less disturbed area of high bog which has not been modified to the extent of the subject site and is visually more sensitive.

There is no net increase in the potential adverse impacts to the Western Bogland Landscape. Furthermore, the movement of cutters from the SAC site onto Coolree will allow for the restoration of the protected bogland.

Secondly, the site constitutes previously drained peatland or cutover bog with evidence of former turf cutting activities and storage having taken place. The relevant landscape policy in the CDP is LL5 which recognises cutover bogland represents degraded landscape which is robust enough to potentially absorb development.

Thirdly, the proposed activities will alter the landscape from localised viewpoints only during and immediately on completion of enabling works and then immediately upon extraction when the top layer of vegetation is removed. It should be noted that the site is likely to revegetate over time as the turf cutting proceeds. The only areas of bare peat will be located in the immediate vicinity of the retreating facebank as the turf cutting activity takes place. It should be noted the proposed activity is expected to progress over 65No. years which is a very slow rate of change, only a very small area will appear to be denuded at any given time during the operational stage. The site is to be retained in Department ownership for conservation purposes following the extraction, and therefore no longterm significant adverse impacts will arise on the decommissioning or cessation of the turf cutting activity.

The proposed activity is such that peatlands are the only locations it can be carried out. Policy 14.8.2 of the CDP recognises that landscapes such as the western Boglands LCA are working landscapes accommodating a variety of uses that are important for the social and economic well being of the county.

The topography of the area comprises a flat low lying plain and boglands in the immediate vicinity generally enclosed by mature vegetation. The visual receptors and the extent of visibility are highly localised. The proposed extraction will advance from the northwest to the south east, and will not be visible from publicly accessible areas, only the spread grounds, access points and turning area will be visible from the road to the east which is not heavily trafficked.

The housing and agricultural structures in the area will remain the most prominent features on the landscape. Therefore are no scenic viewpoints or areas of high amenity of relevance to the site identified in the CDP.

The refusal considers the proposed development would result in a loss of landscape character, however the proposal represents a modification of a previously modified site, a landscape which is a cutover bog has already been degraded. The site will revegetate.

6.1.11 Impact on Natural Heritage and Local Biodiversity

The application has been made by the Minister for Culture, Heritage and the Gaeltacht who's remit is to protect the natural heritage nationally. Section 13.1 of the CDP relating to natural heritage must be considered.

Heritage is recognised as an important environmental and economic resource that requires care and management through the planning process. Kildare has a wide range of habitat types and landscapes supporting diverse species both in natural and seminatural state and managed locations. These include grassland, woodland, stream and canal habitats, bogland and riparian habitats. These habitats support a variety of species and ecosystems that contribute to the unique biodiversity of Kildare. Many of these areas are coming under pressure as development intensifies the demand for land. It is imperative that measures are put in place to respond to these pressures and that any development will not have a detrimental effect on the natural environment.

In order to assess what aspects of the local biodiversity are considered to be potentially negatively impacted to a potentially unacceptable degree by the proposal, a detailed review of the local authority reports and third party submissions has been undertaken.

In presenting the local authority's assessment the Planning Report on file describes the landscape as 'natural and unspoilt'. The site is a damaged bog that has experienced significant turf cutting and drainage in the past. This is fully acknowledged in the Ecological Impact Assessment (EclA). This study concludes the proposed project will lead to minor adverse and permanent impacts on cutover

bog habitats and negligible impacts on scrub, woodland and bracken habitats. There are no significant impacts predicted on any protected habitats or species. Turf cutting will not lead to a complete loss of identified habitats, the site will continue to revegetate.

The KCC Heritage Officer does not provide any specific details as to aspects of the local biodiversity that may be unique apart from Merlin which is not unique to Kildare and is associated with Ballynafagh Bog, the site that turf cutters are been located from to Coolree.

The ecology of Ballynafagh Bog and Ballynafagh Lake beyond the qualifying interests of those sites is mentioned. However, the AA Screening and NIS had regard to the habitats supported within the SAC. It is considered that no further effects to non-qualifying species present within the SAC occur (if there is no physical change to the condition, structure and functions of the habitat). Furthermore the focus of the NIS was on the impacts that proposals may have on habitats outside of the SACs, and whether those provide a supporting function to the integrity of the SAC. Therefore in line with recent EU judgement (C-461/17 Holohan vs ABP) all potential effects upon species within the SAC have been examined in addition to all habitat types and species which lie outside of the SAC where these are relevant to the achievement of the conservation objectives.

A submission from An Taisce also discussed. It is acknowledged that the proposals will result in some localised biodiversity loss as set out within the EclA. The proposal is a form of mitigation to address the detrimental effects of ongoing turf activity within Ballynafagh Bog SAC, and will enable a range of restoration measures for the SAC which will result in significant longterm ecological benefits. On this basis the expected biodiversity losses are considered to be justifiable.

Turf cutting has a complex history in Ireland, and as such some turf cutters opt for relocation. The overall affect of the Cessation of Turf Cutting Compensation Scheme (CTCCS) at Ballynafagh Bog has been a reduction in the number of turf cutters from 60No. plots to 9No. plots, proposed on Coolree Bog.

6.1.12 Current Ecological condition of Bogland Habitats at Coolree Bog and Ballynafagh Bog SAC

The refusal asserts the site appears to have regenerated since previous peat extraction ceased on site. A full assessment must consider the condition of the site in line with current ecological mapping, and condition assessment used for raised bogs.

- Ballynafagh SPA is in significantly better ecological condition than Coolree Bog.
- Ballynafagh Bog SPA supports an area of 6.5Ha of priority Annex 1 Habitat 'Active Raised Bog' with the potential to restore an additional 6.9Ha of the Annex 1 Habitat degraded raised bog still capable of regeneration through implementation of restoration measures.
- Coolree Bog is significantly more damaged, and while it has regenerated it is inaccurate to describe it as an intact bog as stated in Planner's Report. The bog is not peat-forming and does not appear to have the ability to become peat forming based on the findings. It is also possible the bog already constitutes a net carbon source as opposed to a carbon sink. The water table is liable to fluctuate significantly since the vegetation is dominated by species tolerant of drier conditions.
- Given the concerns of Friends of the Irish Environment it is important to note that only raised bog habitats that can be restored to active raised bog within a period of 30 years can be considered degraded raised bog within the meaning of the Habitats Directive. Even when considering raised bogs within the SAC network, less than 12% of remaining high bog is currently classified as active raised bog and only a further 11% considered to be restorable to active raised bog.
- The fact the site at Coolree has revegetated as opposed to regenerated was explained to the planning authority. Coolree does not contain Active Raised Bog habitats nor does it have the potential to regenerate itself to ARB status.

Reason no. 3 states there are uncertainties arising from the EclA and the NIS, however the following will provide clarity on the items mentioned.

Heritage Officer's Assessment of the Ecological Impact Assessment

- **Recommendations for Management or Monitoring of Cutting Area and Silt Pond**

These are provided within the Outline Construction and Operational Method Statement submitted with the planning application. This is an inherent part of the development proposal and note that throughout the operation the silt pond will be maintained and inspected regularly throughout the operational phase of the peat extraction. The maintenance procedure for the silt pond will involve excavation of silt to the original invert level of the pond using a long reach excavator and levelling of the excavated silt within the site boundary.

With respect to the cutting area, each plot will be clearly defined and subject to a legal agreement with the Department, specifying no more than 2 No. cuts are to take place each year.

- **Detail On breeding Birds which may utilise the site e.g. Merlin**

The Bird report associated with Coolree Bog is included in appendix E and may be read with the EclA. The report addresses the concerns of the Heritage Officer and third parties in respect of the potential of the proposed development to result in a significant impact upon the supported populations of wintering and breeding birds.

- **Assessment of Impacts on Ballynafagh Lake or Ballynafagh Bog (Beyond Qualifying Interest)**

The AA Screening and NIS examined the potential effects of the proposed development in detail, with all potential effects. The assessment had regard to the habitats supported with the SACs which naturally affect a range of species supported. It is considered that no further effects to non-qualifying species present within the SAC may occur.

The potential effects associated with the proposed development upon Ballynafagh Lake and Ballynafagh Bog SAC were assessed in the NIS and repetition of same is not necessary. There will be no changes to any of the habitats on which any qualifying species may rely.

- **Methodologies or Findings of All Surveys Referred to in the EclA**

The information collected was carried out by competent and qualified surveyors using the best practice in the field.

- **Details of Storage/ Use/ removal of Unexcavated Peat, and Final Fencing**

It is envisaged that all of the excavated material will be disposed of within the site with any excess soil being spread across the proposed spread grounds areas. There is no requirement to export peat from the site.

- **Birds**

The Heritage Officer recommended a breeding bird survey in particular to Merlin and Curlew. A submission from Birdwatch Ireland queries the lack of stated methodology for wintering and breeding birds.

Merlin

There were no presence of merlin recorded at Coolree Bog. The adjoining Ballynafagh Bog may support foraging merlin, it noted the habitats within Coolree are not considered to be suitable to support breeding habitat for the species, with only limited foraging opportunities available. The proposals do not have potential to result in any significant adverse effect on the suitability of the SAC to support habitat for the species. The relocation of the turf cutting from Ballynafagh SAC may result in the preservation and restoration of suitable foraging habitats for merlin within a known breeding territory, and may result in an enhancement of the conservation status of the species.

Other Birds

Third parties are concerned about the value of the site for other bird species, and the Bird Survey carried out on site should be noted in appendix E. The survey recorded the presence of a Meadow Pipit. There were no Snipe or Curlew found. In general the site was considered to support a limited range of species in relatively low numbers. The snipe and curlew are present at the SAC, and moving the turf cutting out of the SAC will result in the maintenance and restoration of the habitats.

Mammals and Amphibians

The third parties are concerned about frogs, bees, butterflies and dragonflies. This was included in the EclA report.

Fisheries

Inland Fisheries Ireland are concerned about the number of watercourses which lies downstream of Coolree bog and the potential impacts on the watercourses as a result of the proposed peat extraction works.

The River Barrow and the river Nore SAC were considered within the AA screening assessment. The SAC is over 31km downstream of the subject site at Coolree, and it does not pose a risk. The catchment area of Slate River is approximately 1Km square where the channel draining part of both bogs enters the Slate River. At the point downstream where the river eventually enters the River Barrow and the River Nore SAC the catchment area is approximately 622km squared. While there is a hydrological connection, it should be noted that Coolree is located in the upper part of the catchment and there is no potential for any water quality parameters to have a detectible influence on water quality this far downstream.

IFI has noted the issue of ammonia release from peatlands is a specific concern for headwaters of the Slate River and believe this to be the reason that it is under utilised by Salmonids. It should be noted that ammonia release from peatlands is a natural occurrence (even in tact peatlands) that is seasonally-dependent and largely related to water table fluctuations. The River Basin Management Plan 2018-2021 recognises ammonia released from industrially exploited peatlands may be affecting the ecological status of a number of receiving bodies. This issue is much less prevalent in areas where peat extraction is for domestic purposes. It is noted that in the upper catchment of the Slate River there are a number of industrially exploited peatlands likely to be the main source of ammonia in this case. It is highly unlikely that turf cutting at Coolree will have a significant negative impact on the ammonia levels in the receiving waters. The bog has experienced extensive turf cutting pressure in the past and has a network of functional drainage across the site lowering the water table. While the site has largely re-vegetated, the vegetation is not peat forming, which would indicate a stable high-water table, and is dominated by a species that prefer drier conditions.

- **Heritage Officer's Report on the NIS**

The Heritage Officer's Report considers the following were not covered sufficiently in the NIS:

The potential of the construction and enabling works to impact upon Ballynafagh Bog SAX and the Lake SAC;

The potential impact of the creation of spread grounds on Ballynafagh Bog and Ballynafagh Lake

The monitoring and management of the extent of the proposed turf cutting or the maintenance of the silt ponds.

The AA screening report for the proposed development, screened out the potential for likely significant construction phase effects.

The proposal does not involve the creation of spread grounds. Direct impacts as a result of the creation of spread grounds at Coolree were ruled out at AA screening stage, since this activity proposed is entirely outside of the SACs. Furthermore, there is no direct surface water connection between Coolree and either SAC (since they are both upstream of Coolree). The NIS focuses on the drainage and turf cutting activities associated with the operational phase of the development as this presents the most significant risk of hydrological impacts.

In relation to monitoring and management of the turf cutting, it is important to note each plot will be subject to a legal agreement between the Department and each individual turf cutter. This will set out precisely where each plot is located. The turf cutting will start at the north west and advance south east, it is expected to take 65 years before the turf cutters would reach the end of their plots. The Department will monitor the progression of the turf cutting at the site annually, for any breaches of legal agreements.

The requirements for the maintenance of the silt ponds are set out within the Outline Construction and Operational Method Statement. They are not considered relevant to the NIS since the silt pond is downstream of Ballynafagh Bog and Ballynafagh Lake SAC. There is no pathway of effect through which the maintenance activities removing silt and spreading it on the outcover in Coolree could impact on either SAC.

It is not considered that the installation of fencing, construction of a turning area will have any significant impact on the SAC as it is been carried out within Coolree Bog.

- **Proximity to Natura 2000 Sites**

The reason for refusal makes reference to the development been adjacent to two existing Natura 2000 sites, specifically c.9m from the boundary of Ballynafagh Bog SAC and bounding the Blackwood Feeder section of Ballynafagh Lake SAC.

The Irish Peatland Council also cites the proximity of Coolree Bog to the SAC as a concern.

While the proposed development is extremely close to Ballynafagh SAC, it should be recognised that the distance from the proposed activity is not an indication of the potential for impacts on a ground-water dependent habitat such as a raised bog. The key issue is the hydrological connectivity between the proposed site and the protected site. The reason for refusal gives no weight to the studies undertaken to establish the potential for a hydrological/hydrogeological or other effect to arise which had specific regard to the complexity of the underlying hydrogeology of the site and its surrounding environs. The NIS has established that such a pathway does not exist and no adverse effects on the integrity of the European sites will arise. Therefore this is no ground for refusal.

- **Appropriate Assessment Process and Hydrological Impacts**

The FIE cite text from the AA Screening Report that the content constitutes evidence the proposed relocation will compromise the hydrological integrity of the adjacent SAC. These include statements that the hydrological impacts are unlikely to extend further than 5KM from the site and the proposed activities may increase water drawdown and thus impact on the adjoining Natura 2000 site.

The hydrological impacts were assessed in great detail in the NIS, and no weight has been given by the FIE for these studies.

- **Separation of Coolree Bog from Other Bogland**

Coolree and Ballynafagh Bog would have formed one continuous raised bog in the past, turf cutting has taken place in this area for several hundred years (historical mapping). This has led to three separate bodies of high bog remaining so that they are no longer connected as a single body of peat. The only pathway through which hydrogeological impacts could extend from the proposed site at Coolree to Ballynafagh is if there is a significant change to the regional groundwater level. A detailed programme of Ecohydrological studies was carried out which concluded that the risk of impacts to the regional groundwater level was negligible.

- **Precedent for Similar Proposals**

The reason for refusal concluded that the proposal would set an undesirable precedent for similar proposals. Any planning application on or adjacent to a sensitive and or designated site is required to demonstrate. On a site-specific basis that it does not result in a significant adverse effect on a sensitive/ designated site.

It is expected that proposals for domestic turf cutting should be limited to those put forward by the Department as part of the implementation of the NRBMP, which in Kildare would be limited to the relocation from 2No. SAC sites only.

6.12.13 **Other Items Raised in Local Authority Assessment/ Submissions and Observations**

- The NRBMP, approved by the Government and published in 2017 is the latest strategic approach to the management of Ireland's peatlands, and is in keeping with Ireland's legal obligations and commitments under the European Union Habitats Directive. The NRBMP presents a detailed strategic approach for the conservation of raised bogs in Ireland, and it represents a network approach, however individual consideration of each relevant SAC site is required.
- Whether or not Coolree Bog should have formed part of the wider designation is not relevant to the assessment of the proposed development. The habitats within Coolree Bog were considered not to merit designation.

- Mandatory EIS is not required in this case and the discretionary or sub-threshold is not triggered. Kildare Co. Co. concluded it was not required.
- An Taisce suggests that the cumulative effects of relocation of turf cutters across Ireland should be assessed, however this cannot be carried out where the location of relocation sites is not certain.
- Carbon losses has been raised in a number of submissions, however the overall programme has lead to a signifigant reduction in the amount of turf cutting for domestic purposes across raised bog SACs and NHAs since the CTCCS commenced there have been clear benefits nationally. The number of cutters that have opted for continued cutting is low compared to the substantially higher numbers that have elected for financial compensation. Furthermore, moving turf cutting from a site such as Ballynafagh Bog, with active peat formation and a high water table (which is likely to be a carbon sink) at Coolree with a water table that fluctuates more significantly (which is more likely to be a carbon source) and concentrating the turf cutting pressure into a small area is likely to significantly reduce the net carbon emissions compared to similar volume and area of peat extraction.
- Turf cutters have a traditional right to cut turf that must be balanced with conservation objectives. Many people have a strong social and heritage attachment to the activity, and while it is reducing, it will not be eliminated in the immediate future.
- The outlet water from the proposed silt pond will discharge to a boundary drain on the south-western site boundary, which flows in a north-western direction. The drain continues along the south-western boundary of Coolree to where it crosses under the former canal feeder. It continues for approximately 160metres before entering Slate River to the north-west. No signifigant impacts on water quality or aquatic ecology are anticipated to arise.

6.2. Planning Authority Response

The planning authority had nothing further to add on appeal.

6.3. Observations

6.3.1 *Irish Peatland Conservation Council*

1. With regard to the restoration works planned by RPS on Ballynafagh Bog SAC, the documents describe the measures RPS referenced i.e. The Ballynafagh Restoration Plan, and the IPCC would like to view this.
2. In relation to the site selection process IPCC think Bord Na Mona should be assisting more as they have many sites within Kildare that may be sufficient for turf cutting(10,300ha held by Bord Na Mona in Co. Kildare)
3. It is not certain what will happen to the turf extraction site once development has ceased. Will the site be protected for carbon security and biodiversity, the IPCC would like a commitment to be given on this issue similar to that given to Galway Co. Co. in relation to the Kilcolumb Relocation site.
4. IPCC are aware of the 6 year restoration cycles planned in relation to raised Bog SAC Management but are unsure as to what the timeline is for the restoration of Ballynafagh Bog should turf cutters be successfully relocated.

6.3.2 *Peter Sweetman*

There is a complete misunderstanding of the Article 6 process. The activities on Ballynafagh Bog SAC are illegal and are not a justification for this development. The test is this is to be found in Kelly -V- An Bord Pleanala 225 JR (2014). The EU Commission has opened an infringement case against Ireland on bogs, and Ireland is not to take a bog by bog approach, and yet this is an example of a bog by bog approach.

There is no evidence to suggest that Coolree Bog was not included in the designation because it did not merit designation.

The appeal response fails to understand the CJEU Judgement, C-461/17 Holohan vs An Bord Pleanala case.

There is a legal obligation under the Habitats Directive to preserve and restore all Annex 1 Priority Habitats.

6.3.3 *An Taisce*

The application is part of a wider programme to create new turf cutting sites, the location and cumulative impact of which needs to be assessed for Environmental Impact Assessment Directive and Habitat Directive compliance.

Contravention of the objectives of the Climate Action and Low Carbon Development Act 2015 is a relevant issue. The application site is a raised bog site where active cutting has ceased for sometime and where the proposal is to open up the site for mechanised extraction of turf and its burning would have a carbon emission impact. The application is not justifiable to meet proposed turf cutters household energy needs as there are viable low carbon alternatives not requiring peat combustion. RPS seek to rely on Section 5.2.1 of the National Peatland Strategy (NPS) 2015, however the NPS has no statutory basis and must be assessed with regard to other statutory provisions including Climate Action and Low Carbon Development Act 2015, which has a superior statutory status. RPS has not addressed the rising carbon impact.

The opening up of new peat cutting plots on a site where cutting has ceased and where the carbon mass of uncut peat has stabilised and vegetation regeneration has occurred would contravene the objectives of the Irish Peatland Protocol Document 'Bogland Sustainable Management of Peatlands Ireland EPA 2011.

Even if it can be demonstrated the restoration of the raised bog is not possible, the site can be maintained and managed to have other biodiversity value as well as its carbon in the ground being left undisturbed and not subject to cutting and burning.

6.4 Applicants' Response

The applicant was given an opportunity to respond to the three observations submitted on appeal. The response is lengthy and repeats a lot of the content from the complete appeal submission, which I will not repeat. These are the key points raised in the response:

- The National Raised Bog SAC Management Plan (NRBMP) was subject to AA and SEA at plan level. It does not identify relocation sites as each potential site must be assessed on an individual basis given the site specific complexities of each relocation site. There is a total reduction of 60 individual turf cutting sites on Ballynafagh Bog to relocating 9No. sites onto the appeal site.

- Carbon taxing issues and policies for encouraging alternative heating systems are beyond the remit of the Board. It is estimated there will be a total of 35,398 tonnes of COeq for the Coolree Bog relocation project over the lifetime of the project (65years).
- In terms of the Climate Action and Low Carbon Act 2015, the National Mitigation Plan and National Adaption Framework was adopted, which did not restrict or prohibit the use of peat for domestic heating purposes. The proposal is relocating the extraction of a designated bog to a less sensitive bog. It will not increase emissions of greenhouse gases but will shift the location. There will be no net increase in carbon emissions as a result of the proposal.
- The planning authority's the assessment of the case did not consider policy NH1, the raised bog to be removed will allow for the protection and restoration of a raised bog SAC, which is to do more with replacing like for like and will enhance the raised bog habitats of the immediate area.
- This appeal is grounded in government policy, and the application is made by the relevant Department, who has provided a letter to the Board on appeal confirming the strategic importance of the proposed development to the state.

7.0 Assessment

7.1 The first party appeal has submitted a very detailed and robust appeal against Kildare County Council's decision to refuse planning permission for the proposed development. I have examined the full content of the first party appeal submission and accompanying reports. I have considered the content of the entire appeal file and carried out an inspection of Coolree Bog and surrounding area. I will consider the appeal under the following headings:

- National policy
- Development Plan Policy
- Visual and Biodiversity Impact
- Traffic
- Appropriate Assessment
- EIA Screening

7.2 National Policy

7.2.1 The most significant national policy relating to the proposed development is the Raised Bog SAC Management Plan 2017-2022, and the Climate and Low carbon Development Act 2015 with its associated policies are also relevant to the proposed development.

The National Raised Bog SAC Management Plan 2017-2022 was prepared by the *Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs* (the applicant of the proposed development). This is the first national management plan for Ireland's Raised Bog Special Areas of Conservation (SACs) network. This plan, together with the National Peatlands Strategy (NPWS, 2015) and the Review of Raised Bog Natural Heritage Area Network (NPWS, 2014), is part of the Government's coherent

approach to the management of Ireland's peatlands. It also addresses European Commission concerns on the declining conservation status of the protected raised bog network. Ireland's commitment under the Habitats Directive is to have a robust ecological network of raised bogs that is sustainable into the future. This includes the raised bog SACs, which are the best remaining examples of the habitat. This commitment includes replacing and restoring the area of active raised bog within the SACs network that has been lost since 1994 when the Habitats Directive came into force.

As set out in the Programme for a Partnership Government, the Irish Government recognises that domestic turfcutters have a traditional right to cut turf and that this right is balanced with the conservation objectives for designated bogs and the legal obligations of the State. As part of the Government's efforts to address the needs of turf-cutters, the then Minister for Arts, Heritage and the Gaeltacht agreed to work with local turf-cutting communities to explore and implement relocation solutions where possible, where turf-cutters could be moved from their active raised bog within a SAC to a nearby non-designated bog where they could continue to source turf for their domestic use. This is how the current planning application has arisen. The Minister for Culture, Heritage and the Gaeltacht has applied for planning permission to relocate 9No. domestic turf cutters off Ballynafagh Bog SAC onto the adjoining non-designated Coolree Bog.

Appropriate Assessment was carried out by the Department on the **National Raised Bog SAC Management Plan 2017-2022**. The screening was undertaken by ecologists at RPS Ltd on behalf of the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs (RPS Ltd are agents for this current application). The overall screening concluded that many of the proposals in the National Raised Bog SAC Management Plan 2017-2022 are directly connected with the management of most of the Natura 2000 sites. Following the AA process, it was concluded that the National Raised Bog SAC Management Plan 2017-2022 will not adversely affect the conservation objectives or integrity of any European site. The AA of the National Raised Bog SAC Management Plan 2017-2022 was appropriate to that plan, and it does not relate to each individual SACs or each site in the relocation process which will be subject to AA individually as with this current planning application at Coolree

Bog. In terms of AA and EIAR screening, I do not see how it is possible to assess the cumulative effects of all the relocation sites nationally, as suggested by An Taisce on appeal, when the majority of the relocation sites are still unknown and legally each site will have its individual complexities in terms of ownership and planning applications, in addition there is no physically link between relocation sites such as Coolree Bog and relocation sites in Galway.

In April 2011, with the approval of the Government, the then Minister for the Environment, Heritage and Local Government established the **Cessation of Turf Cutting Compensation Scheme (CTCCS)** to compensate landowners and turf-cutters affected by the EU restrictions on turf-cutting on the 53 raised bog SACs. This scheme is administered by the Department of Culture, Heritage and the Gaeltacht on behalf of the Minister. The CTCCS were extended to raised bog NHAs in 2014.

The Cessation of Turf Cutting Compensation Scheme has two main elements:

1. **Annual Payment Scheme**
2. **Bog Relocation Scheme**

Fundamentally, the proposal is been driven by national policy regarding conservation of the bogland SACs. The applicant is Department of Culture, Heritage and the Gaeltacht. The appeal documents state the reopening of Coolree Bog is to relocate turf cutters from the designated Ballynafagh Bog SAC, onto the adjoining non-designated Coolree Bog, in line with the CTCCS. The Board should note, there is no reference to the CTTCCs or National Raised Bog Management Plan 2017 in the current development plan for the area. Having examined the National Raised Bog Management Plan 2017, I did not find any statutory requirement to include the NRBMP into the various county development plans nationally, which would seem to be a reasonable requirement, given that most relocation cases may require planning permission or consultations with the local authorities. Accompanying the appeal is a letter from the *Department of Culture, Heritage and the Gaeltacht* requesting the Board to consider the planning application for the development of Coolree Bog in the context of the National Raised Bogs Management Plan 2017, and the wider context

of Government Policy regarding the overall management of Ireland's peatlands. In this regard, the applicant acknowledges the Board should have regard to the local development plan policy but also in accordance with S. 143 of the *Planning and Act* 'the Board should also have regard to *'the policies and objectives for the time being of the Government, a State Authority, the Minister.... and any other body which is a public authority whose functions have or may have a bearing on the proper planning and sustainable development of cities, towns or other areas, whether urban and rural'*. The applicant is of the opinion the Board may grant the development having regard to the importance of the proposed development and current national policy notwithstanding the concerns relating to the wording in the local development plan.

This planning application is for turf cutting and peat extraction at the non-designated and adjoining Coolree Bog to the SAC. Although, the applicant is justifying the reopening of Coolree Bog in the context of national policy, and I am not convinced that relocating the nine remaining turfcutters onto a neighbouring non-designated site at Coolree is warranted given the extensive works involved to construct the site and the duration of the bog for 65 years. Furthermore, there is a distinct lack of evidence regarding the site selection process or the consideration of alternative sites. In my opinion, alternative active undesignated bogs should have been investigated further for relocation purposes, especially in co-operation with Bord Na Mona who own extensive tracts of bog in Co. Kildare, as opposed to re-opening a discontinued bog that has not been used for a considerable length of time and has revegetated in its entirety.

According to the appeal, the selection of Coolree Bog came about because the local turf cutters highlighted the availability of Coolree Bog and particular emphasis has been placed on its proximity to Ballynafagh Bog SAC, their traditional turf cutting area. I note from the appeal file, it was the turf cutters that informed the Department of Culture, Heritage and An Gaeltacht about Coolree Bog been for sale in 2015. In addition, only two other undesignated existing working bogs were considered as suitable relocation sites, however these were ruled out due to distance and access, amongst other issues. In terms of the relocation policy which the government are trying to implement under the National Raised Bog Management Plan 2017, it seems counter productive and legally complex for the relocation to be as close to the SAC

sites as possible. In the event this proposal was to be granted by the Board, it could set a precedent nationally, for relocation of turf cutting off the SAC's onto adjoining non-designated bogs or non-designated bogs in close proximity. The essence of the National Raised Bog Management Plan 2017 is to form a roadmap for the long-term management, restoration and conservation of protected raised bogs in Ireland. In my opinion, it seems illogical that the proposed relocation site off Ballynafagh Bog SAC is a pocket of bogland sandwiched between and bordering between two European sites, if the underlying objective of the entire project and plan is to protect and restore the SACs.

In terms of precedent, the applicant has tried to argue that there is only one other site that requires re-location in Kildare, i.e. Mouds Bog SAC. Yet the applicant maintains the basis for this current proposal is the NRBMP, it stands to reason that this proposal will set a precedent for the relocation of turf cutting on designated sites, nationally. For that reason, it would have been prudent to pursue the relocation onto existing active peat bogs in the general vicinity, as opposed to reopening an entirely new raised bog area. It is questionable why Coolree Bog was selected given the sensitivity of the site and its proximity to two European site, apart from the proximity to the turf cutters traditional area in Ballynafagh Bog. In my opinion, the site selection process of the relocation program should be based on relocating away from the SAC's onto just off the SACs onto the adjoining bog.

7.2.2 In terms of the **Climate Action and Low Carbon Development Act 2015**, local authorities are required to adopt a Climate Change Adaption Strategy. It is unclear the statutory status of the Act to turf cutting for domestic use. It appears to me the Act is currently directed at the use of peat for electricity generation, and may include turf cutting for domestic purposes at a future stage. In my own opinion, the issue of carbon emissions is a highly relevant international and national issue. In the context of the current proposal, the applicant claims there will be no net increase in emissions of greenhouse gases as a result of the proposed development, because the peat extraction is been moved from one place to another. This comment is not based on any scientific assessment. The applicant maintains that although the subject site, Coolree Bog has revegetated, this vegetation is indicative of a low water table and is absent of peat accumulating vegetation. Therefore, Coolree Bog is

unlikely to be stabilised in terms of carbon emissions, and according to the appeal documents, is likely to be a significant carbon source due to previous peat cutting activities on the subject site. The high water table on Ballynafagh Bog SAC would indicate a carbon sink associated with the site. However the applicant claims, that the release of carbons will occur over 65 years and given the small extent of the extraction on an annual basis, the net emissions between extracting from both bogs is negligible. However, there has been no scientific investigations into either, as it is considered the statutory obligations under this national policy relates to industrial peat extraction.

Given the government policy to reduce carbon emissions and the fact the country is failing to meet current carbon emissions targets for 2020 and 2030, it is my opinion, the re-opening of and enabling works at Coolree Bog to accommodate 9No. turf cutters, seems to be a disproportionate compromise regarding these two conflicting government policies. It is clear these two government policies conflict. The Board should have regard to both policies, however, I would agree with the applicant, that the Climate Action and Low Carbon Emissions is currently focused on commercial/ industrial peat extraction and solid fuels energy, and it requires further refinement in terms of domestic turf cutting, whereas the National Raised Bog Management Plan 2017 is directly related to the current proposal. I do not consider that either policy is more important than the other, however at the present time, the National Raised Bogs Management Plan 2017-2022 is more influential and advanced in terms of its statutory obligations regarding domestic peat cutting.

7.3 Development Plan Policy

The relevant development plan is ***Kildare County Development Plan 2017-2022***. I note the relevant section of the development plan is **Section 10.4.6 Boglands**. It states under this section there is 24,300ha of land in Co. Kildare is covered in bog which is 14% of the total land coverage of County Kildare. Many of the sites are designated Special Areas of Conservation and Natural Heritage Areas. Under the Habitats Directive it is a legal requirement to protect bogs, and it is an objective of

the government that domestic turf cutting on designated raised bogs will be phased out.

The development plan acknowledges Bord Na Mona's 15 year strategy, *Sustainability 2030*, which outlines the company's plan to complete the transition from energy peat production to new sustainable business. The development plan includes seven policy statements relating to Boglands, which are seeking to conserve the cutaway bogs and to maximise their potential for wildlife, biodiversity and amenity purposes. The policy objectives cited in the first and second reason of the planning authority's refusal are as follows:

Policy BL1

Ensure that a balanced approach is taken to the development of the county's peat resources and the restoration of cutaway bogs, in order to minimise the negative impact on biodiversity and the archaeological and cultural heritage of the county.

Policy BL 2

Seek a balance between peat extraction potential of the county whilst ensuring the protection and conservation of bogland habitats. Limiting extraction to those bogland areas currently under development will help minimise impacts by localising effects and thus protect the bog landscape character areas within the county.

The planning authority deemed the proposal to be unacceptable on the basis that the extraction of peat in the county was to be limited to bogland areas currently under development. The planning authority indicated the site had not been extracted for a considerable period of time, and to the naked eye it could be viewed as an in-tact bog or one that had been allowed to regenerate over time. The planning authority considered landscape of Coolree Bog to be natural and unspoilt.

In response to the decision to refuse permission for the proposed development, the applicant refutes the planning authority's assessment of the case, and the planning authority's claims that Coolree Bog looks like an in-tact bog. The applicant submits

in terms of the above development plan objectives, that the correct balance is to protect the European site at Ballynafagh Bog SAC from further damage. The planning authority's assessment focuses on a policy limiting extraction to bogland areas currently under development. However, BL2 does not preclude turf cutting on sites that are not actively being cut for turf at present. Furthermore, activities onto the relocated site at Coolree Bog will be the subject of environment controls unlike Ballynafagh Bog SAC and planning conditions will have to be complied with. The Board should note that Coolree is not an intact raised bog, based on scientific evidence, and it has not regenerated since the previous extraction on site occurred. Ballynafagh Bog SAC is an active raised bog and has the potential for regeneration of active raised bog habitats, which cannot proceed if turf cutting continues at Ballynafagh Bog.

In terms of biodiversity, it is submitted that Coolree Bog has previously been drained and significant peat extraction has occurred on the site. It is submitted that the level of degradation of Kildare's peatlands will clearly be more ecologically, environmentally and legally damaging if turf cutting activities on the raised bog SAC are not relocated onto Coolree Bog where the raised bog habitats are damaged and not capable of regeneration. The applicant also states that the implementation of Cessation of Turf Cutting Scheme and the National Raised Bogs Management Plan in Co. Kildare will occur at two European sites only, Ballynafagh Bog and Moud's Bog SAC, therefore, similar developments are unlikely to arise in Co. Kildare.

In terms of BL1 which is *'Ensure that a balanced approach is taken to the development of the county's peat resources and the restoration of cutaway bogs, in order to minimise the negative impact on biodiversity and the archaeological and cultural heritage of the county'*. The proposed development as described in the public notices and included in the submission documents, is for turf cutting and peat extraction for domestic peat fuel supply from a raised bog area of 11.46 Ha at Coolree Bog. The proposed development description does not include relocation from or restoration proposals for Ballynafagh Bog SAC. In this context, issues raised on appeal by third parties in particular regarding the restoration of Ballynafagh Bog SAC are beyond the remit of this appeal. In accordance with Section 34 (2)(a) of the *Planning and Development Act*, the Board is restricted to the proper planning and

sustainable development of the area with regard being had to the (i) the provisions of the development plan, (ii) the provisions of any special amenity order relating to the area, (iii) any European Site or other area prescribed for the purposes of section 10(2)(c) , (iv) where relevant, the policy of the Government, the Minister or any other Minister of the Government, (v) the matters referred to in subsection (4) and (vi) any other relevant provision or requirement of this Act, and any regulations made thereafter. I note the applicant is critical of the planning authority for reviewing the case in the context of development policy, as a stand alone project, and not taking into consideration the wider implications for Ballynafagh Bog SAC.

From the planning report on file, it would appear the planning authority regarded Coolree Bog as a relatively intact bog that has regenerated since turf cutting had ceased. However, the EclA Report and the EIS screening accompanying the planning application demonstrated, based on scientific evidence, that Coolree Bog is not an intact or natural bog and it has not re-generated, nor is it capable of regenerating.

Coolree Bog has previously been drained and significant peat extraction has occurred on the site, this is estimated to have occurred over twenty five years ago. The AA has ruled out adverse effects on the integrity of the European sites, and localised biodiversity impacts have been quantified and documented in the EIA Screening and EclA reports. An Archaeological and Architectural Assessment was carried out on site and no significant adverse impacts are anticipated to arise. In my opinion, the proposed development does not contravene policy BL 1.

In terms of Policy **BL2** the applicant has submitted that the correct balance is to protect the European designated site at Ballynafagh Bog SAC from further damage in line with Ireland's obligations under European Law, to allow raised bog habitats at the site to be restored and to accommodate a very small number of turf cutters on the damaged bog habitat. The applicant claims the planning authority's assessment of this policy relates to limiting extraction to bogland areas currently under development. It is submitted that the policy does not explicitly state all peat extraction must be carried out on areas currently under active development. The

applicant further states that reopening former sites is not precluded by development plan policy BL2.

In my opinion the wording of BL2 is clear, '*Limiting extraction to those bogland areas currently under development will help minimise impacts by localising effects and thus protect the bog landscape character areas within the county*'. The development plan policy limits extraction of peat to bogland areas currently under development. There is no ambiguity in this policy statement. Again, the applicant makes the point that the planning authority assessed the proposal as a standalone development, and that the local development plan policies were more appropriately written to address standalone extraction proposals. According to the development plan, Bord Na Mona owns c8,500ha of peatlands in Co. Kildare. There is extensive peat production at various sites throughout the county. The development plan also states that many of Kildare's peatland resources are designated Special Areas of Conservation and Natural Heritage Areas, and it is a legal requirement to protect these bogs. The plan states, '*It is an objective of the Government that domestic turf cutting on these designated raised bogs will be phased out over the coming years*'. Therefore, the planning authority were aware of the national issues regarding peatlands when adopting the development plan. The Kildare County Development Plan 2017 and the National Raised Bog Management Plan 2017 were been prepared and adopted simultaneously, and perhaps the timing of both plans meant that the National Raised Bog Management Plan 2017 was not included in the county development plan. There is no evidence to indicate the Department of Culture, Heritage and the Gaeltacht collaborated with the local authority in this regard. The local authority in its Plan clearly mentioned that domestic turf cutting on designated raised bogs would be phased out over the coming years, yet there are no policy statements to reflect how this would be carried out. The Board is restricted to have regard to the current development plan policy, and whether the proposed development complies with the stated policy. In my opinion, having regard to wording of BL2 the proposed development involves the re-opening of Coolree Bog for extraction purposes, which is contrary to this policy, as Coolree Bog is currently not under development, and the use has been discontinued for a considerable time, and the site has revegetated.

I also consider the applicant has not fully investigated existing alternative sites where peat is currently been extracted. To reactivate the site for turf cutting would contravene Policy BL 2, and I agree with the planning authority's reason for refusal on this basis and it should be upheld by the Board.

Other development plan policies which are relevant to this proposed development include:

Policy NH1 *Facilitate, maintain and enhance as far as is practicable the natural heritage and amenity of the county by seeking to encourage the preservation and retention of woodlands, hedgerows, stonewalls, rivers, streams and wetlands. Where removal of such features is unavoidable, appropriate measures to replace like with like should be considered, subject to safety consideration.*

The applicant is claiming the proposed development complies with policy NH1, i.e., turf cutting on the designated sites has to be relocated to ensure maintenance and enhancement of the natural heritage area whilst seeking to ensure its perseverance, i.e. Ballynafagh Bog, and to relocate the turf cutters onto a non-designated raised bog site is considered to be replacing 'like with like'. I accept the argument in this regard, however, in the same vein, it is not 'like with like', when the transfer of peat extraction is from an active bog onto an inactive bog. Therefore, I would not advise the Board to consider favourably the current proposal on the basis of this policy statement as it is open to interpretation.

7.3 Visual Impact

The site is located within a Landscape Policy area of the Kildare County Development Plan (**Section 14.8**). According to the maps the site is located within the **Lowland Plains and Boglands Character Area**. There are five policies relating to this landscape designation, and in particular **LL5** which states '*Recognise that cutaway and cut-over boglands represent degraded landscapes and/or brownfield sites and thus are potentially robust to absorb a variety of appropriate developments.*'

It is considered appropriate to refer to policies LL 4 and LL5 under this section of the plan. It should be noted from the detailed ecological reports that Coolree Bog is not an intact habitat and not indicative of good quality peat forming raised bog. The vegetation, due to previous turf cutting and associated drainage activities is not representative of an active raised bog. These previous activities have dried the site out to a point it cannot be restored to active raised bog. Coolree Bog is cutover bog due to historic turf cutting and turf has been stored on the site in the recent past. The heathers and vegetation on Coolree Bog are associated with a dry soil profile and opposed to a normal raised bog habitat. The underlying drains and extensive peat extraction have degraded the bogland landscape. In my opinion, the reopening of the bog and clearing the site could be considered an 'appropriate development' in terms of the visual impact on the existing landscape. The general area is low lying, accessible from narrow cul de sac bog road. The only scenic route is to the north east, No. 40, across Ballynafagh Lake SAC, and the subject site is not visible from that vantage point. I believe the reopening of the bogland in visual terms would not be obtrusive, or incongruous with the surrounding landscape qualities of the bogland area. Coolree Bog can be viewed along the eastern access route, along the bog road that runs along the southern axis of the site, with Coolree bog to the north of the road and Ballynafagh Bog to the south. The proposed development would result in the clearing of the vegetation site and providing new drains and augmenting existing drainage, the construction of a facebank, silt ponds and an onsite turning area. There are no structures proposed on site, and the preparation site works will be temporary over a 4-6 week period. The works are reversible, as the existing site is a degraded bog and is not capable of restoration. Therefore, following closing of Coolree Bog in 65 years, the site will most likely revegetate similar to the current status of the site. The use of the site as an active bog will not detract from the landscape bogland qualities of the area. I conclude the proposed development is in keeping with the landscape policies of the Kildare County Development Plan 2017.

7.4 Traffic

The planning authority in its decision to refuse permission for the development considered the access roads to be substandard. The traffic associated with the proposal can be split into two types:

- Construction Phase Traffic
- Operational Phase Traffic.

In addition there are two access points/ roads to Coolree Bog from a local road, are referred to on appeal as the eastern and western routes.

Eastern Access: The operational phase will result in very little traffic movement along the eastern access road. It is estimated there will be 8-10 movements by car to facilitate the stacking and turning of peat sods, and 4-5 movements by car, jeep or tractor to facilitate the collection of the turf. These movements will take place annually during April-August. The eastern road serves circa twenty dwellings, and on approach to Coolree Bog there is a narrow right-angled bridge. The planning authority considered the eastern route to be sub-standard to cater for the proposed development due to the narrowness of the road and the bridge. The eastern road is not to be used for heavy construction or harvesting machinery. Peat is generally removed by smaller vehicles for domestic use. An Autotrack Analysis has been carried out on the bridge, using three examples of vehicles and trailers the turf cutters would use. All vehicle combinations modelled can be accommodated on the bridge. There are existing agricultural properties at the extreme end of the eastern access road, and during my inspection I did witness a small truck use the bridge. I consider the condition could be attached to a favourable decision restricting all large and heavy machinery to use the western access route only.

Western Access: In terms of the western access route, the planning authority considered it to be structurally unsuitable for heavy traffic associated with the construction works. According to the appeal file the western access route is currently used by agricultural vehicles along its entirety. Construction works with the 'heavy' traffic will take place during the drier summer months. The large machinery required for the enabling works will access Coolree Bog from the western access. The construction phase is estimated to be 4-6 weeks and is limited in time and

nature. Similarly, the peat is to be extracted using an adapted tracked excavator and assisted by a sod hopper that will access the site from the western site boundary, which will be on the bog for 1-2 days per year. There is a turning area proposed at spread ground No. 9, the sizing will comply with *Site Development Works Manual, DOE 1998*. In my opinion, the heavy construction traffic is temporary, and the road currently caters for large agricultural machinery.

The level and type of traffic associated the proposed development does not warranted a refusal in this instance on traffic grounds, as there are two access points for different uses and type of traffic associated with the development proposal.

Conditions can be attached to a favourable decision, to consult with the local authority regarding upgrading both access roads prior to commencement of the development. Overall, as the proposal is peat extraction on 11.4Ha for 9No. turf cutters for domestic use, I believe the impact on the local network will be negligible.

7.1. **Appropriate Assessment**

7.1.1. **Compliance with Article 6(3) of the EU Habitats Directive**

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires 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. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

7.1.2 **Natura Impact Statement**

The applicant's **Stage 1 AA Screening Report** described the site, the location and the proposed development, it summarised the regulatory context, it carried out field and a desk top surveys and identified the European sites located within a 15km radius of the works. It confirmed that the proposed development would not be located within any European sites and it identified several European sites which are

located within a 15km radius of the proposed works. It screened out the sites that it considered would not be affected by the proposed development and retained two sites that could be affected Ballynafagh Bog SAC and Ballynafagh Lake SAC. It described these sites and their respective qualifying habitats and species, it listed their conservation objectives and targets and attributes.

The Stage 1 AA Screening Report concluded that it could not be excluded on the basis of objective scientific information that the proposed turf cutting at Coolree Bog will have a likely significant effect on some of the site specific conservation objectives set for Ballynafagh Bog SAC, Ballynafagh Lake SAC , as there was insufficient information to determine the hydrogeological relationship between Coolree Bog and the adjacent SACs and that it was therefore necessary to proceed to a Stage 2 assessment.

From the findings, it was concluded that a Natura Impact Statement must be prepared which shall focus on certain attributes of the site specific conservation objective (SSCO) for raised bog Qualifying Interests at Ballynafagh Bog SAC and the three Qualifying Interests at the adjacent Ballynafagh Lake SAC (Alkaline Fens, Desmoulin's Whorl Snail (*Vertigo moulinsiana*) and Marsh Fritillary (*Euphydryas aurinia*), as these features may potentially be adversely by alterations to the hydrological regime at the wetland site as a result of turf cutting.

The **Stage 2 NIS report** went on to identify the potential sources of direct and indirect impacts on two European site/s, Ballynafagh Bog SAC, Ballynafagh Lake SAC and it listed other plans and projects in the wider area for the purpose of identifying cumulative impacts. It assessed the potential impacts relative to the Conservation Objectives for this site during the construction and operational phases, in-combination impacts and the significance of impacts. It proposed mitigation measures including peat cutting to be restricted away from the northeast-southwest trending fault zone toward Ballynafagh Lake SAC, to ensure changes to the hydrogeological regime are considered to be negligible, and the proposed project will not lead to changes in the water balance (quantity or quality) of calcareous-rich groundwater upwelling in key zones along the former Blackwood feeder or within the fen habitats at Ballynafagh Lake will occur therefore the proposed project

incorporating mitigation will ensure that there are no impacts on any of the three qualifying interests of the SAC . Furthermore, transferring the turf cutting from the Ballynafagh Bog SAC has the potential benefit of restoration of the designated bog as the likely blocking of drains at Ballynafagh Bog will raise the water table within the peat, increasing rates of recharge to groundwater.

The Stage 2 NIS formally concluded that it is not considered likely that the construction and operation the proposed development will result in adverse effects to the integrity of the Ballynafagh Bog SAC and Ballynafagh Lake SAC. It was concluded in the NIS, beyond reasonable scientific doubt, that the proposed project incorporating mitigation (namely reconfiguration of the original site boundary to restrict turf cutting to areas where upwelling of groundwater will be negligible) will not give rise to significant impacts, either individually or in combination with other plans and projects.

The information contained in the applicant's Stage 1 AA Screening report and Stage 2 NIS report is considered adequate to enable the Board to carry out an AA Screening Assessment and Appropriate Assessment.

7.1.3 Appropriate Assessment Screening Assessment

The proposed development is not located within an area covered by any European site designations and the works are not relevant to the maintenance of any such sites. The following European sites are located within a 15km radius of the site and their relevant Qualifying Interests and separation distances are listed below.

Conservation Objective/s: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

European Site	Site Code	Qualifying Interests	Distance
Ballynafagh Bog SAC	00391	Habitat	Adjacent

		<p>Active raised bog (7110)</p> <p>Degraded raised bogs still capable of natural regeneration (7120)</p> <p>Depressions on peat substrates of Rhynchosporion (7150)</p>	
Ballynafagh Lake SAC	001387	<p>Habitat</p> <p>Alkaline fens</p> <p>Species</p> <p>Desmoulin's whorl snail (Veritgo moulinsiana)</p> <p>Marsh Fritillary (Euphydryas aurinia)</p>	Adjacent
Mouds Bog SAC	002331	<p>Habitat</p> <p>Active raised bog</p> <p>Degraded raised bogs still capable of natural regeneration</p> <p>Depressions on peat substrates of Rhynchosporion.</p>	c.8.0Km
Pollardstown Fen SAC	000396	<p>Habitat</p> <p>Calcareous fens with Cladium mariscus and species of Caricion davalliane</p>	c11.3Km

		Petrifying springs with tufa formation Alkaline fens Geyer's Whorl Snail (<i>Vertigo geyeri</i>) Narrow-mouthed Whorl Snail (<i>Vertigo angustior</i>) Desmoulin's Whorl Snail (<i>Vertigo moulinsiana</i>)	
The Long Derries, Edenderry SAC		Habitat Semi-natural dry grassland and scrub	c12.8Km

I note the content of the screening report. Each site was examined in the context of location in terms of distance from the proposed activity, within surface water Zone of Influence, within groundwater Zone of Influence and within land and air Zone of Influence. In considering the above, and on the basis that Mouds Bog SAC, Pollardstown Fen SAC and The Long Derries, Edenderry SAC have no hydrological pathways that could transmit or facilitate potential impacts as they are not located up or down river of the works proposed, and are within separate groundwater bodies, these three European sites can be screened out. The potential hydrogeological impacts from turf cutting do not extend further than 5 KM from Coolree Bog and there is no potential pathway between the three stated European site and the proposed works.

In conclusion, the two sites that could potentially be affected due to proximity and the underlying hydrogeological regime are **Ballynafagh Bog SAC** and **Ballynafagh Lake SAC**.

European sites	Qualifying Interests	Conservation Objectives (17No.)	Attributes & Targets
<p>Ballynafagh Bog SAC (IE000391)</p>	<p>Active Raised Bogs</p> <p>Degraded raised bogs still capable of natural regeneration</p>	<p>There are 17No. in total the most relevant are:</p> <p>Habitat Area</p> <p>Habitat Distribution</p> <p>High Bog Area</p> <p>Hydrological regime: water levels</p> <p>Hydrological regime: flow patterns</p> <p>Transitional areas between high bog and adjacent mineral soils (including cutover areas)</p> <p>Vegetation quality: central ecotope, active flush, soaks, bog woodland</p> <p>Vegetation quality: microtopographical features</p> <p>Vegetation quality: bog moss (Sphagnum) Species</p> <p>Typical ARB species: flora</p>	<p>Relevant Targets</p> <p>To restore area of active raised bog to 26.6Ha subject to natural process</p> <p>Active Raised Bog (ARB) habitat was mapped at 6.5ha by Fernandez et al. (2014). Area of Degraded Raised Bog (DRB) on the High Bog (HB) has been modelled as 9.9ha. See map 2. However, it is estimated that only 6.9ha is potentially restorable to ARB by drain blocking. The total potential ARB on the HB is therefore estimated to be 13.4ha. Ecohydrological assessments of the cutover estimates that an additional 13.2ha of bog forming habitats could be restored. The long term target for ARB is therefore 26.6ha. See raised bog supporting document for further details on this and following attributes</p> <p>Restore the distribution and variability of active raised bog across the SAC. See map 3 for distribution in 2011</p> <p>No decline in extent of high bog necessary to support the</p>

	Depressions on peat substrates of the Rhynchosporion	<p>Typical ARB species: fauna</p> <p>Vegetation composition: native negative indicator species</p> <p>Water quality</p>	<p>development and maintenance of active raised bog.</p> <p>Restore appropriate water levels throughout the site</p> <p>Restore, where possible, appropriate high bog topography, flow directions and slopes.</p> <p>Water quality on the high bog and in transitional areas close to natural reference conditions</p>
Ballynafagh Lake SAC (IE001387)	<p>Alkaline fens</p> <p>Desmoulin's Whorl Snail (<i>Vertigo moulinsiana</i>)</p> <p>Marsh Fritillary (<i>Euphydryas aurinia</i>)</p>	To maintain favourable conservation status of the site's qualifying interests	

Ballynafagh Bog SAC

Ballynafagh Bog SAC is located immediately adjacent to the proposed relocation site at Coolree Bog. Owing to the proximity of Ballynafagh Bog SAC, there is a risk that any hydrological disturbances may impact on the qualifying interests of the site.

As there is no turf or peat extraction proposed on Ballynafagh Bog SAC, there is no direct loss of habitat, high bog habitat and habitat distribution, and direct loss of habitats can be ruled out.

The indirect impacts can occur from:

- Short-terms or temporary water quality impacts associated with the construction works at the site or peat cutting during the operational phase;
- Changes to the hydrological regimes, etc

Following an initial ecohydrological survey of Coolree Bog in 2016 the results indicated the presence of upwelling groundwater in marginal drains especially the drains separating Coolree Bog and Ballynafagh Bog. Any resultant changes to the water table at Ballynafagh Bog could lead to impacts on the area of the designated raised bog habitats and the range and distribution of designated raised habitats. The proposed turf cutting will result in changes to the hydrological regime of the peatland habitat beyond the cutting area, and therefore could impact on Ballynafagh bog. There is potential for the increase spread and establishment of non-native invasive species into nearby areas if turf cutting were to result in drier conditions on Ballynafagh Bog.

Ballynafagh Lake SAC

Part of Ballynafagh lake SAC is located immediately adjacent to the proposed turf cutting site at Coolree Bog, with the proposed machinery access route passing along the former Blackwood Canal Feeder which is part of the SAC. The generic Conservation Objectives are to maintain and restore the favourable conservation condition of the designated habitat and species at Ballynafagh lake SAC. An updated survey of the Desmoulin's Whorl Snail (*Vertigo moulinsiana*) was carried out in 2016.

Direct Impacts on the qualifying interests relate to the loss of Alkaline fens, Desmoulin's Whorl Snail (*Vertigo moulinsiana*) and Marsh Fritillary (*Euphydryas aurinia*) as a result of the construction and enabling works or turf cutting on the subject site. There will be no direct loss of designated habitat or species as these do not directly occur where the turf cutting is proposed or along the access routes.

Ballynafagh lake is a wetland receiving upwelling groundwater that previously supplied the Grand Canal Feeder.

Alkaline Fen requires a high water table, a calcareous , low nutrient water supply, and minimal water fluctuation, therefore likely significant effects to this habitat cannot be ruled out.

Desmoulin's Whorl Snail Any changes to water quality or levels as a result of turf cutting at Coolree Bog could lead to change in the habitat and food source for the species.

Marsh Fritillary The plant is a typical component of the designated alkaline fen habitat, therefore any changes to that habitat as a result of changes to the water table could lead to indirect impacts on the species.

Appropriate Assessment Screening Conclusion

There is hydrological and hydrogeological connectivity between the proposed development and Ballynafagh Bog SAC and Ballynafagh Lake SAC, having regard to

- the nature and scale of the proposed development,
- the separation distance of the application site from the European sites,
- the nature of the qualifying interests and conservation objectives of the European sites and
- to the available information as presented in the application regarding ground and surface water pathways between the application site and the European sites and other information available.

It is my opinion that the proposed development has the potential to affect 2 of the European sites having regard to the conservation objectives of the relevant sites, and that progression to a Stage 2 Appropriate Assessment is required.

7.2 Stage 2 Appropriate Assessment:

The relevant details for the 2 remaining European sites are summarised below:

European sites	Qualifying Interests	Conservation Objectives (17No.)	Attributes & Targets
Ballynafagh	Active Raised Bogs	There are 17No. in total the most relevant are: Habitat Area	Relevant Targets To restore area of active raised bog to

<p>Bog SAC (IE000391)</p>	<p>Degraded raised bogs still capable of natural regeneration</p> <p>Depressions on peat substrates of the Rhynchosporion</p>	<p>Habitat Distribution</p> <p>High Bog Area</p> <p>Hydrological regime: water levels</p> <p>Hydrological regime: flow patterns</p> <p>Transitional areas between high bog and adjacent mineral soils (including cutover areas)</p> <p>Vegetation quality: central ecotope, active flush, soaks, bog woodland</p> <p>Vegetation quality: microtopographical features</p> <p>Vegetation quality: bog moss (Sphagnum) Species</p> <p>Typical ARB species: flora</p> <p>Typical ARB species: fauna</p> <p>Vegetation composition: native negative indicator species</p> <p>Water quality</p>	<p>26.6Ha subject to natural process</p> <p>Active Raised Bog (ARB) habitat was mapped at 6.5ha by Fernandez et al. (2014). Area of Degraded Raised Bog (DRB) on the High Bog (HB) has been modelled as 9.9ha. See map 2. However, it is estimated that only 6.9ha is potentially restorable to ARB by drain blocking. The total potential ARB on the HB is therefore estimated to be 13.4ha. Ecohydrological assessments of the cutover estimates that an additional 13.2ha of bog forming habitats could be restored. The long term target for ARB is therefore 26.6ha. See raised bog supporting document for further details on this and following attributes</p> <p>Restore the distribution and variability of active raised bog across the SAC. See map 3 for distribution in 2011</p> <p>No decline in extent of high bog necessary to support the development and maintenance of active raised bog.</p> <p>Restore appropriate water levels throughout the site</p> <p>Restore, where possible,</p>
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			appropriate high bog topography, flow directions and slopes. Water quality on the high bog and in transitional areas close to natural reference conditions
Ballynafagh Lake SAC (IE001387)	Alkaline fens Desmoulin's Whorl Snail (<i>Vertigo moulinsiana</i>) Marsh Fritillary (<i>Euphydryas aurinia</i>)	To maintain favourable conservation status of the site's qualifying interests	

The potential likely and significant effects (direct or indirect) of the project alone on the European Site(s) solely with the sites conservation objectives:

- Lead to a loss of raised bog habitats at Ballynafagh Bog. Changes to flow directions due to subsidence of bogs can radically change water regimes and cause drying out of high quality Active Raised Bog Areas.
- The Active raised bog area is threatened due to effects of past drainage and turf cutting around margins the SAC
- Water chemistry within raised bogs is influenced by atmospheric inputs (rainwater). Water chemistry in areas surrounding the high bog varies due to influences of different water types (bog water, regional groundwater and run-off from surrounding mineral lands)

Potential Impacts on Ballynafagh Bog Special Area of Conservation (Site Code 000391) and Mitigation proposed

Ballynafagh Bog is located immediately adjoining the site to the south east. The access road from the south-east includes Coolree bog to the left of the road and Ballynafagh Bog to the right. The overall site at Coolree Bog is to facilitate the relocation of 9No. turf cutters from the Ballynafagh Bog SAC. Ballynafagh Bog SAC comprises an area of approximately 70ha of uncut high bog, surrounded by

approximately 90ha of cutover bog. Within the high bog, it is indicated that there is approximately 23ha of wet active bog and 44ha is degraded raised bog.

The site is selected for the following habitats and species listed in Annex 1 and Annex 11 of the EU Habitats Directive:

- • Active raised bog.
- • Degraded raised bog still capable of natural regeneration.
- • Depressions on peat substrates of the Rhynchosporion.

The Conservation Objectives for the Ballynafagh Lake SAC (Site Code 001398) stated above, there are 17No. in total:

Active raised bog: To restore the favourable conservation condition of Active Raised Bogs in Ballynafagh Bog SAC. Restore area of active raised bog to 26.6ha, subject to natural processes. Active Raised Bog (ARB) habitat was mapped at 6.5ha (2014).

Degraded raised bog still capable of natural regeneration: The long-term aim for Degraded Raised Bogs still capable of natural regeneration is that its peat forming capability is re-established; therefore the conservation objective for this habitat is inherently linked to that of Active Raised Bogs and a separate conservation objective has not been set in the Ballynafagh Bog.

Depressions on peat substrates of the Rhynchosporion: Depressions on peat substrates of the Rhynchosporion is an integral part of good quality Active Raised Bogs and a separate conservation objective has not been set in the Ballynafagh Bog

Owing to the proximity of Ballynafagh Bog SAC there is a risk that any hydrogeological disturbances may impact on the qualifying interests of the site. Potential for **direct** habitat loss at Ballynafagh Bog SAC will not occur as there are no direct impacts in terms of habitat area (including high bog area) and habitat distribution.

Indirect impacts are more difficult to rule out. An ecohydrological survey of Coolree Bog was carried out as part of the initial screening process. This indicated the presence of upwelling groundwater in marginal drains, particularly the marginal drain separating Coolree from Ballynafagh Bog. At the screening stage there was insufficient information to determine the hydrogeological relationship between site and the 2 adjoining SACs. Following field investigations for the NIS, the results demonstrated a complex geological setting. The testing concluded that the only potential pathway that could result in hydrological impacts to either SAC would be if turf cutting were to result in a significant change to the regional groundwater flow regime. However, the results from the surveys carried out by the NIS demonstrate that cutting on the western part of Coolree Bog, where there is a thicker sequence of low permeability limestone till and lower hydraulic gradients, is likely to have a negligible impact on the regional groundwater flow regime. Table 3.1 of the NIS assesses whether turf cutting at Coolree Bog is anticipated to have an adverse effect on the site integrity of the European sites. The proposed mitigation measures are to avoid turf cutting to the east, a buffer area, close to Ballynafagh Bog, and cutting is not to occur near the fault zone which runs midway through the Coolree Bog site. I am satisfied the buffer area is sufficient based on the scientific evidence, and the fact the drainage flows away from the SAC to the east. The eastern portion of the site is proposed as a spreadgrounds for each turf cutter, and will require surface water drainage. These new drains will occur in an area that is already drained and will drain into an existing drain that crosses the centre of the site, into deeper drains on both sides of the cutover. I am satisfied this activity will not lead to any hydrogeological impacts which could lead to impacts on Ballynafagh Bog SAC or Ballynafagh Lake SAC.

It should be noted the silt pond was ruled out at screening stage as it is located downstream of Ballynafagh Bog SAC or Ballynafagh Lake SAC, and there is no pathway of effect through which maintenance activities of removing silt and spreading it on the cutover in Coolree could impact on either SAC.

There is potential for **indirect** effects on the Qualifying Interest habitats by way of general disturbance during the construction and operational phases and on water

quality. It is possible that the proposed development would have an adverse effect on the attributes and targets for these Qualifying Interest habitats, however the proposed c.15m buffer zone between the proposed works and the SAC boundary would serve to mitigate any potential adverse effects on these habitats. Furthermore, the proposed construction phase mitigation measures would ensure that any fine sediments released during the excavation and construction works, or any contaminants resulting from accidental spills or accidents would not reach the SAC.

Conclusion: It can be reasonably concluded on the basis of best scientific knowledge therefore that the proposed development will not adversely affect the integrity of the Ballynafagh Bog SAC in view of the site's Conservation objectives.

Potential Impacts on Ballynafagh Lake Special Area of Conservation (Site Code 001387) and Mitigation proposed

The Ballynafagh Lake SAC is located to the north east of the subject site. It is described as a shallow alkaline lake which supports a high diversity of molluscan species and is of ornithological importance. The site is selected for the following habitats and species listed in Annex 1 and Annex 11 of the EU Habitats Directive:

Desmoulin's Whorl Snail (*Vertigo moulinsiana*)

Marsh Fritillary (*Euphydryas aurinia*)

Alkaline Fens.

The Conservation Objectives for the Ballynafagh Lake SAC (Site Code 001398) states as follows:

Objective: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

The NIS noted that if ecohydrological conditions at the site were altered by peat cutting at Coolree, this had the potential for loss of the Qualifying Interest, i.e. alkaline fen habitat, the vertigo snails and marsh fritillary habitats. The potential for change in water quality as low pH drainage enters the feeder or a change in the quantity entering the feeder could result in changes to the hydrogeological regime resulting in a loss of the habitats. The former Blackwood Feeder, which forms part of Ballynafagh Lake SAC occurs immediately north-west of Coolree, there is no hydrological pathway through which any peat silt could enter this SAC, since the channel draining Coolree is culverted under the former Blackwood Feeder and instead flows to the Slate River further north-west. Adjusting the site boundary to ensure the cutting only takes place in the area where rates of upwelling will be negligible will ensure there is no direct impact on the water balance within either Ballynafagh Lake SAC or the Blackwood Feeder. This will also ensure no changes to water quality within these areas.

Conclusion: It can be reasonably concluded on the basis of best scientific knowledge therefore that the proposed development will not adversely affect the integrity of the Ballynafagh Lake SAC in view of the sites' Conservation objectives.

In-combination effects:

Peat extraction with Ballynafagh Bog SAC is an activity that could potentially lead to in-combination effects with proposed turf cutting at Coolree. It should be noted turf cutting on the SAC was ongoing up until the derogation period introduced for turf cutters (from 2010 for Ballynafagh Bog SAC) and turf cutting has not taken place since. Therefore, potential for in-combination effects can be ruled out.

7.3 Appropriate Assessment conclusion:

I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site Nos. 000391 and 001387 or any other European site, in view of the site's Conservation Objectives.

EIA Screening

The EIA screening process ascertains whether development requires EIA and is determined by reference to mandatory and discretionary provisions as set out within the *Planning and Development Act 2000*.

The proposed development is below the 30heactare threshold of peat extraction for mandatory EIA . Under Article 92 of the Planning and Development Regulations 2001-2018 there is a definition of a ‘sub threshold’ development’. The proposed development is considered to be sub-threshold for EIA . In addition, Article 103(3) requires a planning authority to have regard to the potential for likely signifigant effects on specific sites, areas, land, places or features, which includes European sites. The criteria for sub-threshold developments is included Schedule 7 of the Planning and Development Regulations 2001-2018

1. Characteristics of the proposed development
2. Location of proposed development
3. Type and characteristics of potential impacts

The total site area is 11.43Ha, for a maximum peat extraction area of 4.6Ha, which includes 9No. new spread areas and enabling works such as drainage infrastructure, the creation of a facebank and access. Turf cutting has taken place on the site previously, and the former cutaway areas will be used as spread grounds. All activities will be relocated from nearby Ballynafagh Bog SAC. The total volume of peat extracted over the estimated operational period (65years) is comparable to the extraction rate that would have occurred on a more ecologically sensitive site. The preparatory works i.e construction phase will be 4-6weeks in duration.

The subject site was previously in use for peat extraction and there is no current active use on the site that will be displaced by the proposed development. The proposal will result in the loss of up to 4.6Ha of uncut raised bog. The site has been

previously drained and is not considered capable of regeneration, therefore the proposed will not have potential for significant effects on an Annex 1 Habitat.

In terms of type and characteristics of potential impacts it will be addressed under the following headings:

Population and Human Health

There will be no change to the demographic of the area as a result of the proposed development. Other than limited dust and noise during the six week construction period, there are no potential impacts arising from the proposed peat cutting. The works carried out within the operational phase, the dust from traffic and cutting will be addressed through normal mitigation measures. The temporary impacts in respect of population and human health are not considered significant.

Biodiversity

An AA Screening assessment has been undertaken above, and an NIS was prepared with the application. The AA screening exercise ruled out impacts on Pollardstown Fen SAC and Mouds Bog SAC as it is considered hydrological impacts from turf cutting would not extend further than 5km from Coolree, and these sites are located 8km and 11km from the site. There is no potential pathway to the Long Derries SAC. The AA screening concluded the proposed development has potential to support hydrological and hydrogeological connectivity to the adjoining SACs, and it further concluded that peat cutting at Coolree may increase water draw down and therefore have adverse hydrological impacts on the European sites and may give rise to significant effects on the Qualifying Interests of the adjoining SACs. The NIS was prepared and an ecohydrological survey of Coolree Bog. It was concluded beyond reasonable scientific doubt, the proposed development incorporating mitigation method, namely reconfiguration of the site boundary to restrict turf cutting to where upwelling of groundwater is anticipated to be minimal, will not give rise to

significant impacts, either individually or in-combination with other plans and projects in a manner which adversely affects the integrity of any European site.

An Ecological Assessment was prepared as part of the planning application, and no potential significant effects were identified.

Land, Soils, Geology and Hydrogeology

The Coolree fault line divides two bedrocks and runs through the mid section of the site. The subsoil is underlain with peat. The groundwater vulnerability is moderate to low reflecting the thick subsoil sequence. The site is already extensively drained, therefore changes to the hydrological conditions are considered unlikely. The use of the silt pond will reduce the flow of water and allow solids to settle out. No potential significant impact to groundwater is considered likely. The preparation of the site and operational phase will see the removal of vegetation and extraction of peat from a raised bog which has potential for minor adverse impacts on land, soil and hydrogeology, and there are no impacts identified that would warrant an EIS.

Hydrology and Drainage

The existing drains within Coolree Bog run in a south-westerly direction into a drain along the south western site boundary to where it crosses the old canal bed. There is a culvert from Ballynafagh Lake SAC into the existing drains. The silt pond/attenuation measures proposed will ensure flood risk will not occur and extra sediment will not leave the site. The potential impacts on hydrology are considered to be low.

Noise, Air and Climate

The potential impacts include, construction dust, operational dusts, operational noise and operational phase carbon losses from the removal of the peat 'carbon sink'. As stated the construction works are temporary for 4-6 weeks and there are low levels of

dust anticipated during operational phase. The nearest dwelling to the proposed works is 120metres and the immediate area is not densely populated.

The total quantity of peat to be removed as part of the proposal is 175,500cubic metres. There will be peat not used for fuel . the estimated carbon losses associated with this extraction is 35,398 tonnes of carbon dioxide. The peat is used for domestic heating with CO2 directly discharging to the atmosphere. This will equate to 545tCO2 per annum over the 65 year lifetime of the turf cutting, which is the equivalent of 43 people in Ireland annual emissions. However, the already degraded site is likely to be a net carbon emitter when compared to more intact sites that are currently been damaged. The turf cutting is been consolidated into one area which will also result in a net reduction in carbon emissions. The proposal must be viewed in the context of cessation of turf cutting at Ballynafagh Bog SAC which is more likely to have a carbon sink. The extraction of peat for domestic heating purposes has potential negative impacts for climate change, however the scale of the works proposed is small and the impacts are not considered to be signifigant, particularly in the context of the National raised Bogs Management Plan, and would not trigger an EIA.

Traffic and Transportation

Approximately 20 movements per day are anticipated during the construction stage. The main trips during the operational phase will be sporadic and made between March-August for turf cutting and August-October for turf collection. There will not be a signifigant impact on the local road network.

Landscape and Visual Impact

The site and the surrounding area are considered to be flat. The site is located within the lowland plains of County Kildare. The proposed development affects only a small part of the landscape character area. The works do not affect Scenic Route No. 40 across Ballynafagh Lake SAC. The extent of the impact will be localised and

to the immediate surrounds. The slight impacts are temporary and reversible, and it would not trigger an EIA.

Cultural Heritage

Turf cutting by locals for domestic fuel needs is considered to be a traditional activity, and the relocation of turf cutters is a legal obligation of the State. There are no recorded archaeological or architectural heritage sites in the area. In the event of any unknown features been identified during turf cutting these will be reported to the NMS and preserved.

The proposed development does not fall within the threshold of any classes of development prescribed by Parts 1 or 2 of Schedule 5 (and Article 93) of the Planning and Development Regulations 2001-2018 , therefore and EIA is not mandatory, and the proposed development is considered to be sub-threshold for EIA and there are no environmental impacts anticipated to arise that would warrant the preparation of an EIA. The screening assessment is based on criteria set out in Annex IIA and III of the Directive, and the assessment concludes the proposal will not have significant effects on the environment. An EIA is therefore not considered to be required.

8.0 Recommendation

- 8.1. Having considered the appeal file, and carried out a site inspection, I recommend the planning authority's decision to refuse the propose development be upheld by the Board for the following reasons.

9.0 Reasons and Considerations

1. Having regard to the policy BL2 in the current Kildare County Development Plan 2017-2023 which seeks to limit extraction to those bogland areas currently under development to minimise impacts by localising effects and thus protecting the bog landscape character areas within the county, the proposed development involves the re-opening of an inactive bog for turf cutting and peat extraction and would contravene the stated policy as a balanced approach to the peatlands has not been taken having regard to an appropriate site selection process or detailed examination of alternative sites on existing bogland areas currently under development in the county. Having regard to national policy outlined under the National Raised Bogs Management Plan 2017-2022, the site selection process for the relocation of peat extraction and turf cutting for domestic purposes off the European sites, in the context of the proposed development, does specify that the proposed relocation should adjoin any designated bog or relocate onto an inactive bog, therefore, the proposed development would set an undesirable precedent as regards national policy on raised bogland management. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Caryn Coogan
Planning Inspector

22nd of July 2019