

CLARE COUNTY COUNCIL & ENNIS TOWN COUNCIL

ENNIS AND ENVIRONS DEVELOPMENT PLAN 2008-2014.

VARIATION NO. 1

HABITATS DIRECTIVE ASSESSMENT



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1.0 INTRODUCTION

Ennis Town Council and Clare County Council adopted the Ennis and Environs Development Plan 2008-2014 in December 2008. The adopted Plan underwent a Habitat Directive Assessment (HDA) of its implementation on the Natura 2000 site network in accordance with the Habitats Directive (92/43/EEC). The purpose of the Plan is to promote sustainable development by encouraging economic development, protecting the environment and enhancing the social fabric of the area.

Since its adoption the Local Authority's have decided to vary the Plan under Section 13 of the Planning and Development Acts 2000-2009. A Habitat Directive Assessment was required to inform this variation to the Ennis and Environs Development Plan 2008-2014.

1.1 Ennis and Environs Development Plan 2008-2014

The Ennis and Environs Development Plan 2008-2014 was prepared by Ennis Town Council and Clare County Council under the provisions of the Planning and Development Act, 2000. The Plan is the guiding statutory document for the proper planning and sustainable development of the Plan area for a period of six years from the date of its adoption. The area covered by the Plan extends to approximately 147 km² and includes the district electoral divisions of Clareabbey, Doora, Spancelhill, Kilraghtis and Templemaley.

The Plan has two main purposes, firstly to provide a framework of acceptable uses within the plan area, defining acceptable forms of development and where it should be directed and secondly to provide a detailed basis for the facilitation and management of development management process.

The three principal aims of the Ennis and Environs Development Plan 2008-2014 are:

- To promote the sustainable development of Ennis as the principal administrative, economic and social hub town in County Clare; and to ensure that the town fulfils its role as a designated "Hub Town" in terms of the National Spatial Strategy, and the driver for development of its more rural hinterland; and
- To enable the development of Ennis in a sustainable, compact form while conserving the attractive rural setting and landscape of the town and its environs; and
- To promote the development of Ennis and its environs as a quality environment and destination of choice for work-life balance, economic opportunity, tourism, culture and heritage experience and access to quality services and amenities.

The Ennis and Environs Development Plan 2008-2014 contains a range of policies and objectives designed to achieve the stated core aims including specific policy in relation to housing, infrastructure, economic development and the environment.

The adopted Ennis and Environs Development Plan 2008-2014 underwent a Habitat Directive Assessment (HDA) of its implementation on the Natura 2000 site network in accordance with the Habitats Directive (92/43/EEC).

The zoning of "Residential" and "Other Settlement Lands" in the Plan area have already been dealt with in the original Ennis and its Environs Plan. The variation to provide for 1) phased development of "Residential" and "Other Settlement Lands" in the Plan area and 2) to vary specified settlement policies and to designate the entire plan area outside the settlement boundaries as an area under urban generated pressure, are viewed as positive in

terms of nature conservation and are not likely to have a significant effect on Natura 2000 sites in the area, thus were screened out of this Habitat Directive Assessment.

The purpose of this Habitat Directive Assessment was to deal specifically with the potential impacts of the variation of the zoning and objectives of sites at 'Beech Park' and 'Woodstock'. Accordingly as part of the variation of the Ennis and Environs Development Plan 2008-2014, an Appropriate Assessment was required to inform the process.

The Ennis and Environs Development Plan sits within a hierarchy of County, Regional and National Plans and has been framed with due consideration to the policy direction provided in these Plans. Furthermore, the Plan gives effect to the implementation of various European Union legislation such as the SEA Directive (2001/42/EEC), the Water Framework Directive and Urban Wastewater Directive (91/271/EEC) amongst others and as well as national environmental quality/control legislation.

1.2 Variation to the Ennis and Environs Development Plan 2008-2014

The Ennis and Environs Development Plan 2008-2014 was adopted on the December 8th 2008 and came into effect on the 5th of January 2009. Since the Plan's adoption, the Minister for the Environment, Heritage and Local Government has raised concerns in relation to several aspects of the adopted Plan.

In summary these concerns relate to the quantum of land zoned for residential purposes, the appropriateness of policies in the Plan relating to Settlement Policy in the Countryside and compliance with the Habitats Directive (92/43/EEC).

As a response to the issues raised, the Local Authorities of Ennis Town Council and Clare County Council have varied the Ennis and Environs Development Plan 2008-2014 Plan in order to:

1. Provide for the phased development of Residential and "Other Settlement Lands" in the Plan area.
2. Vary specified settlement policies and to designate the entire plan area outside settlement boundaries as an Area under urban generated pressure'.
3. Provide amended zoning, development and environmental objectives for the Woodstock area, and
4. Varied planning, development and environmental objectives for the Beech Park Industrial area.

The Plan has been varied through specific policy changes, by implementing a phasing schedule to the development of zoned lands within the Plan area and variation of existing zoned lands.

The Habitats Directive (Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora) formed a basis for the designation of Special Areas of Conservation (SACs). Similarly, Special Protection Areas (SPAs) are legislated for under the Birds Directive (Council Directive 79/409/EEC on the Conservation of Wild Birds). Collectively, SACs and SPAs are referred to as European sites in Irish legislation and Natura 2000 sites. In general terms they are considered to be of exceptional importance in terms of rare, endangered or vulnerable habitats and species within the European Community.

Under Article 6(3) of the Habitats Directive an Appropriate Assessment must be undertaken for any plan or variation to a plan or a project that is likely to have a significant effect on the conservation objectives of a Natura 2000 site. An Appropriate Assessment is an evaluation of the potential impacts of a plan on the conservation objectives of a Natura 2000 site, and the development, where necessary, of mitigation or avoidance measures to preclude negative effects.

Article 6(4) of the Habitats Directive sets out the decision-making tests to be applied to plans or projects that may impact on a Natura 2000 site. Article 6(4) states that amelioration measures must be put in place which will compensate for direct risk or damage likely to occur so as to ensure that the integrity of Natura 2000 sites are not compromised.

This Appropriate Assessment was issued without prejudice to any future surveys and assessments that may be required as part of any plans or planning application or any other information that may be made available by the National Parks and Wildlife Service (NPWS) or others. This Appropriate Assessment deals with Variation No 1 of the Ennis and Environs Development Plan 2008-2014 in respect of the zoning and development objectives for Woodstock Residential site and the provision of development and environmental objectives for Beech Park Industrial site.

The other two elements which provide for the phased development of “Residential” and “Other Settlement Lands” in the Plan area and the variation of specified settlement policies and to designate the entire plan area outside settlement boundaries as an area under urban generated pressure do not have implications for or are not likely to impact negatively on Natura 2000 sites.

1.3 Habitats Directive Assessment Stages

The methodology used to carry out this Appropriate Assessment complies with the requirements of Article 6 of the Habitats Directive, which establishes a stage-by-stage approach. In addition, the methodology approach was also prepared in accordance with the following principle guidance document, “Assessment of plans and projects significantly affecting Natura 2000 sites; Methodology Guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001)” which sets out four stages of criteria to undertake Appropriate Assessment. The assessment requirements of Article 6 of the Habitats Directive establish a stage-by-stage- approach involving:

Stage 1 – Screening: This stage defines the proposed plan, establishes whether the proposed plan is necessary for the conservation management of the Natura 2000 site and assesses the likelihood of the plan to have a significant effect, alone or in combination with other plans or projects, upon a Natura 2000 site.

Stage 2 – Appropriate Assessment: If a plan or project is likely to have a significant effect, an Appropriate Assessment must be undertaken. In this stage the impact of the plan or project to the Conservation Objectives of the Natura 2000 site is assessed. The outcome of this assessment will establish whether the plan will have an adverse effect upon the integrity of the Natura 2000 site.

Stage 3 – Assessment of Alternative Solutions: If it is concluded that, subsequent to the implementation of mitigation measures, a plan has an adverse impact upon the integrity of a Natura 2000 site it must be objectively concluded that no alternative solutions exist before the plan can proceed.

Stage 4 – Assessment where no alternative solutions exist and where adverse impacts remain: Where imperative reasons of overriding public interest (IROPI) exist an assessment of compensatory measures that will effectively offset the damage to the Natura site 2000 will be necessary.

This Appropriate Assessment was prepared with reference to the following guidance documents on Habitat Directive Assessments:

- Managing Natura 2000 Sites – The provisions of Article 6 of the Habitats directive 92/43/EEC. European commission (2000). (To be referred to as MN 2000).
- Assessment of Plans and Projects Significantly Affecting Natura 2000 sites – Methodological Guidance of the Provisions of Article 6(3) and (4) of the Habitats directive 92/43/EEC. European Commission (2001). (To be referred to as the APP Guidelines).
- Guidance on Article 6(4) of the Habitats Directive 92/43/EEC – Clarification of the Concepts of: alternative Solutions, Imperative reasons of Overriding Public Interest, Compensatory Measures, Overall coherence, Opinion of the Commission. European Commission (2007).
- Appropriate Assessment of Plans. Scott Wilson, Levett-Therivel sustainability Consultants, Treweek Environmental Consultants and Land Use Consultants (2006).
- Department of the Environment Heritage and Local Government (DEHGL) Circular letter SEA 1/08 & NPWS 1/08 dated 15 February 2008.

This Appropriate Assessment covers Stage 1 and 2 of the assessment process.

This Appropriate Assessment uses the methodology and recommended layout as specified in Assessment of Plans and Projects Significantly Affecting Natura 2000 sites – Methodological Guidance of the Provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. European Commission (2001).

2.0 HABITAT DIRECTIVE ASSESSMENT OF VARIATION NO 1 OF THE ENNIS TOWN PLAN 2008-2014.

2.1 Brief description of the project or plan

The Local Authorities of Ennis Town Council and Clare County Council have varied the Ennis and Environs Development Plan 2008-2014 Plan as described previously:

Zoning of “Residential” and “Other Settlement Lands” in the Plan area has already been dealt with in the original Ennis and Environs Development Plan 2008-2014 in December 2008.

Variation No 1 provides for 1) phased development of “Residential” and “Other Settlement Lands” in the Plan area and 2) variation of specified settlement policies and designation of the entire plan area outside the settlement boundaries as an area under urban generated pressure. Items 1) and 2) are viewed as positive in terms of nature conservation. A Habitat Directive Assessment screening found that the above variation is not likely to have a significant effect on Natura 2000 sites in the area.

Overall it was considered the variation of the Ennis and Environs Development Plan 2008-2014 would have a positive impact on Natura 2000 Sites within and adjacent to the Plan area. It is an improvement on the adopted Plan for the following reason: -

- It seeks to restrict development in the countryside through a number of policy amendments;
- It seeks to reduce the potential for ad-hoc development on zoned land by phasing the release of zoned lands; and
- It seeks to limit the type and extent of development on two specific sites.

A Habitat Directive Assessments screening found that the above proposals were not likely to have a significant effect on Natura 2000 sites in the area. Thus Variation No 1 of the Ennis and Environs Development Plan 2008-2014, was viewed as positive in terms of the improved position it presents above the adopted Ennis and Environs Development Plan 2008-2014. Thus Appropriate Assessment for Variation No 1 of the Ennis and Environs Development Plan 2008-2014 dealt specifically with existing zoned lands at Beech Park' and 'Woodstock'.

When the Local Authorities varied the Ennis and Environs Development Plan 2008-2014 under Section 13 of the Planning and Development Acts 2000-2009, a Habitat Directive Assessment was prepared to inform that variation.

This Habitat Directive Assessment on the Ennis and Environs Development Plan 2008-2014 Variation No.1 (Stage 2 full Appropriate Assessment, including mitigation measures and policy provision) deals specifically with the potential impacts of the zoning of and objectives for sites at 'Beech Park' and 'Woodstock'.

2.2 Brief description of the Natura 2000 sites:

The following Natura 2000 sites have the potential to be impacted by the proposal to vary the zoning and objectives of sites at 'Beech Park' and 'Woodstock'.

- River Shannon and River Fergus Estuaries SPA Site Code 004077,
- Lower River Shannon Site SAC Site Code 002165,
- Pouladatig Cave SAC Site Code 000037 and
- New Hall and Edenvale Site SAC Site Code 002091

Appendix 1 shows the Qualifying Interests and Current Threats to the River Shannon and River Fergus Estuaries SPA Site Code 004077, Lower River Shannon SAC Site Code 002165, Pouladatig Cave SAC Site Code 000037 and New Hall and Edenvale SACs Site Code 002091. (Maps referred to below are contained in this document.)

Map 1 shows the location of Natura 2000 sites in the wider area,. Map 2 Natura 2000 Sites and Natural Heritage Area, relative to each other, in the vicinity to Woodstock and Beech Park zoned land. Map 3 shows the Natura 2000 Sites, Open Space and Urban Generated Pressure in the Area. To illustrate the potential for green and wildlife corridors and bat commuting routes in the vicinity of Woodstock, Beech Park and New Hall and Edenvale. Map 6 shows a Habitat Map of the Study Area.

The Natura 2000 Site synopses may be accessed on the National Parks and Wildlife Service's website at <http://www.npws.ie/ConservationSites/>. Individual site maps are also available on this website.

3.0 THE ASSESSMENT OF SIGNIFICANCE OF EFFECTS

Variation No 1 includes zoning, environmental and development objectives for the Woodstock Residential site and ancillary environmental and development objectives for Beech Park Industrial site.

Beech Park Industrial zoned land is not located close to a Natura 2000 site. However the Claureen River is the lowest of the major tributaries of the Fergus River and is upstream of the Lower River Shannon Site SAC Site Code 002165. The construction of proposed development on this site will result in the generation of waste material and direct discharges to the Claureen River and in turn downstream to the Fergus and Shannon rivers. Thus this proposed development has the potential to have an impact on the Lower River Shannon Site SAC Site Code 002165 and a Habitat Directive Assessment is required in this case.

The Qualifying Interests of the Lower River Shannon SAC Site Code 002165 are as follows :- Estuaries, Mudflats and sandflats not covered by seawater at low tide, Coastal Lagoons, Vegetated sea cliffs of the Atlantic and Baltic coasts *Salicornia* and other annuals colonizing mud and sand, Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*), Mediterranean salt meadows (*Juncetalia maritimi*), Water courses of plain to montane levels with the *Ranunculon fluitantis* and *Callitricho-Batrachion* vegetation,, Sandbanks which are slightly covered by sea water all the time, Large shallow inlets and bays Reefs, Perennial vegetation of stony banks *Spartina* swards (*Spartinion maritimae*) *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*), Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) River Lamprey, Brook Lamprey, Sea Lamprey, Atlantic Salmon, Bottle-nosed Dolphin and Otter.

The Local Authority is obliged under EU (Natural Habitats) Regulations 1997 when duly considering an application for planning permission, or the Board when duly considering an appeal on an application for planning permission, in respect of a proposed development that is not directly connected with or necessary to the management of, a European site but likely to have a significant effect thereon either individually or in combination with other developments, shall ensure that an appropriate assessment of the implications for the site in view of the site's conservation objectives is undertaken.

Describe the individual elements of the project (either alone or in combination with other plans or projects) likely to give rise to impacts on the Natura 2000 site:

3.1 Beechpark Industrial Zone

The industrial zoning at Beechpark includes land adjoining the Kilmaley road, part of the former Beech Park House estate, a mixture of mature broadleaf woodlands, steep sloping agricultural grassland and river floodplain adjacent to the Claureen River. The site is home to a variety of flora and fauna and contains wildlife corridors located between the Pouldatig Caves and New Hall/Edenvale complex (Site Code 2091), see Map 4, Land zoning at Beech Park.

3.2 Woodstock Residential Zone

The Woodstock Residential site adjoins the Pouladatig Cave cSAC (Site Code 0037) situated east of Woodstock Golf Club in the town lands of Ballylannidy. The cave area is of international importance due to its use by hibernating Horseshoe bats (*Rhinolopus hipposideros*), a listed species under the EU Habitats Directive. There is evidence that the bat population is linked to the New Hall – Edenvale Complex cSAC (Site Code 2091). The variation limits the area of zoned land to provide a buffer between it and the Pouladatig Cave complex. See Map 5, south east section of land zoning at Woodstock.

3.3 Size and scale; Land-take; Distance from Natura 2000 site or key features of the site; Resource

Requirements (water abstraction etc); Emission (disposal to land, water or air); Excavation

The variation of the environmental and development objectives for ‘Beech Park’ and ‘Woodstock’ sites could involve land take of improved agricultural grassland for development out side of any Natura 2000. There would be potential for loss of habitat, hedgerows, trees, bat commuting routes, wildlife corridor and habitat fragmentation as a result of development at these sites.

The proposed Woodstock Residential zoning is in close proximity to Pouladatig Cave, SAC Site Code 000037, and could result in direct disturbance to Lesser Horseshoe bats at the site due to the affects of the associated construction and residence of houses, lighting, traffic and recreational activities.

The variation of the zoning and objectives for sites at Beech Park Industrial zoning could result in direct discharges to the Claureen River, which is upstream and within the catchments Lower River Shannon Site SAC Site Code 002165.

3.4 The cumulative nature of the effects.

Development of the sites at Beech Park and Woodstock could potentially lead to significant loss of open space within the Plan area. Notwithstanding the above, there are sufficient safeguards within the Plan to limit the potential impact of any future development through the imposition of the ecological and flood risk policies outlined in the adopted Plan and the new policies as part of this Plan variation.

3.5 Beech Park Industrial Zoning and Lower River Shannon and Special Area of Conservation Site Code 2165.

The nature conservation value of Beech Park estate is high; there are mature mixed broad leaf woodlands (with some fine trees dating from early 1800 at the time when Markus Keane was the landlord of the Beech Park House and estate). The woodlands associated with Beech Park House should be conserved in their own right. Further planting along the Claureen River wildlife corridor will enhance its value and protect the Claureen River (which is within the catchments and flows directly into the Lower River Shannon and SAC Site Code 2165).

Bat species use the area for roosting, foraging and commuting. Lesser Horseshoe bats are likely to use the area as a commuting route from Pouladatig Cave, SAC Site Code 37, hibernation site, to other roost sites and foraging areas, in particular Newhall and Edenvale Complex, Site Code 2091 and Cahircalla Wood, Natural Heritage Area, Site Code 1001.

The Claureen River is the lowest of the major tributaries of the Fergus River, it is a Class A or unpolluted River. The Claureen River which adjoins the site is itself a salmon and trout spawning river and is upstream of Lower River Shannon (including the Fergus River), SAC Site Code 2165, an important site for three species of breeding of lamprey and salmon.

All of the five sites surveyed in 2003 on the Claureen River, suitable for use as a salmonoid nursery and salmon, have been recorded as breeding throughout the river system. Two species of Lamprey have been recorded as breeding in the Claureen River. One Otter holt was found in a 600 meter stretch of Claureen River channel surveyed, with good Otter activity recorded throughout the system. While the Claureen River is within the catchment and flows directly into the Lower River Shannon and SAC Site Code 2165, it is also important for several species listed as Annex II species under the European Habitats Directive, namely Salmon, Lamprey and Otter. The area also provides foraging and commuting habitat for Lesser Horse Bats, an Annex II species under the European Habitats Directive.

Land at Beech Park has been zoned for industrial development. It is imperative that any development proposed for the zoned land, would not sever the wildlife corridors provided at present by the tree cover, Claureen River corridor and within the wider countryside. See Map 3 for lands in the general area zoned for Open Space and land under Urban Generated Pressure in the Plan.

3.6 Residential Zoning at Woodstock and Pouladatig Cave cSAC Site Code 0037

Pouladatig Cave is a natural limestone cave situated near to Inch Bridge and west of Woodstock Golf Club in the town land of Ballylannidy. It is used as a hibernation site for Lesser Horseshoe Bats (*Rhinolophus hipposideros*), a species listed on the Annex II of the EU Habitats Directive. Lesser Horseshoe bats have been using these caves for many years and on average over 100 bats have been recorded each year since 1986. There was a peak winter count in the 2008-2009 season of 208 animals, thus the site is of international importance for this species.

To date, there is little information available on the Lesser Horseshoe bat movement to, from and within the site, including their commuting routes and foraging areas. Further survey is required to identify the bats summer roosts, along with their commuting and foraging areas, particularly near to Pouladatig Cave cSAC site. Past ringing of bats at the site suggest that this population is likely to be linked to the bat population at Newhall-Edenvale Complex cSAC (Site Code 2091). It is particularly crucial to identify how these bats commute and what wildlife corridors are used to fly to and from Newhall and Edenvale Complex cSAC. It is logical that they may travel via the woodlands at Beechpark and Cahircalla Wood proposed Natural Heritage Area Site Code 1001, to Newhall-Edenvale Complex cSAC (Site Code 2091).

Pouladatig and Poulmagolloor Caves together with the Noaff East resurgence are referred to as the Noaff East Caves. Caves not open to the public are listed on the Annex I of the EU Habitats Directive. The caves are active limestone caves with many interesting features such as the dripstone wedding cake-like formations of calcite, flowing water, mud banks, boulders, rock roof and walls. Pouladatig Cave entrance is grilled to prevent disturbance of the site and is rarely visited by cavers, while Poulmagolloor cave is not grilled and visited more regularly by cavers. The vast majority of this bat population hibernates at Pouladatig Cave, with numbers as high as 230 being recorded, while Poulmagolloor Cave, can hold 20 to 30 bats.

Lesser Horseshoe bat and caves not open to the public are the Qualifying Features of this SAC site. The conservation status of the site is considered to be good.

The relevant Conservation Objectives for this site is to

- 1) Maintain the structure, extent, function and biodiversity of the Annex I habitats for which the site is selected, i.e. Caves not open to the public.
- 2) To maintain the population of the species listed in Annex II of the Habitats Directive, the Lesser Horseshoe bat.
- 3) To maintain the ecological value of other habitat types (scrub, improved agricultural land and wet grassland, hedgerows, exposed rock, drainage ditches and stone walls.

Some activities are potentially threatening to the Pouladatig Cave cSAC, such as dumping, supplementary animal feeding, quarrying, scrub and hedgerow removal and agricultural improvements. Ongoing monitoring is required to ensure that the site maintains its good conservation status. All year round bat survey to include monitoring bat numbers, research of their commuting routes, other roost sites and foraging areas. Hydrology and water quality at the site is sensitive and should be maintained and taken into consideration by any development proposed within the catchments of the Pouladatig Cave cSAC.

The residential land zoning at Ballylannidy immediately adjacent to the Pouladatig Cave cSAC poses a threat to the bat population in terms of: -

- Direct disturbance and recreational pressure
- Disturbance due to uncontrolled building works and rock excavation during the bat hibernation period.
- Negative effects of external lighting from development and houses
- Removal of hedgerows used as commuting routes

As the Pouladatig Cave cSAC site immediately adjoins the residential zoning, measures will be required to ensure the conservation of the hibernating Lesser Horseshoe bats at the site.

Consideration of issues that may result in increased nutrient loading into the water; increased human activity, traffic, lighting and disturbance in the immediate vicinity of an important bat feeding and roosting area will be necessary. Development that may result in significant negative impacts and disturbance for the habitats and species that use the site will not be allowed.

4.0 DATA COLLECTED TO CARRY OUT THE ASSESSMENT

4.1 Sources of Data

- SAC and Lesser Horseshoe population data from National Parks and Wildlife Service
- The River Fergus, Co Clare; An investigation of the distribution, abundance and ecology of species designated under the EU Habitats Directive, 2003, by the Ennis and District Trout Anglers Association.

4.2 Level of Assessment Completed

This Habitat Directive Appropriate Assessment has been carried out as thoroughly as possible, but in the absence of detailed project specifications for the precise nature, location, size and layout of any future proposed development that will be subject to Planning Permission.

Following the appropriate consultation period, the planning authority has determined that the variation would be unlikely to have significant effects on Natura 2000 sites in the area, taking into account mitigation measures proposed.

4.3 Where can the full results of the assessment be accessed and viewed

A copy of this Habitat Directive Appropriate Assessment is available for inspection at the office of the Planning Authority during office hours. Clare County Council, New Road, Ennis, County Clare. Phone 065 6821616 or on the relevant websites.

4.4 List of Agencies Consulted: Provide contact name and telephone or email address

Submissions were received from the Environmental Protection Agency and the Department of the Environment, Heritage and Local Government. A copy of the submissions is attached as Appendix 3. The consultation phase provided a basis for the expression of views on the variation to the Plan and also on the need or otherwise for conducting a Habitats Directive Assessment of the Plan variation and impact on Natura 2000 sites.

Clearly the submissions received express concerns regarding the adopted Plan; however this Habitats Directive Appropriate Assessment concerns itself only with the variation to provide for the variation of zoning and development objectives for the Woodstock area and to amended planning, development and environmental objectives for the Beech Park Industrial area. Notwithstanding this, the Department of the Environment, Heritage and Local Government surmised a Habitats Directive Assessment was required. This Habitats Directive Assessment is confined to the proposal to vary the zoning and objectives of sites at 'Beech Park' and 'Woodstock'.

5.0 HABITATS DIRECTIVE ASSESSMENT: APPROPRIATE ASSESSMENT: MITIGATION MEASURES

5.1 General Mitigation Measures Proposed

The revised Woodstock Residential site extends to 10.45 hectares, a reduction of 8.63 hectares from the original Ennis & Environs Development Plan 2008-2014. The variation reduces the area zoned for residential development from just over 19 hectares in the original Plan to 10.45 hectares and zones lands at Woodstock in Phase 1 of the Phasing programme.

The Beech Park Industrial site extends to 23.012 hectares and this includes a requirement for a buffer along the Claureen River.

The original Plan provided a detailed set of policies on environmental issues including water quality, flooding and habitat protection. These policies were designed to ensure the long-term protection of the environment and natural resources. Specific policies relevant to the protection of Natura 2000 sites in the existing and adopted Plan are highlighted in Appendix 2 of this report. Two new policies are part of Variation No 1 as follows: -

1. EN15 Strategic Environmental Assessment and Habitats Directive Assessment

In order to mitigate against potential adverse impacts on the environment it is the policy of this Plan to ensure that any measures proposed in the Strategic Environmental Assessment and Habitats Directive Assessment of the Ennis and Environs Development Plan 2008-2014 are applied within the Development Plan area.

2. EN16 Habitats Directive Assessment

It is the policy to implement Article 6(3) of the Habitats Directive (1992) and to ensure that Habitats Directive Assessments are carried out in relation to plans and projects likely to impact on Natura 2000 sites(SAC and SPA), whether directly or indirectly or in combination with any other plan(s) or project(s).

Of particular note is the following Policy and Supporting Action from the existing Ennis and Environs Development Plan 2008-2014.

Policy EN7 Promoting Bio-Diversity

It is the policy of the Council to protect and promote the sustainable use and management of the natural heritage, flora and fauna of the town through the promotion of biodiversity, the conservation of natural habitats and the upgrading of new and existing habitats.

Supporting Actions:

- 1 To promote the conservation of biodiversity through the protection of local sites of biodiversity importance, both within the designated sites and the wider Plan area*
- 2 To prepare detailed biodiversity and natural heritage conservation plans during the lifetime of the Plan.*
- 3 To create a network of natural heritage sites and recreational open spaces/ amenity areas through promoting greater linkages and accessibility between sites.*

Where sufficient support, partnerships and resources can be found Clare County Council, in order to meet its commitment in relation to the above EN7 Policy and Supporting Actions, intends to undertake research and map the potential Lesser Horseshoe bat commuting routes and wildlife corridors in the vicinity of known roost sites throughout the Plan area. The aim is to achieve this over the life time of the Plan. This is in order to assist in the protection of the Lesser Horseshoe bat network and population in the area. Survey work undertaken by the National Parks and Wildlife Service and others, shows that there are in the region of 41 Lesser Horseshoe bat roosts in Ennis and surrounding area. Some of which hold internationally important numbers and are designated as Natura 2000 Sites. This information will allow Clare County Council and others to conserve these areas and include it in Planning Policy and Practice.

5.2 Mitigation measures proposed for Beech Park Industrial Zoning

Considerations for Industrial Zoning in the vicinity of the Claureen River and upstream of the Lower River Shannon SAC (Site Code 2165), include the following: -

1. Habitats Directive Assessment will be required of any proposed developments coming forward in the lands zoned as Industrial and likely to have an impact (direct or indirect and in-combination effects) on the Natura 2000 site, Lower River Shannon SAC Site Code 2165, see Section 9.3.2 of the Ennis and Environs Development Plan 2008-2014. The Habitat Directive Assessment and mitigation will ensure that proposed developments will not have negative impact and take full account of the habitats and species, water quality, ecology, risk of disturbance and flood risk areas.
2. A master plan for the site should outline an integrated approach, whereby the estate setting and trees on the Kilmaley roadside of Beech Park House are enhanced and protected in any proposed development. A tree and wildlife survey of the site will form the basis for an informed Habitats Directive Assessment, Environmental Impact Assessment and master plan for the site.
3. A complete survey of the trees, bat usage of the wider area and wildlife, in particular Annex II species, on the site will be required using standard methodology, completed at the correct times of the year and carried out by a competent ecologist is required. In particular, all development of buildings and tree conservation works will require a Bat, Red Squirrels and Barn Owl survey in advance to ensure that they do not contain important sites for bats, other mammals or birds.
4. Proposed developments will not negatively impact on and will take full account of the riverine and woodland habitats and species, water quality, ecology and flood risk areas.
5. Sufficient ecological buffer zones to be provided on the site and along the Claureen River to maintain the integrity and protection of the site, and the integrity of the river, taking into account the requirements to maintain water quality, the river wildlife corridor and prevention of flooding in the area. No encroachment onto the river or woodland and associated habitats, will be permitted to ensure the maintenance of sufficient ecological buffer zones at a minimum distance to the Claureen River to ensure minimum disturbance to such habitats. The prescription of ecological corridors and buffer zone widths is dependant on a number of variables and will

depend on the conservation value of the site to be protected, the intensity of the adjacent land use and the tolerance of the species and habitat to withstand disturbance, and the area that is practicable and appropriate from the point of management of the buffer zone.

In this case the Claureen River is upstream of the Natura 2000 site, Lower River Shannon, SAC, Site Code 2165 and is a site of international importance and sensitivity to water pollution and nutrient loading. The proposed land use is intensive, and is potentially detrimental to species and habitats on site which are very sensitive to disturbance. The industrial zoned area is on improved agricultural grassland, which has a steep slope where it adjoins the Claureen River. In addition the flood zone (1 in 100 year flood levels) can reach 70 m inland of the river at this point. Subject to further research, considerations of the contour of the land adjoining the river and flood risk assessment, a substantial buffer zone will be required in this case.

The buffer area should be enhanced to further supplement the habitats and wildlife corridor quality of the site. This could be achieved by the use of additional planting of native and indigenous scrub and trees. It is important where feasible to ensure provision and maintenance of appropriate ecological buffer zones and protect the integrity of the site. The provision of appropriate ecological buffer zones between designated sites and sensitive waters and proposed development should be drawn up in consultation with Clare County Council, the National Parks & Wildlife Service, Shannon Regional Fisheries Broad and others, where relevant.

- 6 Full compliance with wastewater discharge license for the any wastewater treatment system.
- 7 Ensure that impacts on the site are taken into account for both future developments and receiving waters of the Lower River Shannon, SAC Site Code 2165.
- 8 Consideration is required of any proposals that are likely to impact on the hydrology of the site. Implementation of Sustainable Urban Drainage Systems SUDS (see Appendix 9 “Development and Management of the Riparian Zone” in the Ennis and Environs Development Plan 2008-2014) and ensure full compliance with the measures prescribed under the Shannon International River District River Basin Management Plans (SIRD RBMP) and associated water quality and EU Policy Directives. In addition best practice is required in terms of flood risk management.
- 9 There will be no net loss to hedgerows and wildlife corridors on site in order to protect habitat and commuting routes for Lesser Horseshoe bats. Where possible mitigation measures will seek ecological gain from the proposed development coming forward. In this regard a woodland management plan is required to be drawn up and agreed with Clare County Council. Supplementary tree planting will be required and hedgerow management measures, restoration and /or rebuilding of estate walls throughout the lands will be implemented to ensure that the woodlands continue to function as wildlife habitats of value and more importantly as a bat commuting and foraging area.

5.3 Mitigation Measures for Residential Zoning at Woodstock

Considerations for Residential Zoning in the vicinity of Pouladatig Cave cSAC Site Code 0037 include the following: -

1. In this case the conservation value of the site is of international importance and proposed land use is intensive and potentially very disturbing to Lesser Horseshoe bats, which are very sensitive to disturbance. The residential zoned area is on undulating and improved agricultural grassland and immediately adjoins the Natura 2000 site at the south west of the zoned land. In the land zoned that immediately adjoins the designated site and subject to further research and considerations of the slope of the land adjoining the designated area, a 100 m buffer zone will be required. It is recommended that housing development should not be allowed at Pouladatig Cave cSAC end of the proposed residential zoning. In this regard 8.63 hectares has been reduced from the zoned area.
2. The buffer area should be enhanced to further supplement the habitats and wildlife corridor quality of the site and reduce any recreational impacts due to the housing development in the immediate area. This will be achieved by the use of additional planting of native and indigenous scrub and trees. In this regard relatively mature trees should be planted of at least 20 to 25cm girth. These trees should be planted prior to any development on site and failed planting should be replaced as necessary. In addition a suitable chain linked perimeter fence of not less than 2m will be put in place along the boundary of the Pouladatig Cave cSAC.
3. A master plan will be required for any proposed development on site.
4. A Habitat Directive Assessment will be required of any proposed developments (and/or the cumulative impacts) coming forward and likely to have an impact on the Pouladatig Cave cSAC. The Habitat Directive Assessment and mitigation will ensure that proposed developments will not have an impact and take full account of the habitats and species, water quality, ecology, risk of disturbance and flood risk areas. Provide for sufficient buffer zones along the Natura 2000 Site to maintain the integrity of the site and will not encroach onto the Natura 2000 Site and associated habitats.

It is important where feasible to ensure provision and maintenance of appropriate ecological buffer zones and protect the integrity of the site. The provision of appropriate ecological buffer zones between designated sites and bat commuting and foraging areas. Proposed development should be drawn up in consultation with the Clare County Council, National Parks & Wildlife Service, Shannon Regional Fisheries Broad and others where relevant.

Consideration of issues that may result in increased nutrient loading into the water; increased human activity, traffic, lighting and disturbance in the immediate vicinity of an important bat feeding and roosting area will be necessary. Development that may result in significant negative impacts and disturbance for the internationally important number of Annex II bat species that use the site will not be allowed

5. All year round research is required to establish the bat foraging and commuting routes to other roost sites and foraging areas. This research will identify the wildlife

corridors and hedgerows that should be safeguarded as part of any future proposal. The narrow roadway from the site to Woodstock Golf Club and towards Inch Bridge and its associated hedgerow and stone walls are significant in this regard. Thus, no road alterations or road widening will be acceptable.

6. A lighting plan should be designed and agreed in advance with both Clare County Council and the National Parks and Wildlife Service to ensure that the Pouladatig Cave cSAC and Lesser Horseshoe bats are not negatively impacted in this regard.
7. Prior to any proposal for development coming forward, monitoring of the bat numbers is required and ongoing monitoring is required to ensure that the site maintains its good conservation status in the future.
8. Consideration is required of any proposals that are likely to impact on the hydrology of the site. Implement Sustainable Urban Drainage Systems SUDS and ensure full compliance with the measures prescribed under the Shannon International River District River Basin Management Plans (SIRD RBMP). Mitigation measures should be set out where applicable to ensure that impacts on the site are taken into account for both future developments and receiving waters.
9. There will be no significant change or net loss to the hedgerows and wildlife corridors on site to protect the habitats and commuting routes for Lesser Horseshoe bats. This will require the protection; maintenance and enhancement of hedgerows in the area. Opportunities should be sought for ecological gain within the scope of the proposed development.

6.0 CONCLUSION

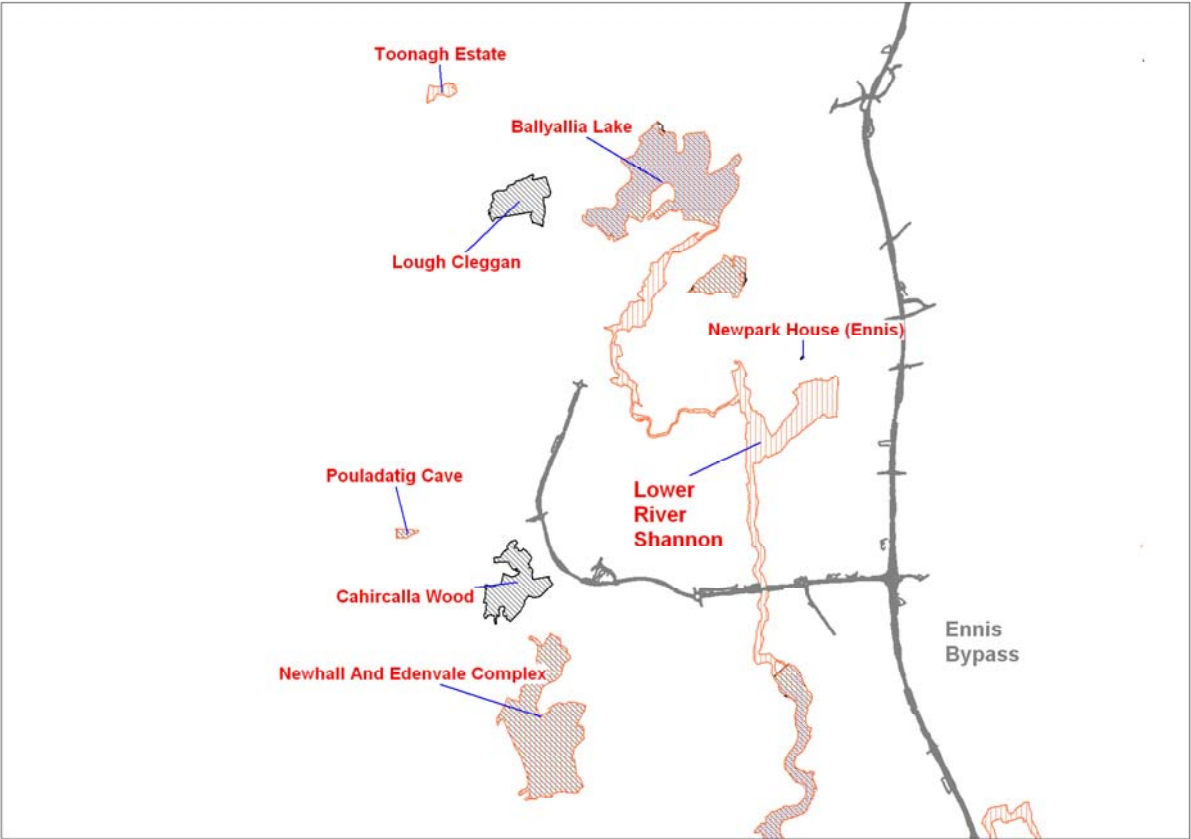
Following review and consideration of the issues concerning Variation No 1 and variation of the zoning at Woodstock and development and environmental objectives for the 'Beech Park' and 'Woodstock' sites, it is concluded that the variation to the adopted Ennis and Environs Development Plan 2008-2014 will not result in a significant adverse effect on Natura 2000 sites in the vicinity, provided that the mitigation measures, conservation, heritage and planning policies as set out in the Ennis and Environs Development Plan Variation No.1 are implemented.

This conclusion has been drawn based on consideration of the following factors:

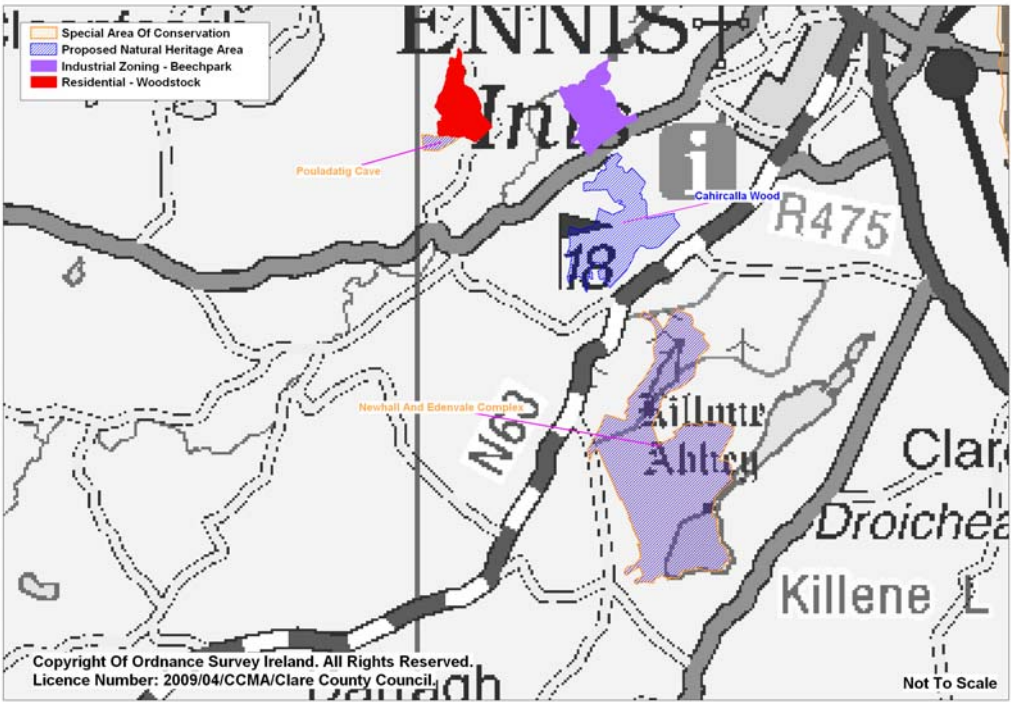
- The amendment of the zoning at 'Woodstock' and development and environmental objectives at 'Beech Park' and mitigation measures set out.
- The existing and adopted safeguarding policies for Natura 2000 site protection in the Ennis and Environs Development Plan 2008-2014
- The addition of two new policies added to the Plan as part of this variation.
- Adoption and incorporation of the Habitat Directive Assessment
- The variation reduces the area zoned for development from the original Plan and includes the "Residential" lands at Woodstock in Phase 1 of the Phasing programme.

In accordance with the Habitats Directive and the Environmental Impact Assessment Directive, development proposals in the vicinity of protected sites or species cannot proceed if it cannot be shown that the proposal will not impact on the integrity of such sites or species. Any proposal for development must therefore demonstrate this at the Planning stage.

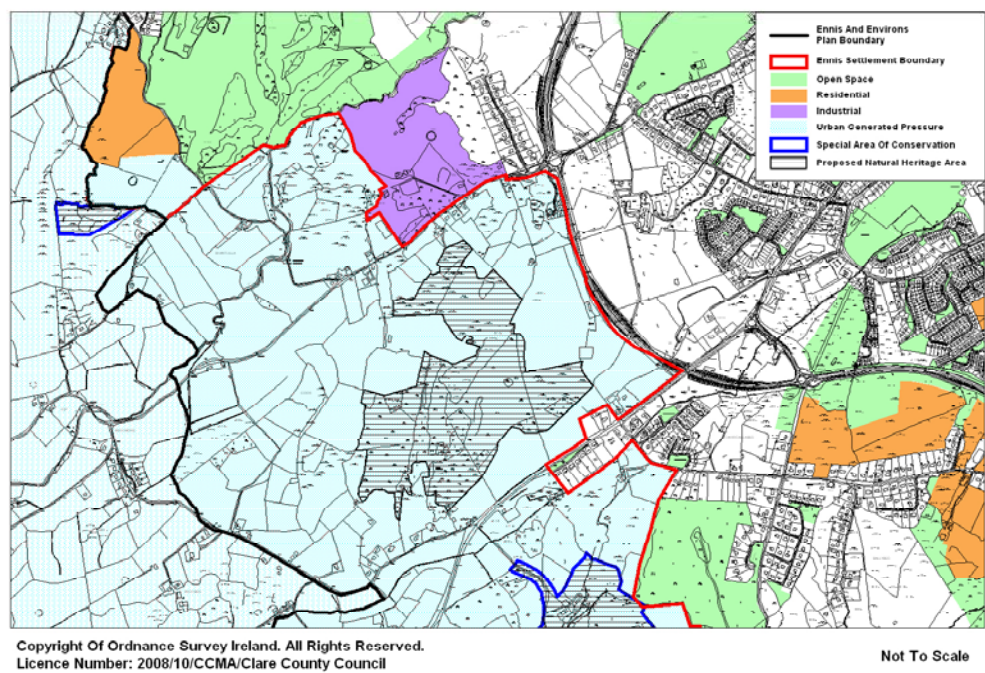
Map 1 Location of Natura 2000 Sites and Natural Heritage Areas in the Ennis Area.



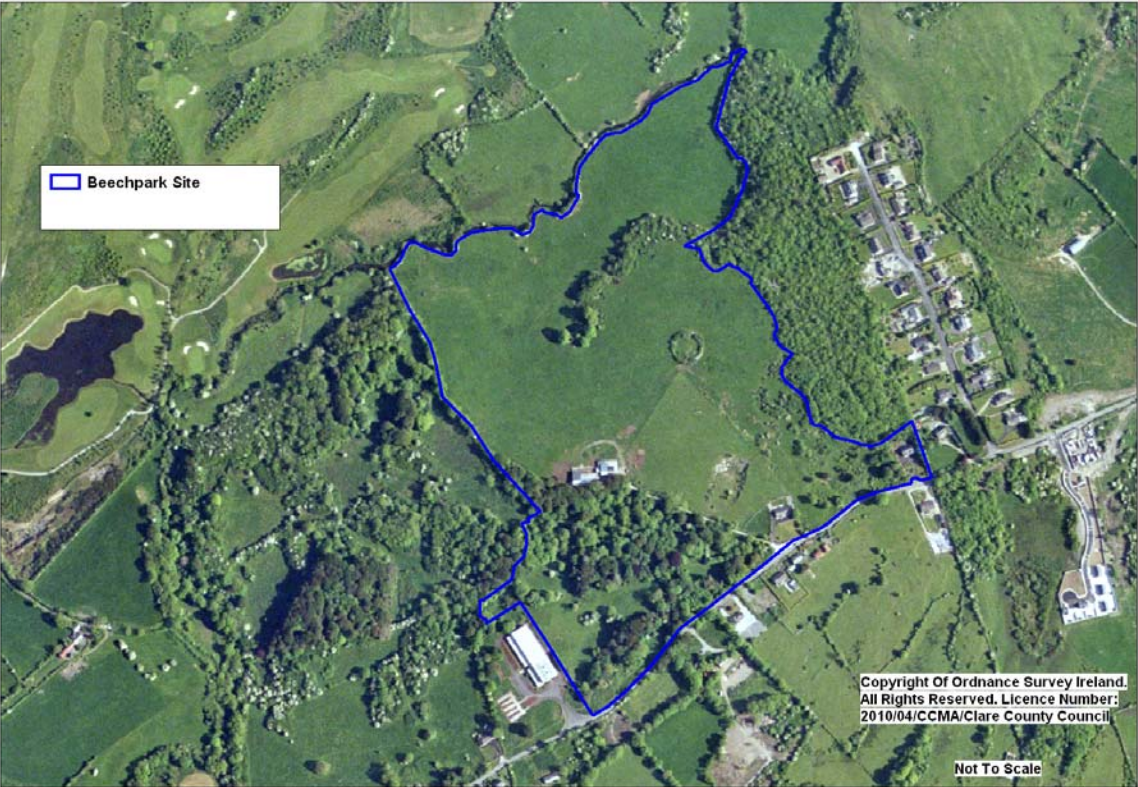
Map 2 Natura 2000 Sites and Natural Heritage Area relative to each other in the vicinity to Woodstock and Beech Park zoned land.



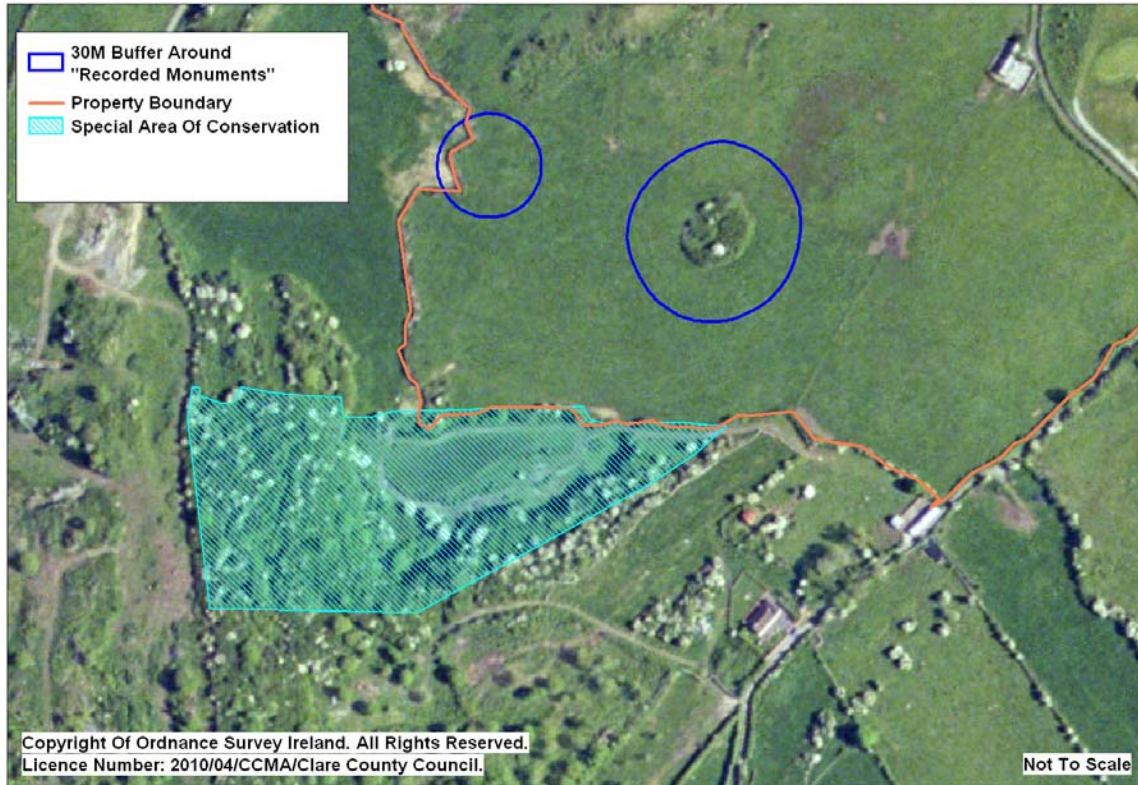
Map 3 Special Areas of Conservation, Natural Heritage Area, Open Space and Open Countryside in the area. To illustrate the potential for green, wildlife corridors and bat commuting routes in the vicinity of Woodstock, Beech Park and New Hall and Edenvale.



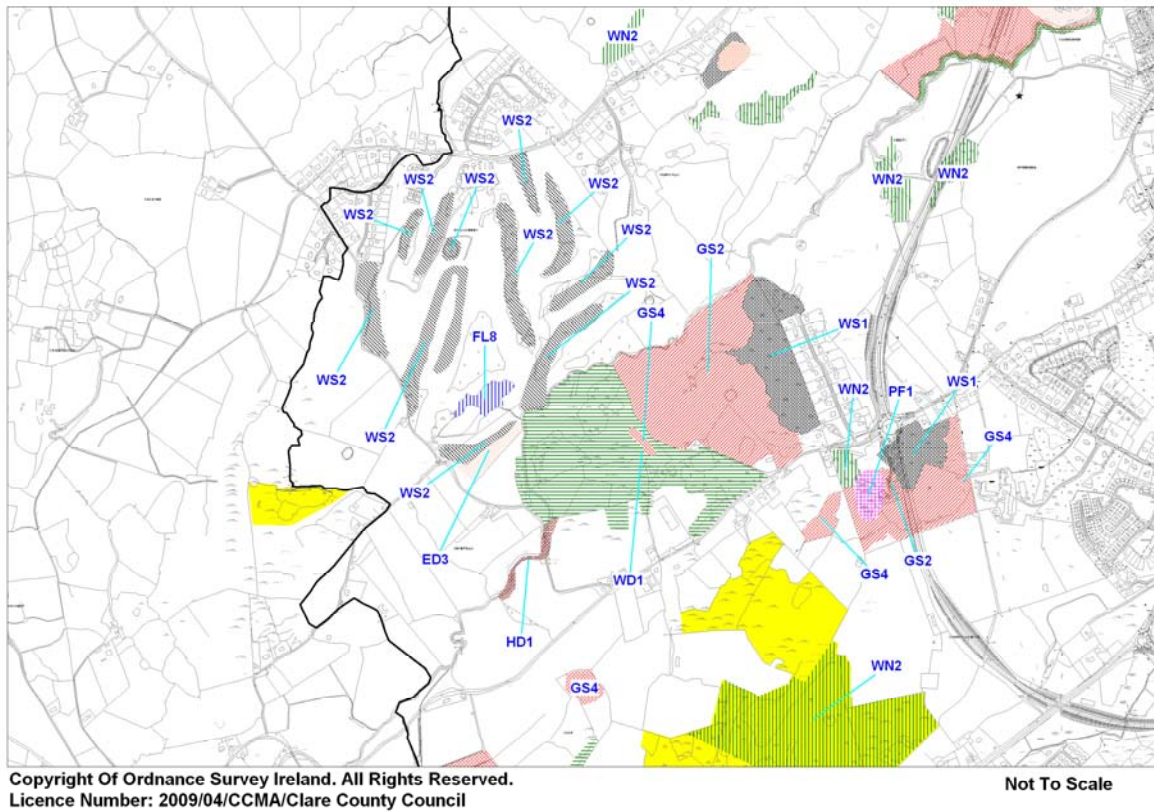
Map 4 Aerial view of land zoned at Beech Park



Map 5 Aerial view, south west section of land zoned at Woodstock



Map 6 Habitat Map of the Study Area



Habitat Classification

Grasslands

Un-hatched Area is improved Grassland

GS2 Dry meadows and grassy verges

GS4 Wet grassland

Freshwater

FL8 Other Artificial Lakes and Ponds

Woodlands

WS1 Scrub

WS2 Immature woodland

WD1 Mixed broadleaved woodland

WN2 Oak-ash hazel woodland

Heath and Dense Bracken

HD1 Dense bracken

Exposed Rock and disturbed ground

ED3 Recolonising bare ground

Peatlands

PF1 Rich fen and flush

APPENDIX 1 Qualifying Interests and Current Threats for River Shannon and River Fergus Estuaries SPA Site Code 004077, Lower River Shannon Site SAC Site Code 002165, Pouladatig Cave SAC Site Code 000037 and New Hall and Edenvale Site SAC Site Code 002091.

SITE	QUALIFYING INTERESTS * Indicated Priority Habitats	<u>CURRENT THREATS TO SAC/SPA QUALIFYING INTERESTS</u>
River Shannon and River Fergus Estuaries SPA Site Code 004077 Co. Clare	International Population: - Dunlin - Black-tailed Godwit - Redshank Annex I species: - Whooper Swan - Golden Plover - Bar-tailed Godwit	Threats include aquaculture, invasive species, boating, recreation, loss of habitats (feeding, roosting, (breeding)), reduced stocks of prey species, inappropriate grazing, trampling, erosion, disturbance to birds, their flight paths and breeding areas, disturbance of sea cliffs, sea pollution, inappropriate development and changes to hydrology of the site.
Lower River Shannon Site SAC Site Code 002165 Co. Clare	Estuaries Mudflats and sandflats not covered by seawater at low tide Coastal lagoons Vegetated sea cliffs of the Atlantic and Baltic coasts Salicornia and other annuals colonizing mud and sand Atlantic salt meadows (Glauco-Puccinellietalia maritimae) Mediterranean salt meadows (Juncetalia maritimi) Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) Water courses of plain to montane levels with the	Threats to estuaries include aquaculture; fishing; coastal development and water pollution. Specific activities may include fishing, bait digging, removal of fauna, reclamation of land, coastal protection works and invasive species, particularly cord-grass. For coastal lagoons the most damaging activity is deliberate drainage, sea level rise, natural silting-up and excessive nutrient enrichment. For Cliffs, threats include erosion; grazing; recreational pressures; development of golf courses and housing; dumping and cutting of peat. In some cases coastal protection works interfere with the natural functioning of sea cliffs. For Salicornia and other annuals, threats include invasive species, sea level rise, erosion and accretion. The main threats to salt meadows are overgrazing by sheep and cattle, invasive species, sea level rise, land disturbance and erosion. Threats to Alluvial forests include inappropriate grazing levels; invasive species; and clearance for agriculture or felling for timber. The main threats to water courses include eutrophication; sea level rise, overgrazing, excessive fertilisation; afforestation; and the introduction of invasive alien species.

<p>Ranunculum fluitans and Callitriche-Batrachion vegetation</p> <p>Sandbanks which are slightly covered by sea water all the time</p> <p>Large shallow inlets and bays</p> <p>Reefs</p> <p>Perennial vegetation of stony banks</p> <p>Spartina swards (Spartinion maritimae)</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae)</p> <ul style="list-style-type: none"> - European River Lamprey (Lampetra fluviatilis) - Brook Lamprey (Lampetra planeri) - Sea Lamprey (Petromyzon marinus) - Atlantic Salmon (Salmo salar) - Bottlenose Dolphin (Tursiops truncatus) - Otter (Lutra lutra) - Freshwater Pearl Mussel 	<p>Threats to sandbanks include the potential for aggregate extraction, sand extraction and wind farm development.</p> <p>Main threats to inlets and bays include professional fishing; taking of flora and fauna; water pollution; climate change; and change in species composition.</p> <p>Main threats to Reefs include professional fishing; taking of flora and fauna; water pollution; climate change; and change in species composition.</p> <p>For stony banks, the main threats are disruption of the sediment supply, removal of gravel, trampling, horse riding and vehicles.</p> <p>As Spartina is considered to be an invasive alien species in Ireland, it is assessed in a different way to other habitats. Increases in the area and extent of this habitat are considered unfavorable.</p> <p>Threats to Molinia meadows include agricultural intensification, inappropriate grazing levels, invasive species, drainage and abandonment of pastoral systems.</p> <p>Threats to this Lamprey include channel maintenance, barriers, passage obstruction, gross pollution and specific pollutants.</p> <p>For Salmon, threats include cultivation, pesticides; fertilization; water pollution; biocenotic evolution; accumulation of organic material; eutrophication; over-fishing; forest-related pressures; parasites.</p> <p>Threats to Dolphins include by-catch in fishing gear, pollution of the marine environment, habitat degradation and increased disturbance from dolphin watching boat trips.</p> <p>Threats to Otters include use of pesticides; fertilization; vegetation removal; professional fishing (including lobster pots and fyke nets); hunting; poisoning; sand and gravel extraction; mechanical removal of peat; urbanised areas; human habitation; continuous urbanization; industrial or commercial areas; discharges; disposal of waste; drainage; management of aquatic and bank vegetation for drainage purposes; removal of sediments; and canalization or modifying structures of inland water course.</p> <p>Threats to Pearl Mussel include nutrient enrichment, siltation, afforestation, inappropriate development,</p>
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	(Margaritifera margaritifera)	blockages to river, loss of vector (salmon).
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Pouladatig Cave SAC Site Code 000037 Co. Clare	Annex II species: Lesser Horseshoe bat (Rhinolophus hipposideros) Caves not open to the public	Threats to bats include loss of suitable summer and winter roosting sites due to the demolition or renovation of derelict buildings for human occupation, loss of commuting routes linking roosts to foraging sites, and loss of suitable foraging sites. Threats to caves can relate to activities within the cave itself (e.g. dumping), or those adjacent to the cave which may impact directly on its structure (e.g. road development), or indirectly on the suitability of the cave for lesser horseshoe bats (e.g. adjacent housing). Specific threats include human habitation and recreation adjacent to the cave system; disposal of household waste; road development; speleology (which leads to the disturbance of bats); vandalism; and inundation.
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New Hall and Edenvale Site SAC Site Code 002091 Co. Clare	Annex II species: Lesser Horseshoe bat (Rhinolophus hipposideros) Caves	Threats to bats include loss of suitable summer and winter roosting sites due to the demolition or renovation of derelict buildings for human occupation, loss of commuting routes linking roosts to foraging sites, and loss of suitable foraging sites. Threats to caves can relate to activities within the cave itself (e.g. dumping), or those adjacent to the cave which may impact directly on its structure (e.g. road development), or indirectly on the suitability of the cave for lesser horseshoe bats (e.g. adjacent housing). Specific threats include human habitation and recreation adjacent to the cave system; disposal of household waste; road development; speleology (which leads to the disturbance of bats); vandalism; and inundation.
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APPENDIX 2 Plan Policy

New policies

New policies have been included as part of this variation as follows: -

EN15 Strategic Environmental Assessment and Habitats Directive Assessment

In order to mitigate against potential adverse impacts on the environment it is the policy of this Plan to ensure that any measures set out in the Strategic Environmental Assessment and Habitats Directive Assessment of the Ennis and Environs Development Plan 2008-2014 are applied within the Development Plan area.

EN16 Habitats Directive Assessment

It is the policy to implement Article 6(3) of the Habitats Directive (1992) and to ensure that Habitats Directive Assessments are carried out in relation to plans and projects likely to impact on Natura 2000 sites (SAC and SPA), whether directly or indirectly or in combination with any other plan(s) or project(s).

Existing Policies

Natura 2000 Sites and Biodiversity

A number of areas within the Plan area have been designated as Natural Heritage Areas (NHA), Special Areas of Conservation (SAC) and Candidate Special Areas of Conservation (SAC) and are therefore protected under National and European legislation.

These areas contain vulnerable, rare and threatened species of wild fauna and flora and wildlife habitats and it was essential that the Plan has regard to these areas and must provide for their long-term protection and enhancement.

Furthermore and in accordance with the Habitats Directive an Appropriate Assessment has been published on the likely affects arising from the Plan's implementation on Natura 2000 sites. In conclusion the issues surrounding the long-term protection of important ecological sites has been comprehensively addressed.

Policy EN1 Proposed Developments

Proposals for development will only be considered where it can be clearly demonstrated that:

- a) There will be no direct or indirect adverse impacts on areas designed as sites, or candidate/potential sites, of national or international importance for wildlife;*
- b) There will be no direct or indirect impact upon protected species and/or their habitats;*
- c) There will be no adverse impact upon features of major importance to flora and fauna;*

- d) There will be no unacceptable effects to features of geological or geomorphological importance;*
- e) There will be no unacceptable effects on local biodiversity or wildlife corridors and*
- f) A suitable protection zone has been established between proposed development and any feature that is important to local biodiversity. The extent of this protection zone will be decided on a case-by-case basis, in consultation with Clare County Council.*

Policy EN2 River Fergus and Environs

Proposals for development that impinge on the boundary of the river and/or associated habitats, in particular those developments located along and adjacent to the River Fergus and its tributaries, will only be considered provided that it can be clearly demonstrated that they will:

- a) Conserve and enhance the character of its setting;
- b) Maintain an acceptable width for the riparian zone (all existing natural vegetation within the zone should be retained and protected during the construction phase)
- c) Improve public access and compatible leisure activities, particularly around Ennis town centre and
- d) Maintain and enhance the fishing potential for both local interests and tourism by protecting the natural spawning beds of trout and salmon in both the River Fergus and its tributaries.

Policy EN3 Protection of River Corridors

It is the policy of the Council to:

- a) Recognise and promote the protection and conservation of the waterways in the Ennis and Environs area as natural assets of the urban and rural environment;
- b) Protect and manage the river corridors, defined as those areas linked physically or visually to a river, in order to minimise conflict between conservation and development;
- c) Restrict landfill or urban development within designated river or open space areas as provided in the Development Plan;
- d) Protect the views of the River Fergus;
- e) Protect and improve access to the River Fergus and its tributaries. Riverside development will be required to set aside land for pedestrian routes, comply with Policy EN2 of this Plan and have regard to the contents of Appendix 9;
- f) Have regard to the Shannon Regional Fisheries Board's guidance on development in riparian zones.

Policy EN4 Regulation in SAC, SPA and NHA Designated Area

Proposals for development within designated conservation areas will only be considered where it can be clearly demonstrated that such development would not pose any significant risk or provide significant adverse effects on an area that has been designed as a Special Area of Conservation, a Special Protection Area, a Natural Heritage Area or on lands affected by any other statutory environmental or ecological designation. It is the policy of the Council to maintain all designated NHA, SAC and SPA areas in accordance with the relevant legislation and Directives on such matters.

Policy EN5 Special Protection Areas

It is the policy of the Council to maintain and to continue to designate all Natural Heritage (NHA), Special Protection (SPA) and Special Conservation (SAC) areas, as set out in Map 5, in terms of the relevant legislation and directives relating thereto.

Policy EN6 Protection of Wildlife Sanctuaries

It is the policy of the Council to protect all wildlife sanctuaries designated under the Wildlife Act 1976, to manage the waters of the River Fergus and its tributaries, in terms of the provisions of the EU Fresh Water Fish Directives, and prepare management plans for such areas in association with the National Parks and Wildlife Service, Waterways Ireland and other relevant bodies.

Policy EN7 Promoting Bio-Diversity

It is the policy of the Council to protect and promote the sustainable use and management of the natural heritage, flora and fauna of the town through the promotion of biodiversity, the conservation of natural habitats and the upgrading of new and existing habitats.

Supporting Actions:

1 To promote the conservation of biodiversity through the protection of local sites of biodiversity importance, both within the designated sites and the wider Plan area

2 To prepare detailed biodiversity and natural heritage conservation plans during the lifetime of the Plan.

To create a network of natural heritage sites and recreational open spaces/ amenity areas through promoting greater linkages and accessibility between sites.

Policy EN9 Retention, Protection and Enhancement of Landscape Features

Proposals for development will be considered where, having reference to Clare County Council's "Buds of the Banner", "Stone Walls of Clare" and "The Living Farmland" publications, it can be clearly demonstrated that the proposed development will retain, protect, maintain, plant, and, where necessary, enhance the appearance and character of existing local landscape features, in particular native trees, hedgerows, shelterbelts and stone walls.

Water quality

The surface and ground water quality of the Plan area has witnessed considerable pressure over the past number of years as a consequence of the substantial rise in the quantity of development experienced across the area. Importantly the capacity of the wastewater treatment facilities is insufficient to cater for the quantities of material requiring treatment prior to discharge to the River Fergus. This is a major constraint on development within the Plan area as regulated for in the Waste Discharge Regulations 2007, S.I 684 of 2007. Due consideration was given to this issue and policy provided to ensure there are suitable safeguards enabling water quality to improve rather than deteriorate over the lifetime of the Plan. This includes groundwater quality, surface water quality and the quality of water for human consumption.

Policy W1 Water Framework Directive

In order to maintain, improve and enhance the environmental and ecological quality of our waters, it is the policy of the Council to promote the implementation of Water Quality Management Plans for ground, surface, coastal, and estuarine waters in the plan area as part of the implementation of the EU Water Framework Directive. Proposals for development will be considered where it can clearly be demonstrated that the development will meet the requirements of the European Water Framework Directive (European Communities (Water Policy) Regulations 2003).

Policy W2 Protection of Water Resources

Development that would have an unacceptable impact on the water environment, including surface water and groundwater quality and quantity, river corridors and associated wetlands will not be permitted. In areas of potable groundwater sources, or over vulnerable aquifer areas, development proposals will be considered if the applicant can clearly demonstrate that the proposed development will not pose a risk to the quality of the underlying groundwater

Flooding

Flooding has become a persistent problem in the area over recent times. Flooding episodes are due to increased rainfall incidences, increased runoff, and loss of flood plain and climate change. While flood protection works in the northern part of Ennis town are underway, considerable quantities of land within the Plan area are subject to periodic flooding. There was therefore a need to assess the risk to flooding potential within the Plan area and specific policies presented for implementation.

Policy W7 Flood Risk Management (General)

No development will be permitted on lands designated as 'Flood Risk Area' Proposals for development, including the infilling of land, in floodplains or any other areas which have been identified as being at risk from flooding or perform a flood control function, will not normally be permitted. Proposals for development in such areas will only be considered where it can clearly be demonstrated that the development:

- a) Does not place itself at risk of harm to life or damage to property through flooding nor increase the flood risk in the relevant river catchment area;*
- b) Has been designed to minimise risk of inundation and will not contribute to or increase the risk of flooding either on the subject site or elsewhere;*
- c) Has adopted all reasonable measures to improve the management of floodwaters on and adjacent to the site and to assist the protection of properties within the vicinity of the site;*
- d) Does not impede the flow of floodwater or the ability of the floodplain to store water and/or to flood naturally;*
- e) Takes account of the impact it will have on riparian habitat and wetland;*
- f) Incorporates building design measures and materials to assist evacuation and minimise damage from inundation;*
- g) The developer can provide for the maintenance of any approved privately funded flood defence measures to the satisfaction of the Council.*

Appendix 3

Submissions

Department of Environment Heritage and Local Government

12 February 2010

Our ref: G2010/34

Brady Shipman Martin
Block 6, Belfield Office Park
Clonskeagh, Dublin 4

Re: Ennis and Environs Development Plan 2008-2014, Co. Clare: Proposed Variation No. 1

I refer to your recent request for comments regarding the above. Outlined below are the heritage comments of the Department of the Environment, Heritage, and Local Government.

Archaeological Comments

The potential risk to known archaeological monuments arising from the variation needs to be carefully assessed. This to be done either as part of an SEA or as part of the revised development plan.

Nature Conservation Comments

SEA screening

Available habitat mapping (GIS dataset), and species information (on bats and their roosts, Marsh Fritillary, regionally rare plant species, etc), were not used in determining and assessing the significant environmental effects of land use zoning for development in the Ennis and Environs plan area when the current plan was in preparation. The lands that were zoned (or rezoned) 'Residential' are now proposed to be phased for development as a variation to the plan.

In carrying out SEA screening with respect to possible significant effects on biodiversity, flora and fauna, and on Natura 2000 sites:

- Available baseline habitat data should be used to determine the type and area of habitats, and their vulnerability categories (as allocated in the '*Heritage Surveys of Vulnerable Landscape 2006*' report for Ennis and Environs), on the zoned (or rezoned) lands that have been phased for development
- Available flood risk mapping and recent flood information should be used to determine the flood risk to zoned (or rezoned) lands that have been phased for development. This should be balanced against current amended proposals for flood relief in the Lower Fergus (Phase 2)
- The likelihood of significant effects on Natura 2000 sites (SACs and SPAs, including proposed and candidate sites) arising from the variation to the plan, alone and in combination with other plans and projects, should be assessed (see below), with the necessary supporting scientific evidence and objective criteria documented

- The likelihood of significant effects on rare and protected species arising from the variation to the plan should be assessed. Of particular concern are the likely cumulative effects on bats

Based on information and deficiencies in the current documentation, and in the previous SEA Environmental Reports and SEA Statement for the plan, NPWS considers that significant effects on the environment are likely and that SEA is required. As some key mitigation measures (designed to ensure that the plan would not have adverse effects on the integrity of Natura 2000 sites and their conservation objectives) were not included in the adopted plan, the potential for the plan and any variations to have adverse effects on the integrity of such sites cannot be excluded. Further evidence to the contrary will be required before NPWS is satisfied that such effects are not likely and before the need for SEA can be screened out.

SEA screening should involve and have direct input from suitably qualified ecologists.

Appropriate assessment

The proposed variation to the plan, alone and in combination with other plans and projects, raises the issue of potential significant effects on Natura 2000 sites and their conservation objectives.

Deficiencies in the original appropriate assessment of the plan, as adopted, coupled with a failure, in some cases, to incorporate key mitigation measures from the appropriate assessment into the plan, raise serious concerns about the risk of adverse effects on Natura 2000 sites.

In addition, zonings of the Woodstock and Beechpark areas would appear to contravene mitigation for the EU Habitats Directive Annex II species, Lesser Horseshoe Bat, in the original appropriate assessment for the plan, and again raise the likelihood of adverse effects on the integrity of Natura 2000 sites. Phasing of residential development also poses the risk of such effects.

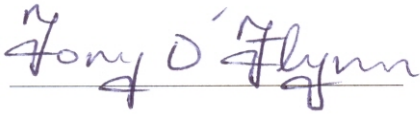
NPWS considers that the proposed variation to the plan, alone and in combination with other plans and projects requires appropriate assessment. The following should be noted from the Department's Circular Letter PD 1/08 & NPWS 1/08 – 'Appropriate Assessment of Land Use Plans': *"when considering any variation to an existing plan which appears to contain elements that are non-compliant with the required process, planning authorities should use the opportunity of the variations to address overall compliance throughout the plan"*. In addition, the Department's 'Appropriate Assessment of Plans and Projects in Ireland: Guidelines for Local Authorities' (available from www.npws.ie) should be followed when undertaking appropriate assessment.

Kindly forward any further information received to the following address:

The Manager
Development Applications Unit
Department of Environment, Heritage and Local Government
Dún Scéine
Harcourt Lane
Dublin 2

In addition, please acknowledge receipt of this letter, and forward this receipt to the address above

Le gach dea-mhéin

A handwritten signature in purple ink that reads "Tony O'Flynn". The signature is written in a cursive style and is positioned above a horizontal line.

Tony O'Flynn
Development Applications Unit
e-mail: tony.o'flynn@environ.ie

cc: John Bradley, Planning Department, Clare County Council, Áras Contae an Chláir,
New Road, Ennis, Co. Clare

Mr Brian McCarthy
Senior Executive Planner
Planning, Land Use and Transportation Department
Clare County Council
New Road
Ennis
County Clare
8th February 2010 Our Ref: SCP080701.3

Re. proposed Variation to Ennis and Environs Development Plan 2008

Dear Mr McCarthy,

The Environmental Protection Agency (EPA) acknowledges your notice, dated 13/01/2010 regarding the above. Please find attached the Environmental Protection Agency's submission in relation to the proposed Variation to the Ennis & Environs Development Plan 2008-2014.

With regard to the proposed Variation, the Agency considers that potential exists for significant environmental effects on the environment, as detailed in Schedule 2A (2) of S.I No. 436 of 2004, under the following criteria:

- the probability, duration, frequency and reversibility of the effects
- the cumulative nature of the effects
- the value and vulnerability of the area likely to be affected due to a) special natural characteristics / cultural heritage
- the effects on areas or landscapes, which have a recognised national, European Union or international protection status.

Proposed Variation to and proposed new Plan Policies

The EPA notes the proposed Variation to the Plan, comprising amended objectives, rezoning / new zoning, and policies, some of which reflect points raised in the EPA's submission on the Plan, which has also been included for this submission. The earlier submission should also be read in conjunction with this submission.

Clarifications / Suggestions / Comments re: proposed Variation

There would be merits in the preparation of a Local Area Plan for Clarecastle to facilitate the phased and sustainable development of the Clarecastle area.

The proposed Beech Park industrial Zone and Woodstock residential Zone should be subjected to Appropriate Assessment (AA) screening, and where considered necessary, further assessment, prior to finalisation and adoption of the Plan. Subject to the findings of this Appropriate Assessment, the „Precautionary Principle“ should also be applied as appropriate. Your attention is brought to the recently published Guidelines on Appropriate Assessment „*Guidance for Local Authorities Appropriate Assessment of Plans and Projects in Ireland* (DoEHLG, 2009) . The Habitats Directive Assessment Screening Report for the proposed Variation should be reviewed in the context of this Guidance. Consultation should also be undertaken

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with the National Parks and Wildlife Service on the findings of the Appropriate Assessment.

The SEA/ AA should incorporate the requirements of the County Bio-diversity plan. Provision should also be made in the varied Plan to undertake a more detailed survey of flora and fauna and landscape.

Habitats Directive Assessment Screening: The proposed Variation should be subject to Appropriate Assessment Screening, as required under Article 6 of the Habitats Directive to determine any potential significant environmental affects and ensure the precautionary principle in applied with regard to development in relation to developments adjacent to designated Natura 2000 sites, and not just restricted to the Pouladatig Cave cSAC.

The EPA welcomes the biodiversity protection measures and objectives as outlined in Appendix 9A as submitted to the Agency. The Appropriate Assessment Screening should however, subject to consultation with the NPWS, be extended to include other designated sites in proximity to the Plan area, to ensure likely significant environmental effects / cumulative effects have been taken into consideration.

A SEA screening report should be produced using the relevant criteria set out in Schedule 2A of the Planning and Development (Strategic Environmental Assessment) Regulations 2004 (S.I. 436 of 2004) and the recommendations taken into account in making a determination as to whether or not the proposed Variation would be likely to have significant effects on the environment

Consideration should be given to assessing the amount of land being zoned / rezoned in the Ennis & Environs area, in the context of ensuring sustainable development, promoting appropriate land usage and provision of adequate and appropriate infrastructure to support existing and projected capacity and demographics. In particular any existing or proposed zoning should be assessed in the context of predicted population increases within the lifetime of the Plan and beyond as set out in the National Spatial Strategy and the Regional Planning Guidelines. The most recent predicted population increases as advised by the DoEHLG should be taken into account.

Existing zoned lands should be assessed in the context of reasonable and realistic targets with respect to the provision of critical water supply and wastewater infrastructure to service the lands in question.

Current and future land zoning and development should have regard to the finding of current and future flood risk assessment studies and groundwater vulnerability studies to be conducted in Clare, and Ennis in Particular, to identify vulnerable areas and promote appropriate land use in all instances. It should also be ensured that the flood risk assessment approach and recommendations of the recently published OPW Guidelines "*The Planning System and Flood Risk Management*" are incorporated into the Plan where appropriate and relevant.

You are in particular, referred to Section 4 and Section 4.28 (Local Area Plans). It should be noted that these Guidelines are of a statutory nature, and are aimed at ensuring a more consistent rigorous and systematic approach to the avoidance and minimisation of potential future flood risk to fully incorporate flood risk assessment management into the planning system. Ref: SCP080701.3 Prop. Variation to Ennis & Environs Development Plan 2008-2014 08.02.10

Master Plans, referred to within the proposed variation, and which will influence the Plan area, should be subjected to SEA and AA screening, in consultation with the statutory consultation bodies including the NPWS.

Correct reference should be made to the „Shannon International River Basin District River Basin Management Plan (SIRBD RBMP) and associated Program of Measures. The relevant Policies, Objectives and measures of the SIRBD RBMP should be incorporated into the Plan as appropriate and where relevant.

Groundwater Vulnerability/ Flood Risk: A environmental protection objective should be included to ensure proposed zoning / development is cognisant of, and addresses, any vulnerability to groundwater and/or flood risk appropriately as relevant to the Ennis and Environs area.

Consider inclusion of an objective to include “Tree Preservation Orders” for individual and groups of trees, where possible to help in the conservation of existing protected species and preservation of existing ecological linkages and landscape features.

Updated Reports / Publications

Your attention is brought to the following updated reports which should be referenced within the varied Plan, and the recommendations of which should be implemented as appropriate. References to older publications should be updated accordingly.

DoEHLG

1. The DoEHLG recently published *Guidance for Local Authorities Appropriate Assessment of Plans and Projects in Ireland* (DoEHLG, 2009)

<http://www.npws.ie/en/media/NPWS/Publications/CodesofPractice/AA%20Guidance.pdf>

The Habitats Directive Assessment Screening Report for the proposed Variation should be reviewed in the context of this Guidance. Consultation should also be undertaken with the National Parks and Wildlife Service on the findings of the AA.

EPA

1. The EPA has published a *Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (p.e < 10)*, (EPA, 2009)

<http://www.epa.ie/downloads/pubs/water/wastewater/name,26384,en.html>

The code of practice (CoP) establishes an overall framework of best practice in relation to the development of wastewater treatment and disposal systems, in unsewered rural areas, for protection of our environment and specifically water quality.

This code replaces previous guidance issued by the EPA on wastewater treatment systems for single houses (EPA, 2000) and incorporates the requirements of new European guidelines, recent research findings and submissions and comments received during the consultation process.

2. *The Provision and Quality of Drinking Water in Ireland – A Report for the Years 2007-2008*, (EPA, 2009). You are referred to this Report at:

<http://www.epa.ie/downloads/pubs/water/drinking/>

3. The EPA has also published a series of Drinking Water Advice Notes, which cover the following areas:

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- *Advice Note No. 1: Lead Compliance Monitoring and Surveys*
- *Advice Note No. 2: Action programmes to restore the quality of drinking water impacted by lead pipes and lead plumbing*
- *Advice Note No. 3: E.coli in Drinking Water*
- *Advice Note No. 4: Disinfection By-Products in Drinking Water*
- *Advice Note No. 5: Turbidity in Drinking Water*

These can be found at: <http://www.epa.ie/downloads/pubs/water/drinking/>

These Advice Notes set out EPA guidance on the actions that are necessary following exceedances of these parameters and also the preventative measures that should be taken to improve the security of the supply to prevent a repeat failure in the future. This is provided in the context of the EPA recommended approach to managing a drinking water supply i.e. the Water Safety Plan Approach. Please be aware that EPA Lead Guidance Circulars No.s 1 and 2 have been reissued as Advice Notes No.s 1 and 2 though there has been no change to the text of these documents.

4. *Urban Waste Water Discharges in Ireland for Population Equivalents Greater than 500 Persons – A Report for the Years 2006 and 2007* (EPA, 2009). You are referred to this Report at:

<http://www.epa.ie/downloads/pubs/water/wastewater/>

5. The EPA has published a *Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (p.e < 10)*, (EPA, 2009). The code of practice (CoP) establishes an overall framework of best practice in relation to the development of wastewater treatment and disposal systems, in unsewered rural areas, for protection of our environment and specifically water quality. The code replaces previous guidance issued by the EPA on wastewater treatment systems for single houses (EPA, 2000) and incorporates the requirements of new European guidelines, recent research findings and submissions and comments received during the consultation process. It is available from the link provided above.

OPW

1. You are referred to the published Planning Guidelines on flooding in “*The Planning System and Flood Risk Management - Guidelines for Planning Authorities (Environment, Heritage and Local Government – (OPW, 2009)* which can be consulted at:

<http://www.environ.ie/en/Publications/DevelopmentandHousing/Planning/NationalSpatialStrategy/Flood%20Risk%20Management/>

You are in particular, referred to Section 4 and Section 4.28 (Local Area Plans). It should be noted that these Guidelines are of a statutory nature, and are aimed at ensuring a more consistent rigorous and systematic approach to the avoidance and minimisation of potential future flood risk to fully incorporate flood risk assessment management into the planning system.

Infrastructure Planning

In proposing the Variation to the Plan, and any related modifications of the Plan, and in implementing the Plan, adequate and appropriate infrastructure should be in place, or required to be put in place, to service any development proposed and authorised during the lifetime of the particular Plan.

In particular, adequate and appropriate wastewater treatment, water supply, surface and storm water drainage, transport, waste management, community services and amenities etc. should be planned and phased to address any current problems or deficits and to reflect predicted increases in population. Ref: SCP080701.3 Prop. Variation to Ennis & Environs Development Plan 2008-2014 08.02.10

The variation proposed should take into account and include a specific reference to the requirement of Regulation 43 and 44 of Waste Discharge Regulations 2007, S.I. No.684 of 2007 (Waste Water Discharge (Authorisation) Regulations 2007). This is of particular relevance in the context of assessment and authorization of proposed development within the catchment of licensed waste water treatment plants.

Consideration of proposals by planning authorities and An Bord Pleanála

43. (1) Where a planning authority or An Bord Pleanála is considering an application for permission, an appeal or an application for approval under section 34, 37, 37E, 175 or 226 of the Act of 2000 for development being development which involves the disposal of waste water to a waste water works, or is considering such a development under section 179 of the Act of 2000, the planning authority or the Board, as the case may be, shall consider whether the discharge of waste water from the proposed development, in conjunction with existing discharges to the receiving waters, would cause non-compliance with the combined approach or, in situations where there is existing non-compliance, would result in a significant breach of the combined approach.

(2) Where, following consideration under paragraph (1), the planning authority or the Board forms the opinion that the proposed discharge would result in non-compliance with, or a significant breach of, the combined approach, the planning authority or the Board shall—

(a) refuse permission or approval for the development, (b) impose conditions in any grant of permission or approval to ensure that the discharge does not result in non-compliance with, or in a significant breach of, the combined approach, as the case may be, or (c) decide not to proceed with the development.

Consultation by planning authority and An Bord Pleanála

44. (1) Where Regulation 41, 42 or 43 applies, before making a decision in respect of a proposed development, a planning authority or An Bord Pleanála may, where the authority or the Board consider that the proposed development is likely to have a significant impact on waste water discharges, request the Agency, within such period (being not less than 3 weeks from the date of the request) as may be specified by the planning authority or the Board, to make observations in relation to their assessment of the likely impact of the proposed development on waste water discharges and the Agency shall comply with any such request.

(2) When making its decision, the planning authority or the Board, as the case may be, shall have regard to the observations received from the Agency. (3) The making of observations by the Agency under this Regulation shall not prejudice any other function of the Agency under these Regulations.

Note : “combined approach”, in relation to a waste water works, means the control of discharges and emissions to waters whereby the emission limits for the discharge are established on the basis of the stricter of either or both, the limits and controls required under the Urban Waste Water Regulations, and the limits determined under statute or Directive for the purpose of achieving the environmental objectives established for surface waters, groundwater or protected areas for the water body into which the discharge is made;

Determination re: likely significant effects

You are reminded that it is a matter for Clare County Council to determine whether or not the implementation of the proposed Variation would be likely to have significant effects on the environment. You are referred to the requirement of Article 13 of the Planning and Development Regulations as amended by Article 7 of the SEA Regulations, S.I. No. 436 of 2004.

Clare County Council, the Planning Authority, is obliged to take the relevant criteria set out in Schedule 2A of the Planning and Development (Strategic Environmental Assessment) Ref: SCP080701.3 Prop. Variation to Ennis & Environs Development Plan 2008-2014 08.02.10

Regulations 2004 (SI 436 of 2004) into account in making its determination as to whether or not the proposed Variation would be likely to have significant effects on the environment.

Relevant information on Clare County Council's determination with respect to the potential for "likely significant effects of implementing the proposed variation" and/or the SEA screening determination in relation to the proposed amendments should where relevant and as appropriate be made available for public inspection and notification should also be issued to any environmental authority consulted.

Obligations with respect to National Plans and Policies and EU Environmental Legislation

You are referred to your responsibilities and obligations in accordance with all national and EU environmental legislation. It is a matter for Clare County Council to ensure that, when undertaking and fulfilling their statutory responsibilities; they are at all times compliant with the requirements of national and EU environmental legislation.

A number of points of clarifications relating to the proposed Variation are included in the Section entitled "Clarifications re: proposed Variation" below.

Should you have any queries or require further information in relation to the above please contact Cian O'Mahony.

Yours sincerely,

Tadhg O'Mahony

Senior Scientific Officer

SEA Section

Office of Environmental Assessment

Environmental Protection Agency

Regional Inspectorate

Inniscarra,

County Cork