

ECOLOGICAL PLANNING CONDITIONS – MAIN APPLICATION SITE (WITHOUT PREJUDICE)

1. **Comprehensive Updated Ecological Baseline Survey Condition.**

No development, including site clearance, vegetation removal, demolition, earthworks, drainage works, road or access works, blasting, construction compounds or other enabling works, shall commence until a comprehensive Updated Ecological Baseline Survey across the whole application site has been submitted to and approved in writing by DfI following consultation with NIEA, Loughs Agency and the public in both Northern Ireland and the Republic of Ireland. The survey programme shall cover the whole application site and such adjoining land as falls within the appropriate ecological zone of influence of the development and shall be undertaken in accordance with current recognised best-practice guidance applicable to each receptor. It shall include, as appropriate, habitats, breeding and wintering birds, bats, badger, otter, common lizard, smooth newt, marsh fritillary and such other protected or priority species as are identified through the survey process. The survey programme shall include appropriate species-specific buffers, seasonal survey periods and temporal survey effort and shall identify the distribution, abundance and functional use of the site and surrounding landscape by relevant receptors.¹

Reason: To ensure that development proceeds on the basis of a current and representative ecological baseline and to protect biodiversity and protected species.

2. **Ornithological Survey and Assessment Condition.**

The Updated Ecological Baseline shall include a comprehensive ornithological survey programme covering the application site and appropriate species-specific zones of influence. The programme shall include breeding and wintering bird surveys undertaken over the full appropriate survey seasons and shall include dawn, dusk, roost and/or flight-activity surveys where required by the ecology of the receptors present or reasonably likely to be present. Survey methodology, timing, duration, spatial coverage, weather conditions and limitations shall be fully reported. Particular consideration shall be given to raptors, upland waders, red grouse, snipe, swans and other species of conservation concern.

Reason: To ensure that the distribution, abundance and functional use of the site by birds are adequately established before works commence.

3. **Survey Findings / Material Change Safeguard.**

While any updated survey identifies a protected or priority species, habitat,

¹ These surveys should all be repeated again in the year immediately prior to the commencement of works

roost, breeding site, resting site, territory, commuting route or other ecological receptor not adequately assessed in the Environmental Statement, or demonstrates a material change from the baseline relied upon in that assessment, no development capable of affecting that receptor shall commence.

Reason: This stops the condition becoming a “blank cheque” to redesign ecologically significant parts of the project after permission.

4. Updated Ecological Mitigation and Management Plan.

No development shall commence until a revised Ecological Mitigation and Management Plan, informed by the approved updated surveys, has been submitted to and approved in writing by DfI following consultation with NIEA, Loughs Agency and the public in both Northern Ireland and the Republic of Ireland. The EcMMP shall identify receptor-specific avoidance, mitigation, compensation, monitoring and remedial measures; responsibilities; timing; measurable objectives; trigger levels for intervention; reporting arrangements; and the duration of management and monitoring.

Reason: The current problem is precisely that old baseline information is feeding into old mitigation. The mitigation should follow the updated baseline - not the other way around.

5. Badger Condition.

Given that destruction of a main sett and fragmentation are already acknowledged, this would require a full updated badger survey before any relevant works, not merely a last-minute 50 m ECoW check. It should establish current sett classification and activity, territorial connectivity, foraging areas and the relationship between affected and retained setts, and use that evidence to review the proposed artificial-sett strategy. NIEA expressly required updated badger surveys in 2024.

Reason: To establish whether the mitigation devised around the older sett configuration remains ecologically valid.

6. Bat Activity, Roost and Connectivity Condition.

The condition should not merely require another Pollan Rua roost check. It should require an updated survey of roosts, activity, foraging areas, flight lines and commuting connectivity, using contemporary survey methods appropriate to the receptors and impacts across the whole application site. The project is acknowledged to cause loss of foraging habitat and fragmentation of commuting routes, whereas the 2022/23 update is primarily roost-focused.

Reason: To ensure mitigation for lighting, habitat loss and connectivity is based upon current functional-use evidence.

7. Otter Survey and Watercourse Connectivity Condition.

Require comprehensive updated survey of watercourses and associated terrestrial habitat within the zone of influence, rather than simply spot checks,

including the Pollanroe Burn and its functional relationship with the Owenreagh insofar as access can lawfully be obtained. The condition should require reassessment if evidence of holts, couches, regular commuting or territorial use is found. [This is particularly justified because the applicant's own 2024 report accepts that the baseline changed after the original non-detection].

Reason: To ensure current use is identified and protected.

8. Habitat / NVC Update Condition.

Require current habitat mapping across all areas capable of being directly or indirectly affected, rather than extrapolating from the 2024 Area A walkover. Any potentially important peatland, mire, heath, marshy grassland, wetland or priority habitat should be subject to appropriate detailed botanical/NVC survey where necessary to determine its status and condition.

Reason: It is noted that the Area A update was then used to infer no significant change across the wider application site. This should be remedied.

9. Ecological Clerk of Works – Independent Powers and Stop-Work Provision.

To require the appointment of an appropriately qualified ECoW who should be on site for all ecologically sensitive works, going further than the familiar generic supervision condition. The approved EcMMP should specify circumstances in which the ECoW must stop or suspend works, including discovery of an active nest, new badger sett, otter holt/resting site, unrecorded bat roost or other protected receptor, until the competent authority has agreed the appropriate response.

Reason: To prevent harm to protected species and habitats.

10. Lighting Condition.

No external lighting should be installed or operated until a detailed ecological lighting scheme has been approved. It should demonstrate retention of dark corridors around bat roosts, commuting routes, riparian corridors and other sensitive habitats, specify lux limits at identified ecological receptors, and require post-installation verification.

Reason: This converts the general commitment to maintain dark corridors into something measurable and enforceable.

11. Breeding Bird Protection Condition.

Habitat clearance, vegetation removal and ground disturbance in suitable breeding habitat should be undertaken outside the principal bird breeding season unless a suitably qualified ornithologist has undertaken an appropriate pre-works survey immediately beforehand and confirmed that no active nest would be affected. Where Schedule 1 species or other sensitive receptors are involved, appropriate species-specific disturbance buffers should apply and works should not proceed until lawful avoidance measures are secured.

Reason: This is an implementation safeguard; unlike the baseline survey issue, it is exactly the sort of matter appropriately controlled through condition.

12. Long-Term Ecological Monitoring and Remedial Action Condition.

Require monitoring through construction, operation, restoration and an appropriate post-restoration period, with measurable targets for the habitats and species. Importantly, the condition should contain trigger thresholds and mandatory remedial action, not merely a requirement to submit annual monitoring reports. Regulation 25 of the EIA Regulations specifically contemplates proportionate monitoring and whether provision should be made for remedial action.

Reason: Monitoring which merely records failure is of limited ecological value.