

Planning and Development Acts 2000 to 2022

Planning Authority: Clare County Council

Planning Register Reference Number: 2460002.

Appeal by Uisce Éireann care of Turley of 4 Pembroke Street Upper, Dublin against the decision made on the 16th day of October 2024, by Clare County Council, to refuse permission.

Proposed Development: 10-year permission for development on sites comprising two areas of land principally bound: Subject Site (A) to the north by residential dwellings at Victoria Park and Páirc na mBláth, to the south by agricultural land and residential dwellings at Victoria Park, to the east by Victoria Stream and residential dwellings at Victoria Park and to the west by Haugh Mobile Park and residential dwellings at Páirc na mBláth (circa 1.05 acres); Subject Site (B) to the north by agricultural land and the Dunlicky Road beyond, to the east by an un-named access road and agricultural land, to the south by agricultural land and a residential dwelling beyond and to the west by agricultural land – this site also includes a section of the Dunlicky Road that is within the Foohagh Townland (circa 3.51 hectares). The development will consist of the construction of a new foul pumping station (PS) at Subject Site (A) comprising of an emergency storage tank; surge kiosk; washwater kiosk; odour control building; control panel kiosk; standby generator; foul pumping station; petrol interceptor; potable water/break tank kiosk; gantry's for pump

and cleaning system removal; installation of underground internal site pipework, including surface water drainage and petrol interceptor; ESB building and panel room (circa 36.2 square metres gross floor area); 2.4-metre-high wire mesh security boundary fence; replacement of existing chainlink fence; safety bollards; new signage; an access gate; temporary construction access, including the demolition and reinstatement of a boundary wall at the existing Victoria PS site; temporary works area; permanent access off Victoria Park and all hard and soft landscaping, including screen planting. The construction of a new wastewater treatment plant (WwTP) at Subject Site (B) comprising of two number primary settlement tanks; MCC kiosk; outfall pumping station; picket fence thickener; return liquors pumping station; sludge/scum pumping station; odour control plinth; inlet works and grit chamber; potable water break tank booster set kiosk; storm holding tank; storm return pumping station; excess FFT chamber; FFT flow measurement chamber; PST flow splitting chamber; gantrys for pump and cleaning system removal; a control building (circa 102.5 square metres gross floor area); ESB building (circa 36.2 square metres gross floor area); standby generator and fuel tank; solar panels (circa 250 square metres area/circa 3.5 metres high); installation of a CCTV system and task lighting; 2.4-metre-high security mesh boundary fencing; 1.2-metre-high stock proof perimeter fence; access gate; upgrading of the existing access lane and entrance from the Dunlicky Road (including the increasing of levels in the adjacent fields to match the existing lane levels to facilitate widening of lane from circa three metres to circa four metres wide); three number site parking spaces; new signage; temporary works area and all hard and soft landscaping, including extensive earthworks to provide appropriate earthworks screening and screen planting. The installation of new sewers comprising of circa 45 metres of new gravity sewer that will intercept the flows into the existing Victoria PS and transfer these flows to the new Kilkee Foul PS; circa 85 metres storm overflow pipe to Victoria Stream from Kilkee Foul PS; connecting pipework from existing network to new Foul PS, connecting pipework to existing rising mains and all associated interconnecting pipework; providing overflow to Victoria Stream

P.C.

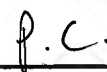
and associated new headwall and new treated effluent rising mains; and circa 1,050 metres of new rising main for the final effluent from the Kilkee WwTP to the existing outfall manhole within the Fohagh Townland. All other associated site excavation, infrastructural and development works above and below ground, all on sites of circa 4.56 hectares in the townlands of Kilkee Lower and Fohagh, Kilkee, County Clare.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the applicable policy context, including the provisions of the Clare County Development Plan 2023-2029 wherein Objective CDP 11.32 – Wastewater Treatment and Disposal supports the implementation of Uisce Éireann Investment Plans and advocates the provision, by Uisce Éireann, of adequate wastewater treatment facilities, and having regard to the site location, scale and the identified need and purpose of the proposed development comprising a wastewater treatment plant and pumping station and associated works in Kilkee where currently there is no wastewater treatment infrastructure, and taking into account the landscape proposals put forward, the Board was firstly satisfied that, subject to compliance with the conditions set out below, the proposed development would deliver much needed infrastructure to address the situation where untreated wastewater is currently being discharged to coastal waters, consequently serving to protect environmental water quality and manage the availability, resilience and efficiency of wastewater services in Kilkee and provide adequate wastewater treatment for the future development requirements for the area.

P.C.

The Board was also satisfied that the proposed development on the subject sites (Site A and B), including the wastewater treatment plant, is an acceptable development type, scale and form and this type of infrastructure is not uncommon in the landscape. The Board considered that it would not be visually prominent, would not seriously injure the visual or residential amenities of the area or negatively impact on the landscape character or on the tourism resource of Kilkee and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board firstly agreed with the Inspector that the foul pumping station at Site A is appropriate. The Board also agreed with the Inspector with respect to the wastewater treatment plant at Site B, that there are many precedents for such treatment plants to be located close to dwellings without impact. The Board shared the view of the Inspector that the structures within the site are generally low and, as such, a combination of ditches/bunds to match those existing and appropriate planting can be expected to minimise its impact. However, the Board did not share the view of the Inspector that given the extensive nature of the site and scale of the works it would be obtrusive to some degree and would give rise to an adverse effect on the visual amenities of the area, the character of the receiving landscape, or the views from the designated scenic route at Dunlicky Road. The Board noted that the Inspector considered that, in balancing the proposal with the need for the infrastructure, the site may be acceptable, but only on the basis that there are no obvious significantly superior sites and that the applicant hasn't demonstrated that the site is optimal in terms of its impact on the landscape and amenities of the area. In considering this matter, the Board noted, in agreement with the appellant's case, that a specific site selection process for the proposed development type is not identified in planning policy (or in planning law). Notwithstanding, the Board also noted that the appellant undertook a multi-criteria analysis to comparatively assess potential sites against a wide range

P.C.

of planning technical and economic criteria, all which led to the chosen site (Site A and Site B) that have been brought forward in the planning application.

In considering the planning merits of the proposal before it, the Board was satisfied that the site chosen was an acceptable location and, in particular, the wastewater treatment plant would not give rise to any unacceptable impacts on the landscape, visual or residential amenities of the area or on the tourism resource. While views of the plant would be available from various vantage points, given the development is appropriate, and noting the physical interventions in the receiving landscape and the landscape proposals including native screening and taking the photomontages into consideration, the Board was satisfied that the development would not seriously injure the visual or residential amenities of the area or negatively impact on the landscape character or the tourism resource of the Kilkee. Accordingly, the Board did not agree with the Inspector's finding that the applicant has not demonstrated that the chosen location for the wastewater treatment plant at site 'B' is optimal in terms of its impact on the landscape and amenities of the area.

Appropriate Assessment: Stage 1:

The Board considered the documents submitted with the application, and all the other relevant submissions on file, and carried out an Appropriate Assessment in relation to the potential effects of the proposed development on designated European sites. The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that the Kilkee Reefs Special Area of Conservation (Site Code 000428) is the only European Site in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the site and that Stage 2 Appropriate Assessment is, therefore, required.

P.C.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an Appropriate Assessment of the implications of the proposed development on the Kilkee Reefs Special Area of Conservation (Site Code 000428) in view of the site's Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following:

- (i) the site specific Conservation Objectives for the European Site,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's Report in respect of the potential effects of the proposed development on the aforementioned European Site. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European Site in view of the site's Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 16th day of August 2024 and as received by An Bord Pleanála on the 12th day of November 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The period during which development hereby permitted may be carried out shall be 10 years from the date of this Order.

Reason: In the interest of clarity.

3. The proposed development shall be carried out in full compliance with all mitigation measures as outlined in the Natura Impact Statement received by the planning authority on the 16th day of August, 2024.

Reason: To avoid any likelihood of significant effects on any European site, having regard to the qualifying interest and conservation objectives for any such site.

4. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays, inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

5. The construction of the proposed development shall be managed in accordance with a finalised Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the proposed development, including noise management measures and off-site disposal of construction waste.

Reason: In the interest of public safety.

6. The site of the foul pumping station (Site A) shall be landscaped in accordance with proposals received by the planning authority on the 16th day of August 2024 and the landscaping and maintenance shall include the recommendations put forward and contained therein.

The site of the Waste Water Treatment Plant (Site B) shall be landscaped in accordance with the 'Alternate Proposal' s identified on Drawing: 22196_Kilkee_Alternative Proposal ABP Appeal received by the Board with the appeal on the 12th day of November 2024. Finalised landscaping drawings and maintenance schedules reflecting these requirements shall be submitted to and agreed with the planning authority, prior to the commencement of the development.

Reason: In the interest of visual amenity, biodiversity and for reasons of clarity.


Patricia Calleary

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this 11th day of June 2025.