



An  
Bord  
Pleanála

## Inspector's Report ABP-309889-21

<b>Development</b>	Construction of a new septic tank and polishing filter and the removal of the existing septic tank and percolation system.
<b>Location</b>	Creaghduff, Coosan, Athlone, Co. Westmeath.
<b>Planning Authority</b>	Westmeath County Council
<b>Planning Authority Reg. Ref.</b>	207162
<b>Applicant(s)</b>	Darina Dolan
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Daragh O'Brien.
<b>Observer(s)</b>	No observers.
<b>Date of Site Inspection</b>	17 <sup>th</sup> August 2021
<b>Inspector</b>	Elaine Sullivan



## Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.3. Planning Authority Reports .....	5
3.4. Prescribed Bodies .....	6
3.5. Third Party Observations .....	6
4.0 Planning History.....	7
5.0 Policy Context.....	7
5.1. Westmeath County Development Plan 2021-2027 .....	7
5.2. Natural Heritage Designations .....	11
5.3. EIA Screening .....	12
6.0 The Appeal .....	12
6.1. Grounds of Appeal .....	12
6.2. Applicant Response .....	13
6.3. Planning Authority Response .....	15
7.0 Assessment .....	15
8.0 Recommendation.....	24
9.0 Reasons and Considerations.....	24
10.0 Conditions .....	25

## **1.0 Site Location and Description**

- 1.1. The subject site is located on Coosan Point, which is on the shore of Lough Ree, and is approximately 5km to the north of Athlone town centre. It has a stated area of c0.18ha and is located on the eastern side of Coosan Point Road. The site comprises a single storey detached dwelling in a mature setting which is bounded by a small, gated access road along the northern boundary. To the rear of the house is an area of scrubland which is secured by a metal gate. The shore of Lough Ree (SPA & SAC) is located approximately 120m to the east of the site.
- 1.2. The development area comprises two separate parcels of land that are in the ownership of the applicant, one contains the dwelling and the second comprises the scrubland to the rear. These areas are connected by the roadway along the northern boundary which is in separate ownership but which the applicant has a right of way over.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for the construction of a new waste water treatment system (wwts) and raised polishing filter and the removal of the existing septic tank and percolation system.
- 2.2. The existing septic tank and percolation area is located along the northern boundary of the house and within the right of way roadway. The proposed wwts would comprise a new septic tank located in the rear garden of the house and connected to a raised polishing filter of 180sqm (10m x 18m) which would be located c. 50m to the south-east of the house.

## **3.0 Planning Authority Decision**

- 3.1. **Decision**
- 3.2. Planning permission was granted by the Planning Authority subject to 4 planning conditions, which are mainly standard in nature. Conditions relevant to the appeal include;

### C.3 – Wastewater Treatment

The Wastewater Treatment System shall be installed, operated and maintained in accordance with the Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10) as published by the EPA (Environmental Protection Agency) 2009.

Prior to occupation of the development, the applicant shall submit to the planning authority written certification from a suitably qualified competent person with Professional Indemnity Insurance that the on-site wastewater treatment system has been installed correctly in accordance with provisions of EPA 'Code of Practice: Wastewater treatment & disposal systems serving single houses (p.e.≤ 10) 2009' complete with dated photos taken during the installation.

Reason: In the interests of public health and safety.

#### C.4 – Flood Risk

All recommendations and mitigation measures identified in the Flood Risk Assessment received on the 19<sup>th</sup> February 2021 shall be implemented.

Reason: In the interests of orderly development.

### **3.3. Planning Authority Reports**

#### **3.3.1. Planning Reports**

2 planning reports informed the decision of the PA. The first report dated the 7<sup>th</sup> December 2020 included the following;

- The proposed works will result in an upgraded and more environmentally friendly wastewater system which is considered important having regard to the sensitivities of the site in close proximity to Louth Ree SAC/SPA.
- Legal documentation has been submitted to confirm the applicants legal right of way to access and install the proposed infrastructure accompanies the application. It is noted that the existing septic tank is located on this right of way.

- The PA has concerns about the site due to its close proximity to an area which is defined as a flood risk area as per the National Flood Hazard Mapping produced by the OPW.
- The applicant is requested to submit a Flood Risk Assessment, (FRA) under Further Information.

The second report dated the 10<sup>th</sup> March 2021 noted that a Flood Risk Appraisal was prepared by Malachi Cullen Consulting Engineers and submitted to the PA. The PA considered the response to be satisfactory and recommended that permission be granted subject to the conditions of the Flood Risk Appraisal.

### 3.3.2. Other Technical Reports

- Engineering Report – Two reports were prepared and are on file. The first report, dated the 19<sup>th</sup> November 2020, notes that the site is 30m from the Present Day 1 in 100 year flood event indicated on OPW flood mapping. Therefore, it is recommended that further information be requested in the form of a Flood Risk Assessment. The second report, dated the 3<sup>rd</sup> March 2021, stated that there was no objection to the proposal subject to planning conditions, which included the full implementation of all recommendations and proposals identified in the Flood Risk Assessment.
- Environment Section – Report dated 5<sup>th</sup> November 2020 stated that the Environment Section had no comment on the proposal.

### 3.4. Prescribed Bodies

- Irish Water – No objection.

### 3.5. Third Party Observations

One third party observation was received from the adjoining landowner within the public consultation phase and includes the following;

- The applicant does not own the piece of land between her site and the location of the new wwts.
- The site proposed for the new wwts has also been subject to flooding on the 7<sup>th</sup> March 2020, (photos enclosed). Therefore, confirmation is requested that the surrounding land will not suffer contamination from the unit when installed and commissioned.

I note that a second observation was submitted by the observer on the 25<sup>th</sup> February 2021 following submission of the FI. This observation was not accepted by the PA as it was determined that the FI was not deemed to be significant.

## **4.0 Planning History**

**10/1020** – Planning permission granted by the PA on the 18<sup>th</sup> May 2010 for extension and alterations to an existing dwelling including re-roofing.

## **5.0 Policy Context**

### **5.1. Westmeath County Development Plan 2021-2027**

The site is located within the administrative boundary of Westmeath County Council. The operative Development Plan for the area is the Westmeath County Development Plan, (CDP), 2021-2027, which came into effect on the 3<sup>rd</sup> May 2021.

The application was assessed by Westmeath County Council in accordance with the policies and objectives of the Westmeath County Development Plan 2014-2020, which was the operative Development Plan at the time.

On review of the contents of both plans I note that there are no material changes between the 2014 County Development Plan and the 2021 County Development Plan as they relate to the appeal site and the current proposal. In this regard I consider the proposal in accordance with the guidance and provisions of the operative Development Plan, namely the 2021 – 2027 Westmeath County Development Plan.

The subject site is located within the Lough Ree & Shannon Corridor Landscape Character Area.

The following CDP policy objectives are of relevance to the application;

#### Section 9.5 – Environmental Capacity

- CPO 9.9 - Protect the natural assets of the county including ground and surface water and ensure that physical standards are met including soil conditions suitable for effluent disposal and the avoidance of flood areas.
- CPO 9.11 - Seek that all proposed on-site wastewater treatment systems for single dwellings and extensions which will increase the population equivalent loading shall comply with the EPA Code of Practice for Wastewater Treatment and disposal Systems serving Single Houses (2009) and any revision thereof.

#### Water Quality and Groundwater Policy Objectives:

- CPO 10.89 - Ensure that development would not have an unacceptable impact on water quality and quantity including surface water, ground water, designated source protection areas, river corridors and associated wetlands.
- CPO 10.90 - Discourage the over-concentration of individual septic tanks and treatment plants to minimise the risk of groundwater pollution.

#### Wastewater Policy Objectives:

- CPO 10.100 - Ensure that private wastewater treatment plants, where permitted, are operated in compliance with EPA's Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (PE. ≤10) (EPA 2009), as may be amended.

#### Flood Risk Policy:

- CPO 10.106, (CPO10.98 in Vol 7, SFRA) - Ensure that a flood risk assessment is carried out for any development proposal within 200m of a watercourse and at risk of flooding, in accordance with the "Guidelines for Planning Authorities on the Planning System and Flood Risk Management" (DoEHLG/OPW 2009). This assessment shall be appropriate to the scale and nature of risk to the potential development.



## **CDP Volume 7 – Strategic Flood Risk Assessment**

### **Section 7 – Development Management and Flood Risk;**

In order to determine the appropriate design standards for a development it may be necessary to undertake a site-specific flood risk assessment. This may be a qualitative appraisal of risks, including drainage design. Alternatively, the findings of the CFRAM, or other detailed study, may be drawn upon to inform finished floor levels.

#### **Section 7.1 – Requirements for a Flood Risk Assessment**

As specified under CPO 10.98, (CPO 10.106 in Section 15.15 of the CDP), assessment of flood risk is required in support of any planning application where flood risk may be an issue and this may include sites in Flood Zone C (low probability of flooding) where a watercourse or field drain exists nearby. The level of detail will vary depending on the risks identified and the proposed land use. As a minimum, all proposed development, including that in Flood Zone C, must consider the impact of surface water flood risks on drainage design, this is specified in CPO 10.112. In addition, flood risk from sources other than fluvial should be reviewed... For sites within Flood Zone A or B (high/moderate probability of flooding), a site specific "Stage 2 - Initial FRA" will be required and may need to be developed into a "Stage 3 - Detailed FRA".

#### **Section 7.3 – Development Proposals in Flood Zone C**

Where a site is within Flood Zone C but adjoining or in close proximity to Flood Zone A or B there could be a risk of flooding associated with factors such as future scenarios (climate change) or in the event of failure of a defence, blocking of a bridge or culvert. Risk from sources other than fluvial must also be addressed for all development in Flood Zone C. As a minimum in such a scenario, a flood risk assessment should be undertaken which will screen out possible indirect sources of flood risk and where they cannot be screened out, it should present mitigation measures. The most likely mitigation measure will involve setting finished floor levels to a height that is above the 1 in 100 year fluvial flood level, with an allowance for climate change and freeboard, or to ensure a step up from road level to prevent surface water ingress.

### Section 7.5 – Key Points for FRA for all types of Development

- Finished floor levels to be set above the 1% AEP fluvial (0.5% AEP tide) level, with an allowance for climate change plus a freeboard of at least 300mm. The freeboard allowance should be assessed, and the choice justified.
- Flow paths through the site and areas of surface water storage should be managed to maintain their function and without causing increased flood risk elsewhere.
- Compensatory storage is to be provided to balance floodplain loss as a result of raising ground levels within Flood Zone A. The storage should be provided within the flood cell and on a level for level basis up to the 1% level.
- In a defended site, compensatory storage is not required, but the impact of removing the net reduction in floodplain storage should be assessed, and any impacts to existing development mitigated for the 0.1% event or a breach of these defences.
- A site is considered to be defended if the standard of protection is 1% AEP, within which a freeboard of at least 300mm is included. The FFL of the proposed development needs to take into account the impacts of climate change and other residual risks, including the 0.1% event, unless this has also been incorporated into the defence design. This may be assessed through breach analysis, overtopping analysis or projection of levels from the channel inland.
- For less vulnerable development, it may be that a finished floor level as low as the 1% AEP level could be adopted, provided the risks of climate change are included in the development through adaptable designs or resilience measures. This approach should reflect emergency planning and business continuity to be provided within the development. It may reflect the design life of the development, the proposed use, the vulnerability of items to be kept in the premises, the occupants and users, emergency plan and inclusion of flood resilience and recovery measures.

### Section 7.6 – Incorporating Climate Change into Development Design

In all developments, climate change should be considered when assessing flood risk and in particular residual flood risk... For most development, including residential, nursing homes, shops and offices, the medium-range future scenario (20% increase in flows) is an appropriate consideration. This should be applied in all areas that are at risk of flooding (i.e. within Flood Zone A and B) and should be considered for sites which are in Flood Zone C but are adjacent to Flood Zone A or B. This is because land which is currently not at risk may become vulnerable to flooding when climate change is taken into account.

### **National Guidance;**

#### **The Planning System and Flood Risk Management; Guidelines for Planning Authorities 2009**

These Guidelines for Planning Authorities, published by OPW and Department of Environment, Heritage and Local Government in 2009, address identification and assessment of flood risk, and flood risk management in design of development.

The core objectives of the guidelines are as follows;

- Avoid inappropriate development in areas at risk of flooding,
- Avoid new developments increasing flood risk elsewhere,
- Ensure effective management of residual risks for development permitted in floodplains,
- Avoid unnecessary restriction of national, regional or local economic and social growth,
- Improve the understanding of flood risk among relevant stakeholders.

## **5.2. Natural Heritage Designations**

No designations apply to the subject site.

The site is approximately 0.25km from the Lough Ree SAC & SPA.

### **5.3. EIA Screening**

- 5.4. Having regard to the existing development on site, the limited nature and scale of the proposed development and the absence of any direct connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of appeal include the following;

- The applicant is not the owner of the land between the site of the dwelling, (Folio WH17966), and the site where the new wwts is proposed, (Folio WH13478F).
- An Appropriate Assessment report should have completed as a legal requirement for Folio WH13478F due to its location in proximity to Lough Ree SPA & SAC.
- The NPWS were not consulted with regard to the trial hole assessment. The methodology of the trial hole assessment is questioned.
- The Flood Risk Appraisal is incomplete as it did not include the high water levels experienced in 2015 and 2019, which are appended to the appeal.
- A submission was made to Westmeath County Council on the 25<sup>th</sup> February 2021 and was not accepted by the PA as the information submitted on the 19<sup>th</sup> February 2021 was not deemed to be significant. Could the information submitted be deemed significant?

## 6.2. Applicant Response

A response from the applicant was received on the 30<sup>th</sup> April 2021 and includes the following;

- The existing septic tank was installed in 1964 and along with the percolation area is located on land over which the applicant has a right of way.
- The applicant is the legal owner of lands contained in Folio WH17966 and WH13278. These lands are separated by Folio WH29425F of which the appellant is the owner. The applicant has a right of way on the lands that is registered on the folio. A copy of this agreement was submitted to the PA, who were satisfied that the applicant has the legal right to carry out the works.
- A legal opinion from Mary Moran-Long, BL, was prepared and submitted with the response. With regard to the right of way, the legal opinion states that *'Whilst the Querist is not the titleholder of the 'area of land comprised in Folio WH29425F, she has a registered right of way over the lands with a specific right to install and maintain any pipe work for the proposed development and/or use the lands for the percolation of sewerage and soil waters from her retained lands'.*
- Copies of documents from the Property Registration Authority accompanied the legal opinion and contain details of the land folio and the associated burdens which demonstrate the applicants legal right to carry out the works.
- The appellant claims that an Appropriate Assessment should have been carried out for the proposal as a legal requirement for folio WH13478F, (the appeal site), due to its location.
- The legal opinion submitted by the applicant states that under Section 177U(1) screening for Appropriate Assessment shall be carried out by the competent authority. It is clear from the statement contained in the report of the Planning Officer that the nature of the proposed development was assessed and that in considering the proposal she had regard to the conservation objectives for Lough Ree SAC & SPA and therefore a Stage 1 Appropriate Assessment Screening was not necessary. It follows that an Appropriate Assessment was not necessary.

- A Flood Risk Appraisal was prepared by Malachi Cullen Consulting Engineers and submitted in response to a request for Further Information. The report concluded that there is a low probability of flooding on the site and that the development would be appropriate from a flood risk perspective.
- The appellant questioned the presence of water in the trial holes in September 2020. This matter is addressed by Johnny Duncan A. Eng, M.I.E.I. of Malachi Cullen Consulting Engineers in his report dated the 27<sup>th</sup> April 2021 and states that, *'The reason for the presence of small amounts of surface water in the trial hole and the 3 percolation holes...was due to the holes being pre-soaked with water the day before the percolation test and again filled with water on the day of the test. This is normal practice for calculating the percolation value for the particular soil type and percolation area location...The percolation values registered all conformed with the EPA Guidelines and the site was deemed suitable for discharge'*.
- There was no requirement to seek advice from the NPWS as the appeal site is not located in a designated site and is not adjacent to a designated site.
- The PA requested FI on the 7<sup>th</sup> December 2020. The response to the request was submitted to the PA on the 18<sup>th</sup> February 2021. The appellant made a written submission, dated the 25<sup>th</sup> February 2021, to the PA. A letter from the PA to the appellant dated the 1<sup>st</sup> March 2021 advised that the submission was invalid as the further information received by the applicant was not deemed to be significant.
- The PA, acting on the advice of the District Engineer, was satisfied that the further information was not significant and therefore a notice inviting third party submissions was not required. The PA's competence in this regard is implicit in Section 34(8)(b).
- The applicant's engineers have proposed a site specific wastewater treatment plant, polishing filter and percolation area to the highest specification in order to ensure the protection of the receiving environment.

### 6.3. **Planning Authority Response**

- No response on file.

## 7.0 **Assessment**

7.1. I consider the main issues in determining this appeal are as follows;

- Principle of Development
- Procedural Issues
- Site Suitability & Flood Risk
- Appropriate Assessment

### 7.2. **Principle of Development**

The subject site is located outside the settlement boundary of Athlone and the development proposed relates directly to an existing residential use. The proposal is for the removal of an existing waste water treatment system, (wwts), and the installation of a new system in a different location. In my opinion the principle of the proposed development is acceptable within the context of the site and subject to compliance with the policies and objectives of the CDP which seek to protect the natural assets of the county including ground and surface water, (CPO 9.9).

### 7.3. **Procedural Issues**

The grounds of appeal seek to clarify that the applicant is not the owner of a parcel of land over which it is proposed to install a pipe connecting the new septic tank with the new raised polishing filter area. The area of land referred to is referred to as Folio WH29425F.

In their response to the grounds of appeal, the applicant has submitted a legal opinion from Mary Moran BL and documentation from The Property Registration Authority which includes information in relation to Folio WH29425F. This information states that whilst the applicant is not the titleholder of the area of land in Folio

WH2945F, she has a registered right of way over the lands with the specific right to install and maintain any pipework for the proposed development and/or use the lands for the purposes of percolation of sewage or soil waters.

In terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal interest for the purposes of the planning application and decision. Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal. In any case this is a matter to be resolved between the parties, having regard to the provisions of S. 34(13) of the Planning and Development Act 2000 (as amended).

A query was also raised regarding the appellant's submission to the PA on foot of their receipt of further information. The PA determined that the submission was invalid as the further information received from the applicant was not deemed to be significant. As per Section 34(8)(b)(I) of the Planning and Development Act 2000 (as amended) the PA is the competent authority to decide on whether or not the further information contains significant additional data which requires the publication of a notice by the applicant in accordance with the permission regulations.

In terms of the procedural matters raised, I am satisfied that all matters were considered and that any third party rights were not prejudiced.

#### **7.4. Site Suitability & Flood Risk**

##### Site Suitability

The proposed wwts system would comprise a new septic tank to be located c. 12m from the rear of the existing house and the installation of a 180sqm raised polishing filter system which would be located c. 62m to the south east of the house.

A Site Characterisation Form was prepared by Malachi Cullen Consulting Engineers and was submitted with the application. The form states that the site has well drained mineral soil and is located in a 'locally important' aquifer with high vulnerability. It is also stated that there is 'generally good drainage' in the area. I note that on the day of the site inspection the trial hole pits were still in place and there was no evidence of ponding or surface water throughout the site even though there had been extensive rainfall in the previous days.



Based on Table B.2 of the EPA Code of Practice, (CoP) 2009, the site falls within the R1 response category whereby the site would be suitable for safe disposal of effluent depending on P&T results.

As per Table 6.3 of the EPA CoP, the result of the T & P tests, ( $T \leq 50$  and  $P \leq 75$ ), the 'site is suitable for the development of a septic tank system of a secondary treatment system discharging to groundwater', and the 'site is suitable for a secondary treatment system with polishing filter at ground surface or overground'.

The trial hole test results were questioned in the grounds of appeal and a report from Johnny Duncan A. Eng, M.I.E.I. of Malachi Cullen Consulting Engineers, dated the 27<sup>th</sup> April 2021, addresses this issue. The report states that, 'The reason for the presence of small amounts of surface water in the trial hole and the 3 percolation holes...was due to the holes being pre-soaked with water the day before the percolation test and again filled with water on the day of the test. This is normal practice for calculating the percolation value for the particular soil type and percolation area location...The percolation values registered all conformed with the EPA Guidelines and the site was deemed suitable for discharge'. The appellant also questioned whether or not the National Parks & Wildlife Service should have been contacted prior to the trial hole assessment. As the site is not part of, or directly adjacent to a designated site, I am satisfied that this was not necessary.

Having reviewed the information submitted and having carried out a site inspection where evidence of the trial holes were still visible, I am satisfied that the site characterisation and testing were carried out in accordance with Annex C of the EPA CoP.

I note the sensitivity of the location within 150m of the shoreline of Lough Ree, which is a designated SPA and SAC. The details submitted with the application state that the WWTS proposed comprises a sequencing batch reactor, a raised polishing filter of 180sqm and a Chieftain Coco Filter System and is suitable for a site that has a high water table and could be vulnerable to localised flooding. It is also proposed to raise the levels of the site by 200mm using free draining gravels and clays on a layer of Geotextile fabric separating material and to place the Chieftain Coco filter unit on same.

Having reviewed the information submitted and assessed the details against the EPA Code of Practice, Wastewater Treatment and Disposal Systems Serving Single Houses (2009), I am satisfied that the that the EPA results are in accordance with EPA guidance and that the system proposed will be adequate.

The application notes the presence of a small shallow drain open that runs along the southern extent of the site and along the field line in the OS maps. It is stated in the Flood Risk Appraisal that the polishing filter will be a minimum of 3m from this drain. Table 6.1 of the EPA CoP recommends that polishing filters should be a minimum of 10m from an open drain but also states that the '...distances required are dependent on the importance of the water feature...If considering discharging to a watercourse that drains to an NHA/SAC the relevant legislation is Article 63 of the Habitats Directive'. It is unclear as to where this drain terminates, however, this issue is addressed further in the sections below.

### Flood Risk

A Flood Risk Assessment was requested by the PA as the site is located within an area identified as a flood risk area in the National Flood Hazard Mapping produced by the Office of Public Works.

The OPW flood maps show that the site is located in close proximity to lands that are categorised as Flood Zone A and Flood Zone B. The Planning System and Flood Risk Management Guidelines, (Flood Risk Guidelines) define Flood Zone A as an area where the probability of flooding from rivers and the sea is highest, i.e. greater than 1% or 1 in 100 for river flooding, and Flood Zone B as an area where the probability of flooding from rivers lands is moderate, between 0.1% and 1% or 1 in 1000 for river flooding. As per the guidelines, the site is located in Flood Zone C which covers all areas that are not in Zones A or B and where the probability of flooding is low.

From a flood risk perspective, development in Flood Zone C is appropriate but would need to meet the normal range of other planning and sustainable development considerations. The proposed development is not listed as a 'vulnerable development' as per Table 3.1 of the guidelines.

I note that whilst the proposed development is not categorised as vulnerable and, is located in an area of low risk from flooding, policy CPO 10.98 of the Westmeath Strategic Flood Risk Assessment states that it is a policy of the Council to *‘Ensure that a flood risk assessment is carried out for any development proposal, within 200m of a watercourse and at risk of flooding, in accordance with the Planning System and Flood Risk Management (DoEHLG/OPW 2009). This assessment shall be appropriate to the scale and nature of risk to the potential development’*.

In my opinion, given the nature and scale of the proposed development and its location within a low risk flooding area, the preparation of a Flood Risk Appraisal rather than a Site Specific Flood Risk Assessment is an appropriate response.

The Appraisal report notes that three significant flood events were registered in the Athlone area in the last 70 years with the most significant occurring in 2009.

Information contained in the OPW flood maps show that the site was not affected by the peak flooding event in 2009. Section 3.2 of the report includes flood modelling data for the site taken from the OPW’s Catchment Flood Risk Assessment Management (CFRAM) programme. The modelling maps show that the site is located outside of the floodplain and that even in extreme flood events, for both the 1 in 100 and 1 in 1000 year event, the site would not flood.

As an alternative to the CFRAM programme, the projected water level heights for different nodes along the Shannon watercourse were assessed for flood height probabilities. The node closest to the site, (Ref. 07MSH02850) was used to assess future flood height probabilities. The results of the flood height modelling show that the predicted levels for flood events in the 1 in 100 and 1 in 1000 year events would be 36.93m and 37.38m OD respectively. The existing level of the site is 36.7m OD and it is proposed to raise the level to 36.9m. I note that from the information submitted it is unclear as to the exact location of the node used for modelling and that the results of this exercise would seem to contradict the results of the modelling shown on the OPW maps.

The Appraisal report concludes that, having regard to the latest modelling outputs produced under the OPW’s CFRAM programme it has been established that there is a low probability of flooding at the subject site and as the development does not include any large areas of impermeable surfaces, it is unlikely to increase flooding

elsewhere by increase in surface water runoff. Although the site is located within a low risk flood area, the Appraisal report recommends a number of mitigation measures for the proposed development which include;

- Raising the level of the site to 36.9m OD, which is 0.6m above the highest recorded flood level of the Shannon and Lough Ree waters as taken from 2009.
- Locating the proposed Tertiary Chieftain Coco Filter system on top of the raised area to allow percolation into the receiving ground.
- Running the system on an electric pump (submersible) and backwash system which will deliver controlled treated effluent to the Coco filter – effectively discharging water to the surrounding receiving ground with no possibility of contamination or pollution.
- The appraisal also states that the quality of the effluent from the proposed Tertiary WWTS is significantly better than that of the existing septic tank and percolation system.

It is noted in the grounds of appeal that in the flood history for the site (Section 3.1 of the Flood Risk Appraisal), the Maximum Annual Water Levels Recorded at the Hydrometric Station in Athlone town are shown up to 2014 only. The years up to 2020 have been included in the appeal documentation. I note from the information submitted that in the years from 2015 to 2020 the highest level was recorded in 2015 at 36.35m OD. Whilst this level is marginally higher than the 2009 level of 36.32m OD, it is my view that does not represent such a significant difference so as to alter the conclusions of the Appraisal report. Although it is accepted that the OPW flood maps are not comprehensive when it comes to recording past flood events, there are no flood events recorded in the vicinity of the site since 2009.

Having reviewed the information contained in the Flood Risk Appraisal, the OPW maps and having inspected the site, I am satisfied that the proposed development is located in an area that is at a low risk of flooding and would not result in any increase in flood risk to adjoining lands.

## 7.5. Appropriate Assessment

The application was not accompanied by a Stage 1 Screening Report. The site itself is not located within any designated European site and does not directly adjoin or abut any such site. The closest Natura 2000 designated site is the Lough Ree SPA & SAC (Ref. 004064 & 000440 respectively), which is approximately 125m to the east. The application notes that there is a small shallow open drain that runs along the southern extent of the site which could provide an indirect hydrological connection to the designated sites. Given the history of flooding in the area this hydrological link warrants further investigation. Any potential indirect impacts on European sites from the development would be restricted to the discharge of surface water and foul water from the site. Given the location of the site, and the nature and scale of the proposed development, I consider the following designated sites to be within the zone of influence of the subject site;

European Site	Site Code	Qualifying Interests / Conservation Objectives	Distance
Lough Ree SPA	004064	<b>QI:</b>  Little Grebe ( <i>Tachybaptus ruficollis</i> ) [A004]  Whooper Swan ( <i>Cygnus cygnus</i> ) [A038]  Wigeon ( <i>Anas penelope</i> ) [A050]  Teal ( <i>Anas crecca</i> ) [A052]  Mallard ( <i>Anas platyrhynchos</i> ) [A053]  Shoveler ( <i>Anas clypeata</i> ) [A056]  Tufted Duck ( <i>Aythya fuligula</i> ) [A061]	c.125m to the east of the site

		<p>Common Scoter (<i>Melanitta nigra</i>) [A065]</p> <p>Goldeneye (<i>Bucephala clangula</i>) [A067]</p> <p>Coot (<i>Fulica atra</i>) [A125]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Lapwing (<i>Vanellus vanellus</i>) [A142]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Wetland and Waterbirds [A999]</p> <p><b>CO:</b> To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>	
Lough Ree SAC	000440	<p><b>QI:</b></p> <p>Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]</p> <p>Active raised bogs [7110]</p>	C. 20.4km downstream

		<p>Degraded raised bogs still capable of natural regeneration [7120]</p> <p>Alkaline fens [7230]</p> <p>Limestone pavements [8240]</p> <p>Bog woodland [91D0]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> <p><b>CO:</b> To maintain and/or restore the favourable conservation condition of the species and habitats listed in the Qualifying Interests in Lough Ree SAC.</p> <p>Note: The status of Old Sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles as a qualifying Annex 1 habitat for the Lough Ree SAC is currently under review.</p>	
--	--	---	--

Having examined the qualifying interests and conservation objectives for the Lough Ree SPA, (Ref. 004064) and the Lough Ree SAC, (Ref. 000440), I am satisfied that the proposed development, by virtue of its nature and scale, would not result in any potential for significant impacts on the integrity and conservation objectives of these designated sites.

I note the presence of an open drain along the southern boundary of the site which could form an indirect hydrological link to the designated sites of Lough Ree. Given

the nature of the proposed development, which is a waste water treatment system, there is a possibility for discharge of wastewater to the designated sites during an extreme flood event. As the site has no history of flooding and is located in an area at low risk of flooding, this scenario is unlikely. Even so, given the scale of the proposal for treating domestic waste, it is unlikely that the proposed development would lead to any significant impact on the conservation objectives or the qualifying interests of the of the Lough Ree SPA and SAC. Therefore, the listed sites can be screened out of any further assessment.

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site Nos. 004064 and 000440 or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required. This determination is based on the nature and limited scale of the proposed development and its distance from the said European sites.

## **8.0 Recommendation**

8.1. I recommend that planning permission be granted.

## **9.0 Reasons and Considerations**

9.1. Having regard to the nature and scale of the proposed development for the construction of a new septic tank and polishing filter and the removal of an existing septic tank and percolation system, it is considered that, the nature and scale of the proposed development would be acceptable within the context of the site and would be in accordance with the policies and objectives of the Westmeath County Development Plan 2021-2027 and as such would be in accordance with the proper planning and sustainable development of the area.



## 10.0 Conditions

1.	<p>The 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 submitted on the 19<sup>th</sup> day of February 2021, 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 development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>(a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 16<sup>th</sup> day of October, 2020, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. <math>\leq 10</math>)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.</p> <p>(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.</p> <p>(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the date of installation shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.</p>

	<p>(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.</p> <p>(e) Within three months of the installation, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.</p> <p><b>Reason:</b> In the interest of public health.</p>
3.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>All recommendations and mitigation measures contained in the Flood Risk Appraisal submitted to the Planning Authority on the 19<sup>th</sup> day of February shall be implemented in full.</p> <p><b>Reason:</b> In the interest of public health.</p>

---

. Elaine Sullivan  
Planning Inspector

19<sup>th</sup> August 2021