



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316951-23

#### Development

Retain position of portakabin office accommodation (previously granted under planning Ref: 16/446) and will consist of 2 waste separation buildings, office building, extension of waste facility yard to facilitate the proposed development and all associated site development works. Significant further information received in relation to the submission of an Environmental and Traffic Report as well as revisions to site boundaries

#### Location

Kincorragh, Smithborough, Co.  
Monaghan

#### Planning Authority

Monaghan County Council

#### Planning Authority Reg. Ref.

22443

#### Applicant(s)

Blue Dolphin Environmental Limited

#### Type of Application

Permission

#### Planning Authority Decision

Grant Permission with Conditions

<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Declan McCullagh
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	19 <sup>th</sup> March 2024
<b>Inspector</b>	Ronan O'Connor

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## **1.0 Site Location and Description**

- 1.1. The site comprises an existing waste collection and recycling centre. The site is located within a rural area and on site are two industrial style units, a portacabin (which is proposed for retention), a weigh bridge and associated car parking/hardstanding area. The site also comprises undeveloped greenfield areas to the east and south which slope generally towards the River Maghery. The River Maghery is an EPA mapped watercourse which flows in a south-westerly direction.
- 1.2. There is another industrial style unit (the appellant's unit) to the north-east of the site, which is outside the boundaries of the site but is currently accessed via the same access point as application site. Access to the site is off a local road to the south of the R187 and there are security barriers in place at the access point.

## **2.0 Proposed Development**

- 2.1. Permission to 1) retain position of existing single storey portacabin office accommodation (previously granted under planning Ref: 16/446) and will consist of 2) permission for 2 No. single storey waste separation buildings, two storey office building, extension of existing waste facility yard to facilitate the proposed development and all associated site development works. Significant further information received in relation to the submission of an Environmental and Traffic report as well as revisions to site boundaries.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Grant Permission subject to conditions [decision date 6<sup>th</sup> April 2023]. There are no conditions of particular note.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The First planner's report [dated 22<sup>nd</sup> November 2022] is summarised below:

- Principle of development is considered acceptable as a result of previous planning applications.
- No issues in relation to residential amenity noting the closest dwelling is located c150m to the south-west of the application site.
- No significant visual impact having regard to the landscape plan.
- Notes that Roads Dept does not have concerns in relation to traffic generation.
- Applicant has yet to line out the 50 no. car parking spaces conditioned by previous planning permissions.
- A total of 20 no. car parking spaces are required for the new floor area/only 12 spaces are proposed/therefore there is a shortfall of 8 no. spaces.
- Refers to the Environmental Report which has requested Further Information [see summary of same below].

3.2.2. Further Information was requested on 29<sup>th</sup> November 2022 in relation to the following issues:

1. Details of foul and surface water drainage
2. 10m buffer zone from local water courses/surface water drains
3. Foul/waste water disposal details
4. Car parking details
5. Details in relation to existing access
6. Surface water details
7. Address points raised in the third party observation

3.2.3. Significant Further Information was submitted on 13<sup>th</sup> March 2023.

3.2.4. The Second Planner's report [dated 5<sup>th</sup> April 2023] is summarised below.

- PA is satisfied that the applicant has adequately addressed the AI request as per AI submission of 13<sup>th</sup> March 2023
- Proposed retention development and development complies with the relevant provisions of the Development Plan

3.2.5. The recommendation was to Grant Permission, subject to conditions.

### 3.2.6. Other Technical Reports

Road Condition Report [report dated 26<sup>th</sup> October 2022] – recommends FI be submitted in relation to visibility splay/drainage/evidence that Condition No. 6 of 18-376 has been complied with; Revised drainage details and maintenance of same.

Road Condition Report [report dated 30<sup>th</sup> May 2023] - No objections subject to conditions.

Environment [report dated 21<sup>st</sup> October 2022] – recommends that FI be submitted as follows (i) A revised foul & storm sewer layout map; (ii) minimum 10m buffer from local water courses/drains; capacity of the proposed wastewater treatment system.

Environment Report [dated 22<sup>nd</sup> March 2023] – No objections subject to conditions.

Environment [report dated 22<sup>nd</sup> March 2023/5<sup>th</sup> April 2023] – following a site inspection it was noted that surface water drainage as per dwg 23-005-100 is incorrect/surface water drainage from existing development crosses over to neighbouring property before re-joining into site infrastructure – conditions recommended in relation to same – No objections subject to conditions.

EHO [report dated 22<sup>nd</sup> November 2022] – No objections subject to conditions related to noise, dust, silt traps, oil/petrol interceptors.

### 3.3. Prescribed Bodies

3.3.1. None.

### 3.4. Third Party Observations

3.4.1. 1 no. Third Party Observation was received at application stage, with a further observation received from the same party following the submission of Significant Further Information. The issues raised are similar to those raised in the First Party Appeal, and I have summarised same in Section 6.1 below.

## 4.0 Planning History

PA Ref 21/353 (Appeal Ref APB 313912-22) - Withdrawn

PA Ref 18/376 – Grant Permission [26<sup>th</sup> June 2019] for new concrete yard to existing recycling facility and all other associated site works.

PA Ref 16/446 – Grant Permission [07<sup>th</sup> March 2017] for retention of relocation of previously approved lorry weighbridge, retention of existing portacabin office, provision of 205 cubic metre (3m high) water tank, provision of additional hard surfaced area to south of existing site and associated alterations to site boundary to include all associated site development works

PA Ref 12/376 – Grant Permission [11<sup>th</sup> September 2013] for provision of extension to the south-eastern elevation of existing waste facility commercial unit, to include relocation of existing south-eastern site boundary and all associated site development works

PA Ref 11/146 – Grant permission [15<sup>th</sup> July 2011] for change of use of existing commercial unit to waste segregation & compaction facility & provision of a lorry weigh bridge at the existing site entrance to include all associated site development works

PA Ref 10/481 Grant permission [07<sup>th</sup> March 2011] for provide one number self contained waste transfer station and associated waste collection vehicle parking and bin storage areas to include change of use of previously approved hardstanding area (Pertaining to previously granted planning reference P143/04) to facilitate proposed development and all associated site development works.

PA Ref 04/143 Grant permission [21<sup>st</sup> July 2004] to erect 2 no. workshop unit for the following purposes (a) unit no. 1: manufacture of prefabricated timber roof trusses (b) unit no. 2: storage of all ancillary timbers and completed trusses prior to despatch, develop existing entrance, provide hardened area and all associated site works.

## **5.0 Policy Context**

### **5.1. Section 28 Guidelines**

- The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009).

### **5.2. Development Plan**



The Monaghan County Development Plan 2019-2025 applies. Relevant provisions are as follows:

Section 8.25 Waste Management & Waste Management Policies 1-11

Section 15.13.7 Residential Amenity All developments must have regard to the potential impact upon the residential amenity of existing and permitted residential land uses in the vicinity of the development. Policy RDP 24 Development which has the potential to detrimentally impact on the residential amenity of properties in the vicinity of the development, by reason of overshadowing, overbearing, dominance, emissions or general disturbance shall be resisted.

Section 15.27 Road Access Standards and Policy RAS1 'Policy for Access Details'

Section 15.28 Car Parking Standards and Policy CP1 'Policy for Car Parking'

Policy TP 5 To ensure that all new developments and extensions to existing developments have adequate car parking provision.

Section 15.19 Landscaping (Urban and Rural) and Policy LCP 1 'Landscaping Policy'

Chapter 6 Heritage, Conservation and Landscape - Section 6.4 Landscape Character Assessment/Policies HLP 8, 9 and 11

Section 8.34 Flood Risk Management

Policy FMP 2 To restrict development in areas susceptible to flooding except where;

- a) The proposed development can be justified on strategic grounds.
- b) The flood risk can be managed to an acceptable degree and without increasing flood risk beyond the site itself.
- c) Appropriate and detailed mitigation measures can be implemented to remove/minimise flood effects.

Policy FMP 3 Development proposals on land identified as being at risk of flooding shall be accompanied by a site-specific Flood Risk Assessment (FRA) carried out in accordance with the methodology set out in The Planning System and Flood Risk Management – Guidelines for Planning Authorities, 2009. Such assessments shall be carried out by competent professionals with hydrological experience and identify the risk and extent of any proposed mitigation measures.

Policy FMP 4 All applications in areas prone to flooding shall be subject to the justification test set out in the Flood Risk Management Guidelines. Compensatory flood storage provision or the provision of flood defences will not override the need for completion of the justification test

Policy FMP 5 To protect the capacity of rivers, streams, riparian corridors, flood plains and wetlands from inappropriate development which will contribute to increased flood risk. Development on or within a floodplain will not be permitted.

Section 15.34 'Flooding' It is essential that flooding issues are properly considered, and development should be restricted and/or limited in areas which are at risk of flooding unless it is demonstrated that the proposed development has addressed the flooding concerns which exist.

Policy FLP 1 To require that planning applications within areas of at risk of flooding follow the sequential approach and justification test set out in the DECLG 'The Planning System and Flood Risk Management Guidelines for Planning Authorities'

Policy FLP 2 To require that site- specific Flood Risk Assessments (FRA) be prepared for sites at risk of flooding, even for developments appropriate to that flood zone. The detail of such an assessment will depend on the level of risk and scale of development and it must be demonstrated that any mitigation measures proposed will not exacerbate flood risk in the wider area.

Section 15.13.7 'Residential Amenity' All developments must have regard to the potential impact upon the residential amenity of existing and permitted residential land uses in the vicinity of the development.

Policy RDP 24 Development which has the potential to detrimentally impact on the residential amenity of properties in the vicinity of the development, by reason of overshadowing, overbearing, dominance, emissions or general disturbance shall be resisted.

## Chapter 8 Environment, Energy & Climate Change

Policy WPP 1 – in relation to surface water/WPP 3 in relation to groundwater/WPP 11 – in relation to impacts on the water environment.

### 5.3. **Natural Heritage Designations**

5.4. No designations apply to the subject site. The nearest such site is the Mullaglassan Lough pNHA (site code 001837) located approximately 800m to the north of the site.

### 5.5. **EIA Screening**

5.5.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

## 6.0 **AA Screening**

6.1.1. Please refer to Appendix 3 (AA Screening) of this report which contains an AA Screening Report where I have concluded the following:

6.1.2. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended), and on the basis of objective information, I conclude that that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

6.1.3. This conclusion is based on:

- Standard pollution controls that would be employed regardless of proximity to a European site, and effectiveness of same.
- Distance from European Sites.

6.2. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

7.1.1. 1 no. Third Party Appeal was received on 3<sup>rd</sup> May 2023 from Declan McCullagh. The Grounds of Appeal are summarised below:

Procedural Issues.

- Application was invalid and should have been dismissed.
- Deficiencies in the site notice and in the description of development
- Planning documentation was inadequate.
- Refusal of permission on the grounds of *inter alia* failure to comply with the Planning and Development Regulations 2001.
- Site notices were not visible from the public road/reference is made to photo on planning file/was not erected in the location as shown on the site map.
- No reference to the concrete surface yard built up from existing ground levels with waste fill material/area of yard is over 1.8 Ha/requires importation of waste fill material/not described in public notices/area of yard is not set out.
- Groundwater and surface water impacts.
- Visually prominent.
- Planning History of the site restricted the use of the yard to parking and vehicle turning/storage of bins and skips.
- Has included lands not within the applicant's ownership/subject of a legal boundary dispute.
- Applicant did not have sufficient legal interest to carry out any development previously granted permission.
- Cannot form the basis of any precedent regarding the principle of the use.
- Has never considered the impact of the proposed development on appellant's workshop Unit 1.
- No detailed assessment of the issues.

- Application comprises the substantive expansion of the facility.
- No details of the volumes of waste to be handled.
- Implications of the topography of the site were never considered by the planning authority.
- PA did not assess the principle of development within a rural greenfield site.
- PA has not assessed the environmental, habitat, visual and traffic impacts arising from the proposed development.
- No reference to Development Plan policy or objectives in the Planner's report.
- Applicant has not complied with previous planning conditions.

#### Material Contravention

- Reference is made to the planning history of the site/the nature of previous applications and assessments of same.
- Set out that no reliance can be placed on the 2010 decision for establishing the principle of a large waste facility in a rural area.
- Previous applications have included the appellant's land.
- Previous EIS screening on files 16/466 and 12/376 screened out the development/was below the threshold of 25,000 tonnes.
- Previous PA Environmental Report identified surface water features, in proximity/wetlands/red squirrel.
- Waste permit conflicts with previous permissions.
- No EIS Screening of the proposed development was carried out.
- No evidence that the PA or application has had regard to the waste hierarchy/previous misinterpretation of the use as a manufacturing use.
- No clear elaboration of the use of the buildings, the types of waste handled, the tonnage, the purpose and function, the final destination of the waste and how it relates to the Council waste management plan and the regional waste management plan.

- Application must be considered and assessed in the context of the regional waste management plan and the county development plan.
- Reference is made to WMP 11 of the Development Plan.
- Fails to comply with Development Plan policies in relation to waste management planning.
- Site is un-zoned/located in a rural area/remote from catchment area.
- Road network is inadequate/traffic generated by large trucks on the local road gives rise to a public traffic hazard.
- New building is of substantive scale/adverse visual impact/cannot be assimilated within the visually prominent site.
- Proposal has the potential to significantly increase the scale of the operation/consequent traffic and transport impact arising from the development.
- Proposal represents an ad-hoc approach to waste.
- Would materially contravene Development Plan policies WMP1 to WMP11.

#### Additional Information Response and Assessment

- No reference or analysis as to how the AI response addresses the issues raised.
- Response to the AI request is inadequate /Does not address the environmental or traffic hazard problems identified at the subject site.
- Concerns in relation to foul and surface water [Site inspection report/Flood Risk and Surface Water attenuation review submitted in relation to same].
- Reports raise significant concerns in relation to existing pollution of the stream/oil and carbon ingress into the drains and manholes of neighbouring site (workshop 1).
- No planning grounds to justify a grant of permission.
- Would exacerbate existing pollution, drainage and parking problems.
- Buffer zone may be filled with waste material/result in run off from the embankment to the stream.
- No evidence on site of a percolation area/waste treatment system.

- Site plans indicates effluent treatment beside the boundary stream/to the front of workshop 1.
- Car park area has never been properly surfaced.
- No management of parking.
- Will result in overspill parking across the site/onto the surrounding road.
- Material contravention of Development Plan standards.
- Access to the stie has not been provided in accordance with good engineering practice/is not surfaced with impermeable material/surface water drains onto the road.
- Proposed development requires a Flood Risk Assessment /overlaps the 1:100 yr flood extents.
- Would materially contravene Development Plan policies as relates to Flood Risk.
- Failed to respond to the third party submission in any meaningful planning sense.
- The most important history on the site is the parent permission 04/143 for two workshops/this was implemented and not superceded.
- Impact on the workshop was never considered.
- Proposed facility encroach on the functional access and operation of Unit 1 as an engineering workshop.
- Waste operation has imposed security barrier restrictions on access to the site/precluded the use of the workshop.
- Evidence that car parking, landscaping, drainage and access details are not in compliance with previous conditions of the permitted developments at this site.

#### Habitats Directive

- There is no Natura Impact Statement included with the application.
- Additional response submission/report on Flood Risk and Surface Water demonstrate that there is a significant risk of sediment ingress into the stream which is a tributary of the Lough Erne SPA/SAC/there is a pathway from the stream bounding the site to the River Magery.

## EIA Screening

- No evidence of the nature of the waste activity/overall scale of waste to be handled.
- Essential to assess whether the development comes within the relevant class and threshold of Class 11(b) Schedule 5 of the Planning and Development Regulations.
- Potential impact on Lough Erne SPA/SAC give grounds for the need for EIA Screening.
- PA did not undertake any EIA Screening/failure to comply with the requirements of the EIA Directive.
- Proposed development would contravene the Floor Risk Guidelines for Planning Authorities.
- Request the Board refuse permission for the reasons set out in the appeal statement and as set out above.

Enlc: Photographs; Acknowledgement of submission to MCC; Engineering Report prepared by C S Pringle; Engineering Report prepared by Marcus Dancey, Chartered Engineer

## 7.2. Applicant Response

7.2.1. A first-party response to the appeal was received on 30<sup>th</sup> May 2023. This is summarised as follows:

- Submit that the appeal is vexatious.
- None of the previous permissions on the site included the appellant's property.
- None of the appellant's land is included in the application which is the subject of this appeal.
- Unacceptable allegations within the appeal.
- Request that the Board dismiss the appeal in accordance with S.138.
- Planning history of the site is set out.



- Relevant planning policy is set out.
- Applicant's waste facility plays an essential role in waste management for County Monaghan/one of the 7 main waste service operators in the country.
- Operates as a fully permitted waste transfer station.
- Proposed additional sheds are essential for improving the quality of service which they deliver/provide for a higher level of automation which will improve efficiency.
- Operate under a waste management permit provided by Monaghan County Council/fully compliant with the waste permit requirements.
- Compliant with the Regional Waste Management Plans in force.
- Site notice was visible at the time of the inspection/statutory notice published.
- Description of development is sufficient.
- Hardstanding is ancillary to the operation of the waste buildings.
- Waste permit is in place for the importation of soil and stones for the purposes of filling the land to facilitate the development of the concrete yard.
- The only unauthorised development on the site is the portacabin which is the subject of this retention application due to a change in location from that which was previously permitted.
- Applicant is the lawful owner of the property/has sufficient legal interest in the land to carry out the development/civil matters are no relevant to planning.
- Proposed development will not impact on the permitted workshop/relates to the manufacture of roof trusses/not an engineering workshop alluded to by the appellant.
- This use and the waste facility are compatible.
- Principle of a waste facility has been established on the site since 2010/has been operating since then without any impact on the neighbouring manufacturing business.
- No enforcement or complaints regarding the operation of the waste facility.
- Principle of development has been assessed in full by the PA.

- Site is not a greenfield site.
- Proposal is an expansion of a legitimate and permitted waste facility.
- Waste permit allows for a maximum of 25,000 tonnes per annum/established permission on site under Ref 12/376 provides for up to 18,876 tonnes (Condition 2 of same)/waste currently being handled on the site is 7,500 tonnes annually/proposed development will bring the volume of waste up to what is already permitted on site.
- Portacabin does not impede the operation or access to the workshop in any way.
- Waste use has been established under Ref 10/481, and confirmed by Ref 12/376 and 11/146.
- Proposed development is set well back from the public road/proposed development can be absorbed into the local landscape/detailed landscaping plan can be agreed.
- PA took into consideration all environmental, visual and traffic impacts.
- Proposed development has been the subject on an AA screening report which concluded that there would be no significant impact arising from the proposed development on any designated sites.
- PA was satisfied that there was sufficient capacity on the surrounding road network to cater for traffic generated by the proposed development.
- Waste permit is already in place for the importation of fill on site to increase the ground level to the levels of existing buildings on site.
- Satisfied that ABP would make a determination that an EIA would not be required/will not exceed permitted threshold of 18,876 tonnes.
- Type of waste and recycling will not change from that which is already permitted.
- Proposed routes will not alter as a result of the proposed development/destination of waste will not alter.
- Allegations of contaminated manholes are unsubstantiated/refer to manholes that on lands outside client's ownership which are not connected to or part of applicant's water infrastructure.

- No samples taken to support allegations.
- Allegations of contamination of existing stream are unsubstantiated/enclose copy of water quality reports which confirm there is no contamination.
- Security barrier is necessary to meet HSA requirements/to prevent illegal trespassing by others.
- Site is governed by a Waste Permit (issued by the environment Section of MCC) and not a Waste Licence (issued by the EPA).
- Detailed response to engineering issues provided in Engineer's response.
- Site is not located in Flood Zone A/site is a considerable distance from the 1:100 year flood zone and from the 1:1000 year flood zone.

Encl: Letter from APB; Folio Maps; Aerial Flood Map; Haul Route maps/destination of waste; Response from Traynor Environmental; Response from Alan Traynor Consulting Engineers; Response from TPS M Moran and Associates; Response from Whitehall Environmental

### **7.3. Planning Authority Response**

7.3.1. None.

### **7.4. Observations**

7.4.1. None.

### **7.5. Further Responses**

7.5.1. None.

## **8.0 Assessment**

8.1.1. Having examined the application details and all other documentation on file, after an inspection of the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues on this appeal relate to the following:

- Principle of the Development
- Flood Risk/Surface Water Drainage/Water Quality
- Biodiversity
- Traffic Impacts
- Impacts on existing workshop
- Visual Impact/Impact on Landscape
- Material Contravention
- Other Issues

## **8.2. Principle of Development/Description of Development/Planning History**

- 8.2.1. The third-party appeal submission contends that the planning history of the site restricted the use of the yard to parking and vehicle turning/storage of bins and skips. It is stated that the proposed development comprises the substantive expansion of the facility. It is set out that no reliance can be placed on the 2010 decision for establishing the principle of a large waste facility in a rural area. In terms of the description of the current development, it is set out that there is no clear elaboration of the use of the buildings, the types of waste handled, the tonnage, the purpose and function, the final destination of the waste and how it relates to the Council waste management plan and the regional waste management plan. It is stated that the most important history on the site is the parent permission 04/143 for two workshops which was implemented and not superceded.
- 8.2.2. The applicant has submitted that the appeal is vexatious and requests that the Board dismiss the appeal in accordance with S.138. The applicant has set out the planning history for the site and it is stated that the site operates as a fully permitted waste transfer station. It is stated that the waste use has been established under Ref 10/481, and confirmed by Ref 12/376 and 11/146. It is further stated that the type of waste and recycling will not change from that which is already permitted and that the waste processed will not exceed permitted threshold of 18,876 tonnes per annum (as per condition 2 of Ref 12/376).
- 8.2.3. The Planning Authority have not questioned the principle of development. The Planner's report (dated 22<sup>nd</sup> November 2022) states that the principle of

development is considered acceptable as a result of previous planning applications, and notes that the site comprises an existing waste collection and recycling centre.

- 8.2.4. In relation to the principle of the development, it would appear that previous permissions relate to the establishment of a waste transfer facility and (i.e. PA Ref 10/481 for instance) and subsequent permissions appear to relate to the expansion of same. I would note that Condition 4 of PA Ref 10/481 states that there should be no sorting or processing of waste within the site area, and the use of the site area shall be limited to the parking/storage of waste collection vehicles. From a review of the associated Planner's Report and Environmental Report (as relates to PA Ref 10/481) this would appear to have been imposed following concerns in relation to the processing of waste in an outdoor environment. Subsequent permissions (i.e. PA Ref 11/146) relate to the change of use of the commercial unit on site from a commercial unit to a waste segregation and compaction facility. A subsequent permission (PA Ref 12/376) allowed for an expansion of this unit, and Condition 2 of same limited the volume of waste to be processed on the site to 18,876 tonnes per annum.
- 8.2.5. Having regard to the above, I am of the view that the use of the site as a waste transfer facility has been established and there is no other evidence to the contrary contained within the appeal submission that would refute this assertion. Therefore I am satisfied that the principle of the development as proposed (additional buildings and extension of yard, office buildings etc) which will facilitate the more efficient operation of the waste transfer use, but which will not exceed the previously imposed limit on waste tonnage to be processed, is acceptable in principle, subject to the considerations below, which include potential impacts on amenity, transport issue as well as potential environmental impacts. Furthermore, I would note that it is not proposed to change the nature of the waste processed on the site. I note also the site is subject to the Waste Permit procedure operated by Monaghan County Council and is required to operate in compliance with same.

### **8.3. Flood Risk/Surface Water/Water Quality**

- 8.3.1. The third-party appeal submission states that the proposed lies within the 1:100 year flood extents (of the Maghery River) and that a Flood Risk Assessment is required. The appeal submission is supported by *inter alia* an Engineering Report prepared by

Marcus Dancey, Chartered Engineer. This report refers to flood risk and the proposed attenuation system. This report contends that a portion of the site lies within the 1:100 year return period flood extents (Flood Zone A), with reference also made to the instability of the proposed embankment adjacent to the river, as a result of the proposed reprofiling of the site, and notes that if a failure were to occur it would result in flooding upstream and possible pollution of the river.

- 8.3.2. In response to the issue of flooding, the applicant has stated that the site is a considerable distance from the 1:100 year flood zone and from the 1:1000 year flood zone and has included a diagram indicating that the site does not lie within the flood extents of the Maghery River.
- 8.3.3. I would note that the Planning Authority have not raised any concerns in relation to flood risk issues, either in the Planner's report nor in the associated internal reports.
- 8.3.4. In relation to the issue of flood risk, I note that substantial infilling and ground alterations are proposed to take place to the north-east, east and south of the site, in order to provide for the proposed new shed and the expanded hard standing area. This will alter the existing slope towards the river, with the resulting profile indicated in Site Section A-A on Dwg No. 400\_P100.00 (as submitted to the PA a part of the Further Information Submission on 13<sup>th</sup> March 2023). I note the proposed slope profile to the watercourse will be a maximum of 1 in 2.
- 8.3.5. I would further note the 1:1000 (low probability) and the 1:100 (medium probability) flood extents would appear to be on or close to the boundary of the application site, with reference to National Indicative Fluvial Mapping, available at Flood Info.ie also shows these 1:100 year and 1:1000 year flood extent<sup>1</sup>, although I cannot determine conclusively that the flood extent does not actually encroach onto the site, with reference to the information on the file, and with reference to the mapping available on Floodinfo.ie. In this regard, I would note there is disagreement between the appellant and the applicant as to whether the flood extents actually encroaches onto the site, and I note the conflict between the appellant's diagrams and the applicant's diagrams, as relates to flood risk. Page 33 of the applicant's response to the appeal shows the site as it relates to the Indicative Flood Zone and shows the flood extents essentially on the boundary of the application site. The report from Marcus Dancy,

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<sup>1</sup> <https://www.floodinfo.ie/map/floodmaps/>

Chartered Engineer, for the appellant, includes a number of diagrams, including one which shows the flood extent incorporating the proposed area of hardstanding (pages are unnumbered). Neither the applicant's nor the appellant's diagrams are to scale. I would further note that the mapping available on Flood Info.ie is an indicative map, and as set in 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' (hereinafter referred to as the Flood Risk Guidelines), such mapping cannot be relied upon to give precise information in relation to individual sites.

8.3.6. However, I would note that even if the Board were to accept that the flood extent does not encroach onto the site, and the site does not lie within Flood Zone A (1 in 100 yr) or Flood Zone B (1 in 1000 yr), it appears likely that the flood plain of the Maghery River is either on, or very close, to the boundary of the site. This proximity, when considered in the context of the substantial groundworks proposed to take place on the site, close to the flood extent, and taking the precautionary approach as espoused in the Flood Risk Guidelines, would necessitate a more detailed consideration of flood risk, in my view, and at the very least would require a Flood Risk Assessment. I would also note that should the site lie within Flood Zone A, a Justification Test would also be required, noting the classification of 'waste treatment' as a 'less vulnerable development', within the Flood Risk Guidelines. I would share the appellant's concern in relation to potential undermining of the proposed reprofiled site, and noting the nature of the proposed infill, and the nature of the use on the site, a failure of same would likely result in flooding upstream, as well as result in potential impacts on the ecology of the stream, as a result of potential pollutants. There is also insufficient information on file, in my view, to determine if the reprofiling of the site would have an impact on the floodplain, to an extent that there would be a removal or alteration of said floodplain, with the potential to increase flood risk downstream from the site.

8.3.7. In conclusion, I am not of the view the application has addressed the issue of flood risk in a sufficiently detailed manner, given the considerations as set out above. I would note that Flood Risk Guidelines state that permission should be refused where flood issues have not been addressed successfully. I would further note the provisions of Policy FMP 2 of the Development Plan which restricts development in areas susceptible to flooding unless it can be justified on strategic grounds, or

appropriate management and mitigation measures are put in place. I note also the requirements of Section 15.34 'Flooding' of the Development Plan which states that *inter alia* development should be restricted in areas which are at risk of flooding unless it is demonstrated that the proposed development has addressed the flooding concerns which exist.

#### Surface Water Drainage Design/Water Quality

- 8.3.8. The third-party appeal states that the proposed development would impact on surface water and groundwater. It is further contented that the response to the FI request was inadequate and does not address the environmental problems identified on the site, including the existing pollution of the stream and the oil and carbon ingress into the drains and manholes of the neighbouring site. Impacts from the effluent treatment system and from the infilling of the lands are also raised as a concern. The appeal submission is supported by *inter alia* an Engineering Report prepared by CS Pringle, Consulting Engineers. The report by C S Pringle presents evidence of contamination of the surface water infrastructure on the appellant's site, and contamination of the adjoining watercourse.
- 8.3.9. The first party response to the appeal states that allegations of contaminated manholes are unsubstantiated and refer to manholes that on lands outside client's ownership which are not connected to or part of the applicant's water infrastructure. It is further set out that no samples were taken to support the allegations. It is also stated that allegations of contamination of the existing watercourse are unsubstantiated. The applicant has enclosed copy of water quality reports to support the contention that this watercourse is not polluted. The applicant's response to the appeal is supported by various reports including *inter alia* a response from Alan Traynor Consulting Engineers (in relation to foul, surface water and attenuation calculations).
- 8.3.10. In relation to surface water drainage, I would note that there are three reports in total from the Environment Section of the PA on file. The first report [21<sup>st</sup> October 2022] seeks further information on *inter alia* proposed storm and foul water drainage. There are 2 additional reports subsequent to the submission of Further Information [both dated 22<sup>nd</sup> March 2023 but the latter report appears to have been completed subsequent to a site visit and has a completion date of 5<sup>th</sup> April 2023]. This latter



report states that the surface water drainage system on site crosses the site boundary, and then diverts back into the site, and this is not as shown on the drainage plan (Foul & Storm Sewer Layouts DWG 23-005-100). A condition is recommended to address this issue, and this condition requires that all surface water drainage infrastructure is kept within the site boundaries.

8.3.11. The existing foul/storm sewer lines and proposed storm/surface water drainage system is indicated on Foul & Storm Sewer Layouts (DWG 23-005-100). While not indicated on this drawing, from the reports of the Environment Section referred to above, it would appear there is evidence that the storm sewer does in fact pass through the appellant's lands, and the appellant has cited pollution emanating from same which was evident when the drainage system was inspected and this is set out in the report by C S Pringle, Consulting Engineers. However, there is no other evidence, either in the Engineering Report, or elsewhere in the appeal submission, that would support the contention that this pollution was derived from the applicant's site. I would further note that the application drawings indicates an existing petrol interceptor which would serve to mitigate any potential pollutants entering the existing system. Notwithstanding, I concur that with the position of the PA, in that the surface water drainage system should be entirely self-contained within the site, which would serve to overcome any concerns the appellant may have in relation to potential pollutants entering the storm water network within the confines of the appellant's site. In terms of the proposed storm water/surface water layout, to serve the expanded waste facility, it is proposed to provide storage tanks (to store wash run-off), storm water attenuation (see further discussion of same below), silt traps and hydrobrakes, which will serve to limit the quantity of, and improve the quality of, surface water runoff entering the surface water network, include the existing stream to the south of the site. As such I am satisfied, with these measures in place, the proposed development will not result in the discharge of polluted surface water to the surrounding surface water environment, including to the stream to the south of the site.

8.3.12. In relation to the proposed attenuation of storm waters, and the volume of same that is required, I note that the appellant has submitted a report by Marcus Dancy, Chartered Engineer, which refers to flood risk and the proposed attenuation system. In relation to the proposed attenuation system, it is set out therein that there is an

underprovision of attenuation stage, and that the greenfield flow rate has been incorrectly calculated, and is in fact lower than that outlined in the application. It is concluded that a storage volume of 982 sq. m is required.

- 8.3.13. In response, the applicant has enclosed a report from Alan Traynor Consulting Engineers. A revised greenfield calculation of 15.41 l/s was calculated based on the proposed new hard surface area, noting that it is not required to provide attenuation for any existing hard surface area, with the run-off from the existing hard surface area being deal with by the existing storm network. Revised calculations conclude that a storage volume of 672.93 m<sup>3</sup> is required.
- 8.3.14. In relation to same I note that the divergence in greenfield rates, and required attenuation volumes would appear to derive, for the most part, as a result of the overall area of hardstanding that should be included. I concur with the view of the applicant that the existing area should not be included, given that this drains to the existing surface water network. However I note that the proposed attenuation volume as indicated on Dwg 23-005-100 Rev A (as submitted at FI stage) indicates an attenuation volume of 554.76 m<sup>3</sup>, which is below that required. Notwithstanding, if the Board is minded to grant permission, I recommend a condition be imposed that the surface water design be in accordance with the requirements of the Planning Authority for same, including a requirement that sufficient attenuation storage is provided.
- 8.3.15. In terms of groundwater, there is no evidence submitted that the proposed expansion of the facility will result in groundwater pollution. I would note that the majority of the site, following completion of the development will comprise of hardstanding, and the measures as described above (in relation to surface water) will ensure that no pollutants would enter the groundwater from the site.

#### **8.4. Biodiversity**

- 8.4.1. The appellant has stated that the proposal will impact on habitats, and reference is made specifically to Red Squirrel and wetland habitats, noting that a previous PA Environmental Report, relating to PA Reg Ref 18/376, identified wetland habitats in the vicinity and referred to Red Squirrel.
- 8.4.2. In relation to same, I note the Environmental Report in relation to PA Reg Ref 18/376 (this history file is available for the Board's perusal) refers to un-named wetlands to

the east, west and south of the site, and this report also refers to Red Squirrel noted within the 'H53 10 KM square'. However, there is no evidence that the application site is of particular value with regards to biodiversity nor is there any evidence that it supports habitats for any particular species including Red Squirrel. The existing site is a working waste facility, with the areas proposed to be constructed upon for the most part being hardstanding or grassed area that would appear unlikely to support any habitats of particular value. I would further note that it is proposed to retain the existing trees and hedgerows bounding the site, which will be reinforced with additional planting, with the southern boundary planning with native hedgerows, as per the submitted landscaping plan (Dwg 4.0\_P500.00 as submitted at FI Stage). This additional planting is likely to have a positive impact on biodiversity by virtue of providing additional habitats on the boundary of the site. Any potential impact on adjoining wetland areas would be mitigated by the measures as described in Section 7.5 above, relating to the protection of surface waters.

- 8.4.3. However, as per the discussion on flooding issues above, I am of the view that should any undermining of the reprofiled site occur as a result of the proximity of the site to the flood plain, this has the potential to release contaminants into the adjoining watercourse (the Maghery River), with potential negative impacts on the ecology of same, and I have recommended above that the proposed development be refused on the basis of inadequate information in relation to flood risk issues.

## **8.5. Traffic Impacts**

- 8.5.1. The third-party appellant submits that the road network is inadequate, and that traffic generated by large trucks on the local road gives rise to a public traffic hazard.
- 8.5.2. The applicant has stated that that the PA was satisfied that there was sufficient capacity on the surrounding road network to cater for traffic generated by the proposed development. It is further stated that the proposed routes will not alter as a result of the proposed development and that the destination of waste will not alter. A Traffic Report prepared by TPS Moran and Associates was submitted with the response to the appeal and this provides a response to issues raised in the appeal submission.,
- 8.5.3. The PA has not raised any concerns in relation to the impacts on the surrounding road network.

- 8.5.4. In relation to same, I note that the Condition 2 of PA Reg Ref 12/376 allows for a total of 18,876 tonnes of waste to be processed on the site, per annum. It is not proposed to exceed this limit under this proposed development. As such any traffic impact on the surrounding road network, as a result of processing up to 18,876 tonnes of waste per annum, have already been considered and accepted, and there is no evidence that the proposed development would have any greater impact on the surrounding road network than that already permitted.
- 8.5.5. I note that a Traffic Report was submitted to the Planning Authority in response to a Further Information request pertaining to car parking and site access arrangements, and I note the contents of the Traffic Report prepared by TPS Moran and Associates, submitted with the appeal response. In relation to car parking, I note that a total of 12 no car parking spaces are proposed, and this level of provision is supported by the submitted Traffic Report, which has utilised the TRICS database to determine the number of typical AM and PM trips resulting from the proposed development, as allowed for in Section 15.28 of the Development Plan. The Planning Authority have accepted that the provision of 12 number spaces is appropriate, and I see no reason to disagree with the PA on this issue, and I am satisfied that parking as proposed, and the justification for same, is in line with the provisions of Section 15.28 'Car Parking Standards' of the Development Plan.

#### **8.6. Impacts on existing workshop**

- 8.6.1. The third-party appellant has stated that the applicant has never considered the impact of the proposed development on appellant's workshop (Unit 1), which is located north and east of application site, and is access via the existing entrance.
- 8.6.2. In response the applicant has refuted the appellant's assertions in relation to any potential impact on this unit.
- 8.6.3. In relation to the above, I would note the appellant's building is located to the north-west of the site, within the same complex, and accessed via the security barriers. In relation to the relationship between the proposed development, and the workshop, there is no immediately obvious reason why the workshop cannot function with the proposed development in place. It is proposed to retain the portacabin in the current position, which to the west of the appellant's unit. This does not appear to hinder access to this unit in any meaningful way. The physical expansion of the waste

facility, in terms of new buildings and extensions to buildings, is taking place to the south and east of the site, away from the appellant's workshop. It is not immediately apparent that the expansion of the waste facility would hinder the use of this workshop, over and above any limitations that may or may not occur with the existing operation of the site. In relation to the security barriers in place, these do not form part of the application under consideration, and any impact of same is not a matter to be considered under this appeal, in my view.

**8.6.4. Visual Impact/Impact on Landscape**

8.6.5. The third-party appellant has set out that the proposed development will be visually prominent and that the new building is of substantive scale with adverse visual impact and cannot be assimilated within the visually prominent site.

8.6.6. The Planning Authority were of the view that there would be no significant visual impact having regard to the landscape plan.

8.6.7. The site falls with the Drumlin Farmland Landscape Type as defined in Section 6.5 Landscape Character Assessment (LCA) of the Monaghan Development Plan 2019-2025. I note the proposal comprises two new sheds, in addition to the two sheds existing on the site. Shorter views into the site from the local road are obscured to a large degree by the existing berm to the roadside edge. There will however be views gained towards the shed from further south along the local road. However, the buildings will appear as a cluster of buildings, of an appearance that is similar to the existing and in my view, there will only be a limited visual impact, and subsequently there will only be a limited impact on the landscape, as a result of the proposed development. I would further note that any visual impact will be mitigated by the provision of additional trees and hedgerow planting on the boundaries of the site.

**8.7. Material Contravention**

8.7.1. The appellants have stated that the proposed development would be a material contravention of the Development of the development plan, and specific reference is made to Objectives WMP 1 to WMP 11 of the Development Plan. It is also stated that the proposal fails to comply with Development Plan policies in relation to waste management planning. In relation to same I have considered the wording of policies WMP 1 to WMP 11 and I am not of the view the development as proposed would materially contravene any of these objectives. In relation to WMP11 specifically,

which refers to the location of new waste management infrastructure, I would note that the waste processing facility is an existing facility, and I am not of the view that this objective would be applicable in this instance.

## 8.8. Other Issues

- 8.8.1. Non-compliance with previous Conditions – The appellants have stated that previously imposed conditions have not been complied with. The applicant has refuted this assertion. I would note that issues of Enforcement are a matter for the Planning Authority and not within the remit of the Board.

## 9.0 Recommendation

- 9.1. I recommend that permission be **REFUSED** for the reasons and considerations below.

## 10.0 Reasons and Considerations

1. Having regard to the proximity of the site to the flood extents of the River Maghery to the south and south-east of the site, and having regard to the extent of reprofiling of the site proposed in close proximity to said flood extents, the Board is not satisfied that flood risks associated with the proposed development have been adequately addressed within the application documentation, and is of the view that a Flood Risk Assessment is required. The Board is, therefore, of the view that the proposed development is contrary to 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009)', is contrary to Policy FMP 2 (Flood Risk Management Policies) of the Monaghan County Development Plan 2019-2015, and is contrary to guidance as set out in Section 15.34 'Flooding' of same.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Ronan O'Connor  
Senior Planning Inspector

21<sup>st</sup> June 2024

## Appendix 1 - Form 1 EIA Pre-Screening

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	316951-23		
<b>Proposed Development Summary</b>	Retain position of portakabin office accommodation (previously granted under planning Ref: 16/446) and will consist of 2 waste separation buildings, office building, extension of waste facility yard to facilitate the proposed development and all associated site development works. Significant further information received in relation to the submission of an Environmental and Traffic Report as well as revisions to site boundaries.		
<b>Development Address</b>	Kincorragh, Smithborough, Co. Monaghan		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required



<b>Yes</b>	X	Schedule 5 Part 2 11. Other Projects (b) Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule	Annual intake limited to 18,876 tonnes (as per condition 2 of Ref 12/376).	Proceed to Q.4
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<b>4. Has Schedule 7A information been submitted?</b>		
<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## Appendix 2 - Form 2 EIA Preliminary Examination

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	316951-23	
<b>Proposed Development Summary</b>	Retain position of portakabin office accommodation (previously granted under planning Ref: 16/446) and will consist of 2 waste separation buildings, office building, extension of waste facility yard to facilitate the proposed development and all associated site development works. Significant further information received in relation to the submission of an Environmental and Traffic Report as well as revisions to site boundaries	
<b>Development Address</b>	Kincorragh, Smithborough, Co. Monaghan	
<b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<b>Nature of the Development</b> Is the nature of the proposed development exceptional in the context of the existing environment?  Will the development result in the production of any significant waste, emissions or pollutants?	<p>There is an existing waste facility on the site. The proposed development would not be exceptional having regard to this existing context.</p> <p>Localised construction impacts will be temporary. The proposed development would not give rise to waste, pollution or nuisances beyond what would normally be deemed acceptable.</p>	<p>No</p> <p>No</p>
<b>Size of the Development</b>	The size of the development is not exceptional in the context of the existing environment.	No

<p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>There would be no significant cumulative considerations with regards to existing and permitted projects/developments.</p>	<p>No</p>
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The development would not have the potential to significantly impact on an ecologically sensitive site or location. There is no hydrological connection present such as would give rise to significant impact on any European site or other sensitive receptors, noting that the indirect hydrological link that does exist to the Upper Lough Erne SPA, and other Natura 2000 sites beyond, is at least 20.5km downstream distance. The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from the existing waste facility.</p> <p>Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area. It is noted that the site is not designated for the protection of the landscape or natural heritage and is not within an Architectural Conservation Area.</p>	<p>No</p> <p>No</p>
<p><b>Conclusion</b></p>		

<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>		
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**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Appendix 3 – AA Screening

### Screening for Appropriate Assessment Screening Determination

#### Description of the project

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The proposed development comprises of the retention of position of portakabin office accommodation (previously granted under planning Ref: 16/446) as well as permission for 2 waste separation buildings, office building, extension of waste facility yard to facilitate the proposed development and all associated site development works.

The application is accompanied by an AA Screening Report prepared by Whitehill Environmental (dated October 2022). It is noted within this document that surface water from the site will be attenuated on site in an attenuation tank. The outflow is to the existing river along the southern boundary which will be controlled by a hydrobrake, limiting the flow to the existing greenfield run-off rate). It is also noted that a petrol interceptor will intercept the surface water prior to discharge into the attenuation tank.

The AA Screening Report concludes that there will be no significant effects upon any Natura 2000 sites and that there is no need to proceed with Stage 2 of the Appropriate Assessment process. I note that a response to the third party appeal prepared by Whitehall Environmental was included in the first party response to the appeal and I have had regard to the contents of same, and note the author is satisfied that the conclusions of the originally submitted AA Screening remain valid, notwithstanding the submissions of the third-party appeal.

The subject site is 7.3km south-east of Slieve Beagh SPA (Site Code 004167) and 8km north-east of Kilroosky Lough Cluster SAC (Site Code 001786) and these are the closest Natura 2000 sites to the application site. There is no evident hydrological link to these sites. There is a watercourse that runs to the south-eastern boundary of the site (Maghery River) which runs in a south-westerly direction before meeting the

Magheramey River, which in turn joins the River Finn, which eventually runs into the Upper Lough Erne SPA (Site Code UK9020071 – 14.2km south-west of the site and 20.5km downstream distance), the Lough Oughter and Associated Loughs SAC (Site Code 000007 located approximately 18.9km south-west of the site, 29km downstream distance) and to the Upper Lough Erne SAC (site code UK0016614, located 18.9km south-west and 29km downstream of the site)<sup>2</sup>.

I note the grounds of the third-party appeal which raises concerns in relation to sediment ingress into the nearby watercourse, which is a tributary of the Lough Erne SPA/SAC, and that there is a pathway from the site to the River Maghery. Potential pollution of the adjacent watercourse from hydrocarbons is also stated as a concern. It is stated that there is no Natura Impact Statement submitted with the application. I have taken this appeal submission into account in the AA Screening Assessment below.

#### **Potential impact mechanisms from the project**

The elements of the proposed development that would potentially generate a source of impact are:

##### **Construction Stage**

- The construction of the built structures and hardstanding on site including the infilling the land to facilitate same.

##### **Operational Stage**

- Run-off and surface water and general yard management
- Pollutants from the operation of the facility including from the waste handled on site and from vehicles associated with the use.
- Waste water generated on the site

There is an indirect surface water connection to the Upper Lough Erne SPA (Site Code UK9020071 – 14.2km south-west of the site and 20.5km downstream distance), the Lough Oughter and Associated Loughs SAC (Site Code 000007

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<sup>2</sup> With reference to the EPA Appropriate Assessment tool and to information as set out in the AA Screening Report.

located approximately 18.9km south-west of the site (29km downstream distance) and to the Upper Lough Erne SAC (site code UK0016614, located 18.9km south-west and 29km downstream of the site)

As such, potential impact mechanisms include those from surface water pollution from construction works (silt/ hydrocarbon/ construction related), resulting in a deterioration of water quality. At operational stage, contaminated surface water runoff from additional hard standing could enter the surface water network, as well as possible contaminants from the additional waste handled on the site. With reference to the flood risk considerations as set out in Section 7 of this report, the possibility of the reprofiled site being undermined by flood waters has not been ruled out with sufficient certainty and this could lead to pollutants and waste material entering the adjacent watercourse.

There is no evidence on file that the site that the site supports significant populations of any species or habitat of qualifying interest for any Natura 2000 sites. As noted in the applicant's AA Screening Report the dominant habitat within the application site is buildings and artificial surfaces, with the remainder of the site consisting of improved agricultural grassland habitat. The subject site is 7.3km south-east of Slieve Beagh SPA (Site Code 004167) and 8km north-east of Kilroosky Lough Cluster SAC (Site Code 001786). These are the closest Natura 2000 sites to the application site. I note that the Hen Harrier is the only qualifying interests of the Slieve Beagh SPA. With reference to the NPWS Site Synopsis for the Slieve Beagh SPA. I note that the site lies outside the foraging range of same, which is stated as approximately 5km. Furthermore, the habitats on site are those utilised by the Hen Harrier (which utilises open bog and moorland, young conifer plantations and hill farmland).<sup>3</sup>

There are no other readily apparent impact mechanisms that could arise as a result of this project.

### **European Sites at risk**

Table 1 European Sites at risk from impacts of the proposed project

<sup>3</sup> <https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004167.pdf>

<b>Effect mechanism</b>	<b>Impact pathway/Zone of influence</b>	<b>European Site(s)</b>	<b>Qualifying interest features at risk</b>
Indirect surface water pollution	Watercourse which eventually drains to the via surrounding surface water bodies.	Upper Lough Erne SPA (Site Code UK9020071)	Whooper Swan
Indirect surface water pollution	Watercourse which eventually drains to the via surrounding surface water bodies.	Lough Oughter and Associated Loughs SAC (Site Code 000007)	Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150]  Bog woodland [91D0]  Lutra lutra (Otter) [1355]
Indirect surface water pollution	Watercourse which eventually drains to the via surrounding surface water bodies.	Upper Lough Erne SAC (Site code UK0016614)	Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation  Old sessile oak woods with Ilex and Blechnum in the British Isles



			Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)  Otter Lutra lutra
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#### Step 4: Likely significant effects on the European site(s) 'alone'

**Table 2: Could the project undermine the conservation objectives 'alone'**

European Site and qualifying feature	Conservation objective (summary) <sup>4</sup>	Could the conservation objectives be undermined (Y/N)?	
		Indirect surface water pollution	Indirect groundwater pollution
Lough Oughter and Associated Loughs SAC (Site Code 000007)			
Otter Lutra lutra. [1355]	To maintain the favourable conservation condition of Otter (Lutra lutra)	No. see discussion below	No. see discussion below
Natural eutrophic lakes with Magnopotamion or Hydrocharition	To restore the favourable conservation condition of Natural eutrophic lakes with	No. See discussion below	No. see discussion below

<sup>4</sup> Full versions are available at [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO000007.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000007.pdf)

- type vegetation [3150]	Magnopotamion or Hydrocharition - type vegetation			
Bog woodland [91D0]	To maintain the favourable conservation condition of Bog woodland	No. See discussion below	No. see discussion below	
<b>Upper Lough Erne SPA (Site Code UK9020071)</b>				
Whooper Swan	To maintain each feature in favourable condition. <sup>5</sup>	No. See discussion below	No. see discussion below	
<b>Upper Lough Erne SAC (site code UK0016614)</b>				
Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation  Old sessile oak woods with Ilex and Blechnum in the British Isles  Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion,	To maintain (or restore where appropriate) the <ul style="list-style-type: none"> <li>Natural eutrophic lakes with Magnopotamion or Hydrocharition- type vegetation</li> <li>Old sessile oak woods with Ilex and Blechnum in the British Isles</li> <li>Alluvial forests with Alnus</li> </ul>	No. See discussion below	No. see discussion below	

<sup>5</sup> A full version can be found at: <https://www.daera-ni.gov.uk/sites/default/files/publications/doe/upper-lough-erne-spa-conservation-objectives-2015.pdf>

Alnion incanae, Salicion albae) Otter Lutra lutra	glutinosa and Fraxinus excelsior (Alno-Padion, <ul style="list-style-type: none"> <li>• Alnion incanae, Salicion alvae)</li> <li>• Otter Lutra lutra</li> </ul> to favourable condition. <sup>6</sup>			
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In relation to surface water quality, I would note that the proposed development will be in relatively close proximity to the watercourse to the south-east of the site (the River Maghera). However, at construction stage, standard best practice construction measures will prevent pollutants entering this watercourse. Even if these standard construction measures should not be implemented or should they fail to work as intended, or should the reprofiled site be undermined by flood waters, and pollutants/waste material enter the River Maghera, the potential indirect hydrological link represents a weak ecological connection, in my view, given the distance to the Upper Lough Erne SPA (Site Code UK9020071), which is 14.2km south-west of the site and 20.5km downstream distance), as well as the distance to the Lough Oughter and Associated Loughs SAC and the Upper Lough Erne SAC located approximately 18.9km south-west of the site (29km downstream distance). As such, any pollutants that should enter the watercourse will be subject to dilution and dispersion, rendering any significant impacts on water quality within the these Natura 2000 sites unlikely.

Storm water from hardstanding outside of the sheds will be directed to the existing and proposed drainage network. The detailed design of this storm water system will be designed to the satisfaction of the Planning Authority and this drainage system will be designed so as to prevent contaminated storm water entering this drain. As such, any significant impacts on water quality within the Upper Lough Erne SPA, the

<sup>6</sup> A full version can be found at: <https://www.daera-ni.gov.uk/sites/default/files/publications/doe/land-information-upper-lough-erne-conservation-objectives-2015.pdf>

Lough Oughter and Associated Loughs SAC and the Upper Lough Erne SAC, resulting from contaminated surface water run-off are unlikely. The imposition of this condition is a standard pollution control measure and would be imposed on any development of this nature, notwithstanding any proximity to, or any hydrological connections to, a Natura 2000 site, and is not a mitigation measure that is designed specifically to avoid impacts on any Natura 2000 site.

I would note that the best practice measures that would be adhered to at construction stage, and the relevant regulations and standard conditions that will be required to be adhered to at operational stage, are not mitigation measures intended to reduce or avoid any harmful effect on any Natura 2000 site and would be employed by any competent operator, notwithstanding any proximity to any Natura 2000 site.

Having regard to the discussion above, I conclude that the proposed development would have no likely significant effect 'alone' on any qualifying features of the Upper Lough Erne SPA, the Lough Oughter and Associated Loughs SAC and the Upper Lough Erne SAC. Further AA screening in-combination with other plans and projects is required.

#### **Likely significant effects on the European site(s) 'in-combination with other plans and projects'**

There is no evidence on file of any plans or projects that are proposed or permitted that could impact in combination with the proposed development and as such no in-combination issues arise.

I conclude, therefore, that the proposed development would have no likely significant effect in combination with other plans and projects on the qualifying features of any European sites. No further assessment is required for the project.

#### **Overall Conclusion- Screening Determination**

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information I conclude that that the proposed development would not have a likely significant effect on any European

Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

This conclusion is based on:

- Standard pollution controls that would be employed regardless of proximity to a European site, and effectiveness of same.
- Distance from European Sites.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.