



An  
Bord  
Pleanála

## Inspector's Report

**ABP-317354-23**

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<b>Development</b>	The installation of a bulk LPG storage tank and road tanker filling facilities, fire suppression gantry with associated water storage tank and pump house and ancillary site services.
<b>Location</b>	Bunnagee, Letterkenny, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	23/50427
<b>Applicant(s)</b>	Flogas Ireland Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant, subject to 11 conditions
<b>Type of Appeal</b>	Third Party -v- Decision
<b>Appellant(s)</b>	Bernard Whoriskey
<b>Observer(s)</b>	None

**Date of Site Inspection**

20<sup>th</sup> October 2023

**Inspector**

Hugh D. Morrison

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## Appendix 1 – EIA Pre-Screening and Pre-Examination

## 1.0 Site Location and Description

- 1.1. The site is located on Milk Isle, an area of low-lying land which is largely encircled by a meander in the River Swilly. Milk Isle lies c. 1.5km to the east of Letterkenny town centre, and to the north of that portion of the N56, which marks the eastern gateway to the town. The developed lands within it display a variety of industrial, commercial, recreational, and civic uses.
- 1.2. The L-11142 serves as a spine road to Milk Isle. It runs on a north/south axis between Uisce Eireann's WWTP at its head and the junction with the N56 at its foot. The site lies towards its northern end. It is accessed off the eastern side of a straight stretch of the local road. An existing gated access affords access to the main body of the site via the adjoining site to the south, which is in use as a fuel depot.
- 1.3. The site extends over an area of 0.385 hectares. Its main body is of regular shape, and it is enclosed on three of its four sides by steel palisade security fencing. This site is vacant at present having been last used as a transport depot. Its southern half has a concrete surface, and its northern half has a gravel surface. These treatments are paralleled to the west, where the site is presently continuous with a yard that serves an industrial/commercial unit, (the subject of an extant permission for a waste transfer station and a bring centre), i.e., the common boundary is undefined "on the ground". To the north lies the local NCT centre, and to the east lies a drainage swale, a dyke, and the River Swilly.

## 2.0 Proposed Development

- 2.1. The proposal would entail the installation of 60-tonne LPG propane tank, a blast wall, and a galvanised steel gantry goal post structure in the centre of the main body of the site. The tank would be sited to the east of the wall, and the goal post structure, which would serve the fuelling of tanker trucks with propane, to the west. The existing concrete slab surface would be extended by 96 sqm to provide a base to these items.
- 2.2. The proposal would also entail the installation of 300 cubic metre cylindrical water storage tank in the north-western corner of the main body of the site. This tank would be used in the event of a fire, and it would be accompanied by a pumphouse with a

floorspace of 26.68 sqm. The western boundary of the site would be enclosed by means of a steel palisade security fence.

- 2.3. As well as the existing and proposed fencing to the perimeter of the main body of the site, a 100mm high raised kerb would be provided along with a 100mm high ramp across the gated entrance from the adjoining site. The raised kerb would be accompanied on its inside by a filter drain, which would connect to a new stormwater drainage system. Prior to discharging via a sluiced outfall to the adjacent watercourse, this system would incorporate a full retention hydrocarbon separator.
- 2.4. The proposal would operate for 6 days a week between the hours of 07.00 and 18.00.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission was granted, subject to 11 conditions.

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

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

The case planner referred to the previous application 21/50032 and its subsequent appeal ABP-313721-22, which isolated the outstanding issue as being the relationship between the proposal and the adjoining European site. Under the current application, the applicant has resolved this issue to the satisfaction of the PA.

##### **3.2.2. Other Technical Reports**

Donegal County Council

- Building Control: Standard advice.
- Road Design: No objection.
- National Roads Office: While the site is partially within the TEN-T Priority Route Improvement Project, Donegal, Preferred Option Corridor, it would not impact the progression of this project.

### 3.3. Prescribed Bodies

TII: No observations.

### 3.4. Third Party Observations

See grounds of appeal.

## 4.0 Planning History

Site

- 21/50032: Similar proposal to the current one: Permitted by the PA, and the subject of a third-party appeal ABP-313721-22, which was upheld, and the application was refused by the Board for the following reason:

The proposal is located partly within the Lough Swilly SAC and in close proximity to the Lough Swilly SPA. In the light of the application and the appropriate assessment undertaken, the Board is not satisfied that the proposal, individually, or in combination with other plans or projects, would not have a significant effect on the aforementioned European sites, in view of their conservation objectives, due to the open nature of the eastern site boundary, which allows for the direct discharge of waters containing suspended solids and/or pollutants into the SAC, and so the Board is precluded from granting permission.

Adjoining site to the west

- 21/50424: (i) Erection of waste transfer station contained within the existing building, (ii) construction of civic amenity bring centre and all associated site works, and (iii) all associated site works and services, footpaths, upgrading of site access and boundary fence, bicycle parking racks, additional car parking spaces and landscaping: Permitted by the PA, and the subject of a third-party appeal ABP-313721-22, the Board granted permission on 7<sup>th</sup> December 2023.

Adjoining site to the south

- 02/6409: Oil storage depot: Permitted.

- 03/6275: Addition of 1 no. underground tank and 1 no. overground tank, relocation of water tank, revised yard layout, and construction of two-storey administration building, accompanied by a septic tank and percolation area: Permitted.
- 05/88044: Retention of 2 no. pump islands with 4 no. dispensing pumps for sale of fuel to the public, and associated changes to the site. Proposed 2 no. pump islands with 4 no. dispensing pumps for sale of fuel to the public, and 3 no. car wash bays, and associated ground works: Permitted.
- 08/80104: Additional 5-year period for 05/88044: Permitted.
- 14/80008: Additional 3-year period for 05/88044: Permitted.
- 17/50954: Additional 3-year period for 05/88044: Permitted.

## 5.0 Policy Context

### 5.1. Development Plan

Under Map 12.1B of the Donegal County Development Plan 2018 – 2024, the site is zoned established development, except for the strip, which lies outside its eastern fence line, which is zoned open space. Under Map 5.1.6, the reserved corridor for the proposed N56 Letterkenny Relief Road is shown as “clipping” the south-western corner of the site. Map 12.3 shows the line of this road abutting this corner only. It also shows the site as lying within a wider area of lands, which are subject to a special planning requirement.

Under the Letterkenny Plan and Local Transport Plan 2023 – 2029, which came into effect on 3<sup>rd</sup> January 2024, the above cited zonings and road corridor reservation persist.

### 5.2. Natural Heritage Designations

- Lough Swilly SAC (002287)
- Lough Swilly SPA (004075)

### 5.3. EIA Screening

Please refer to the pre-screening and pre-examination exercises in the appendix to this report. Please note in this respect that propane is a by-product of natural gas processing and crude oil refining and so it is a fossil fuel.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

Environmental protection

- The PA's decision should have been deferred until the advice of the Wildlife Section of the Development Applications Unit of the Department of Housing, Local Government and Heritage (DoHLGH) had been received.

Traffic safety

- Attention is drawn to the hazardous right turn manoeuvre involved in accessing the L-11142 from the four-lane N56. The undertaking of this manoeuvre by HGVs attending the proposal would exacerbate this attendant hazard. Under Policy LK-T-P-2 of the CDP, the PA aspires to an 80 kmph speed limit along this portion of the N14, and the elimination of right-hand turning options. In these circumstances, no intensification of traffic, which requires to make these manoeuvres should be allowed.

EIAR

- Attention is drawn to the PA's dismissal of the need for an EIAR, without any examination of the criteria listed under Schedule 7 of the Planning and Development Regulations, 2001 (as amended). The view is expressed that a sub-threshold EIAR should have been requested of the applicant.

Conclusion

- Attention is drawn to previous planning permissions that have been granted for end-of-life vehicle dismantling, ready-mix concrete, oil distribution, and waste management operations within Milk Isle, an environmentally sensitive



area. No further environmentally threatening uses should be allowed in this area.

## 6.2. Applicant Response

### Planning history

- By way of response to the refusal of 21/50032, the applicant's NIS sets out comprehensive mitigation measures for both the construction and operational phases of the proposal, which would ensure that no impacts on the integrity of any European sites would arise.

### Environmental protection

- Under Part XAB of the Planning and Development Act, 2000 (as amended), the PA is the competent authority for undertaking appropriate assessment.
- The view is expressed that the DoHLGH is more likely to respond where there is a particular concern with a proposal.

### Traffic safety

- Policy LK-T-P-2 of the CDP lies outside the scope of the current proposal.
- Traffic generation would be low, i.e., 1 no. articulated lorry trip a week, and 2 no. rigid lorry trips daily. These vehicular movements would be highly unlikely to add to local traffic safety risks. They would entail left hand turning manoeuvres, as well as right hand turning manoeuvres from the N56. Any future improvements to road safety on the N56 would be welcome.

### EIAR

- The proposal would fall well below the threshold for mandatory EIA.
- The proposal would be located within an existing industrial area, and the site is already laid out for access/egress, and it is partially paved. Under the construction phase of this proposal, the paved area would be extended by 96 sqm, prior to the installation of the structures that it would comprise. Likewise, only limited excavations would be required over a 4-week period for the improved surface water drainage system. Under the operational phase, the low intensity nature of the use is illustrated by the occurrence of the

aforementioned vehicular movements, along with occasional ones for maintenance purposes. In the light of these factors, the proposal would not have any likely significant effects on the environment, and so the need for a sub-threshold EIAR does not arise.

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

The PA relies upon the case planner's report, which informed its decision on the current application.

### **6.4. Observations**

None

### **6.5. Further Responses**

None

## **7.0 Assessment**

7.1. I have reviewed the proposal in the light of the Donegal County Development Plan 2018 – 2024 (CDP) and the Letterkenny Plan and Local Transport Plan 2023 – 2029 (LPLTP), relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) The question of EIA,
- (ii) Land use,
- (iii) Traffic and access,
- (iv) Water, and
- (v) Appropriate Assessment.

#### **(i) The question of EIA**

7.2. Under Item 3(c) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2023, the appellant expresses the view that the

proposal should be the subject of a sub-threshold EIAR. Item 3(c) refers to “Installations for surface storage of natural gas, where the storage capacity would exceed 200 tonnes.” Under the proposal, 60 tonnes would be stored.

7.3. Item 3(e) of Part 2 of Schedule 5 to Article 93 of the aforementioned Regulations refers to “Installations for the surface storage of fossil fuels, where the storage capacity would exceed 100,000 tonnes.” Under the proposal, propane would be stored, as distinct from natural gas, i.e., propane is a hydrocarbon gas that is liquified through compression and stored in tanks, and only when released does it vaporise into a gas. I, therefore, take the view that, under the proposal, it should be categorised under Item 3(e) rather than 3(c), and so the proposed storage of 60 tonnes would fall well below the stated threshold. Alternatively, if the view is taken that it should be categorised under Item 3(c), then the proposed storage of 60 tonnes would still be less than half of the stated threshold, i.e., the normal prompt for a exploring the need for a sub-threshold EIAR.

7.4. The applicant has responded to the appellant. It draws attention to the sub-threshold scale of the proposal, discussed above. It also draws attention to the following factors:

- The site lies within an industrial area, and it has been previously developed,
- Under the proposal, only a small additional area of the site would be paved, and
- The proposed storage use would be a low intensity use of the site, as illustrated by the small number of vehicle movements that it would generate.

7.5. I conclude that the proposal does not need to be the subject of an EIAR.

#### **(ii) Land use**

7.6. Under the CDP and LPLTP, the working site is zoned established development. As indicated above, the site lies within an industrial area, and it was previously used as a “transport yard for haulage”. Insofar as the proposed use would generate HCV movements, it would be similar to this previous use. Insofar as the adjoining site to the south is in use as an oil storage depot, the proposed storage tank and attendant structures would be similar to this use.

7.7. Under the CDP and LPLTP, the reserved corridor for the proposed N56 Letterkenny Relief Road is shown as “clipping” the south-western corner of the site. Significantly, while the National Roads Office confirms that the site is partially within the TEN-T Priority Route Improvement Project, Donegal, Preferred Option Corridor, it states that the proposal would not impact the progression of this project.

7.8. I conclude that the proposal would raise no land use objections.

**(iii) Traffic and access**

7.9. Under the proposal, HCV movements would be generated at the rate of 1 no. articulated lorry trip a week, and 2 no. rigid lorry trips daily. Beyond these movements there would be occasional vehicle movements for the purpose of safety checks and maintenance.

7.10. The site lies towards the head of a cul-de-sac formed by a local road (L-11142), which serves Milk Isle. This local road runs on a north/south axis. It is accessed off the N56. While arriving drivers can turn right off the N56 onto the L-11142, departing drivers are prohibited from turning right from the L-11142 onto the N56. Under Policy LK-T-P-2 of the CDP, right hand turns off the N56 would be eliminated along the stretch of road in question. Such elimination would be practical insofar as this stretch of the N56 is “bookended” by roundabouts to the east (the “Dry Arch” roundabout) and to the west (the “Polestar” roundabout).

7.11. The appellant expresses concern that, under the proposal, increased usage of the junction between the N56 and the L-11142 would arise, including the hazardous right hand turning movements that the CDP is committed to eliminating.

7.12. The applicant has responded to the appellant’s concern by drawing attention to the small number of HCV movements that the proposal would generate at the said junction. It recognises that no significant increase in vehicle movements would ensue, and it welcomes any improvements to the N56, which may be forthcoming.

7.13. I concur with the applicant’s response. Additionally, during my site visit, I observed that improvements to the N56 are being undertaken at present.

7.14. The site is accessed via the adjoining oil storage depot. Two pairs of double gates serve the depot, and a pair of double gates affords access/egress to the site. These

access/egress arrangements would be satisfactory for the volume of traffic anticipated.

7.15. I conclude that the proposal would raise no traffic or access issues.

**(iv) Water**

7.16. The site is connected to the public water mains. Under the proposal, a firefighting deluge water storage tank (300 cubic metres) would be provided, along with a pumphouse and an underground line, which would provide a feed to the tanker fill deluge gantry (cf. drawing no. 23-01-01).

7.17. Under the proposal, the need for wastewater facilities would not arise, i.e., no staff welfare facilities are proposed.

7.18. The applicant advises that the site has not, to its knowledge, been the subject of flooding in the past. Under the OPW's flood maps, the working area of the site is shown as only been at risk of flooding under the fluvial low probability flood risk scenario of 0.1% AEP. Furthermore, during my site visit, I observed that the drainage swale to the east of the site is at an appreciably lower level than the site, and it is separated from the River Swilly by a substantial dyke. Under Section 2.4 of the applicant's Surface Water Management Plan, these factors are acknowledged, and the conclusion is reached that "It is extremely unlikely that the drainage infrastructure of the site could be impacted by flooding from the River Swilly." Accordingly, I consider that the site is not at any significant risk of flooding.

7.19. Under the proposal, the existing stormwater drainage system, which serves both the existing site and the adjoining yard area to the west would be separated. Thus, the working area of the current application site would be the subject of a new stormwater drainage system, which would include a filter drain around the site's perimeter, underground drains served by gullies and manholes, and a full retention separator, which would be sited prior to a sluiced outfall to the drainage swale to the east of the site.

7.20. I conclude that under the proposal no water issues would arise.

## **(v) Appropriate Assessment**

### **Compliance with Article 6(3) of the EU Habitats Directive**

7.21. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have had a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal would not adversely affect the integrity of the European site before planning consent can be given.

### **Screening the need for appropriate assessment**

7.22. The applicant has submitted a Stage 1 Screening Appraisal for AA which is dated 29<sup>th</sup> November 2022.

7.23. The screening appraisal was prepared in line with current best practice guidance and provides a description of the development and identifies European sites within a possible zone of influence of the development. This appraisal concludes, on Page 25, as follows:

*Having regard to the methodology employed and the findings of this exercise, it has been concluded that Stage 2 AA is required, as it cannot be excluded, on the basis of objective information (without the use of mitigation measures), that the proposed project individually, or in combination with other plans or projects, will have a significant effect on Lough Swilly SAC and Lough Swilly SPA as European Sites. A NIS will therefore be prepared.*

7.24. Having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

7.25. The applicant provides a description of the project on Page 9 of its screening appraisal. This description states the following:

*Installation of a bulk LPG storage tank and road tanker filling facilities, fire suppression gantry with associated water storage tank and pump house and ancillary facilities.*

- 7.26. The applicant also provides a description of the site on Page 9 of its screening appraisal, which draws attention to its area of 0.31 hectares, and its location adjoining the site of Barry Fuels Ltd (trading as Tinney's Oil). It also draws attention to the presence of a drainage channel to the east, which acts as the backwater drainage channel for the flood embankment to the River Swilly.
- 7.27. Taking account of the characteristics of the development in terms of its location and the nature of operations, the following issues are considered for examination in terms of implications for likely significant effects on European sites:
- Habitat loss, alteration, or deterioration,
  - Water quality and habitat deterioration, and
  - Aerial noise and visual disturbance or displacement.
- 7.28. The site variously adjoins and is adjacent to two European sites, i.e., Lough Swilly SAC (002287) and Lough Swilly SPA (004075).

**Lough Swilly SAC (002287)**

- 7.29. The qualifying interests and conservation objectives, i.e., M – maintain their favourable conservation condition, or R – restore their favourable conservation condition, are listed below.

*Estuaries [1130] – M*

*Coastal lagoons [1150] – R*

*Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330] – R*

*Molinia meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) [6410] – R*

*Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0] – R*

*Lutra lutra (Otter) [1355] – R*

**Lough Swilly SPA (004075)**

7.30. The qualifying interests of Lough Swilly SPA are set out below along with their conservation objectives, i.e., To maintain (M) or restore (R) their favourable conservation condition.

- Great Crested Grebe (*Podiceps cristatus*) [A005] – M
- Grey Heron (*Ardea cinerea*) [A028] – M
- Whooper Swan (*Cygnus cygnus*) [A038] – M
- Greylag Goose (*Anser anser*) [A043] – M
- Shelduck (*Tadorna tadorna*) [A048] – M
- Wigeon (*Anas penelope*) [A050] – M
- Teal (*Anas crecca*) [A052] – M
- Mallard (*Anas platyrhynchos*) [A053] – M
- Shoveler (*Anas clypeata*) [A056] – M
- Scaup (*Aythya marila*) [A062] – M
- Goldeneye (*Bucephala clangula*) [A067] – M
- Red-breasted Merganser (*Mergus serrator*) [A069] – M
- Coot (*Fulica atra*) [A125] – M
- Oystercatcher (*Haematopus ostralegus*) [A130] – M
- Knot (*Calidris canutus*) [A143] – M
- Dunlin (*Calidris alpina*) [A149] – M
- Curlew (*Numenius arquata*) [A160] – M
- Redshank (*Tringa totanus*) [A162] – M
- Greenshank (*Tringa nebularia*) [A164] – M
- Black-headed Gull (*Chroicocephalus ridibundus*) [A179] – M
- Common Gull (*Larus canus*) [A182] – M
- Sandwich Tern (*Sterna sandvicensis*) [A191] – M
- Common Tern (*Sterna hirundo*) [A193] – M
- Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395] – M
- Wetland and Waterbirds [A999] – M



- 7.31. The working site does not lie within either the SAC or the SPA. Accordingly, under the proposal, no direct habitat loss would occur, and no indirect habitat loss would occur, i.e., the existing developed nature of the site is such that it is unlikely to support any mammal or bird species.
- 7.32. During both the construction and operational phases of the proposal, surface water run-off from the site has the potential to result in contamination of connected water bodies, i.e., the drainage swale, which flows into the River Swilly. Such water could leave the site via the existing inadequate stormwater drainage system or under the palisade fence along the eastern boundary of the site.
- 7.33. During the construction and operational phases, contaminated water could affect the following qualifying interests:
- In the SAC: Estuaries, Atlantic salt meadows, and Otter, and
  - In the SPA: All the bird species.

Additionally, during the construction phase, aerial noise could affect the following qualifying interests:

- In the SAC: Otter, and
  - In the SPA: All the bird species.
- 7.34. In-combination effects from other development sites were considered in the NIS. Extant permission (21/50424 & ABP-313721-22) for a waste transfer station on the adjoining site to the west was identified as having the potential to give rise to significant in-combination effects with the current proposal.
- 7.35. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.
- 7.36. The 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 either individually or in combination with other plans and projects could have a significant effect on European sites Nos. 002287 and 004075, in view of their conservation objectives, and appropriate assessment is therefore required.

## **The NIS**

7.37. The applicant's NIS is entitled "Stage 2 NIS", and it is dated 29<sup>th</sup> November 2021. The NIS examines and assesses potential adverse effects of the proposed development on the following European sites:

- Lough Swilly SAC (002287), and
- Lough Swilly SPA (004075).

7.38. The NIS was prepared in line with current best practice guidance, and it concluded that "Having applied mitigation measures to manage and reduce the risk of construction and operational phase water quality effects and noise disturbance, there will be no adverse effects upon the integrity of any of the European Sites concerned and no scientific doubt remains as to the absence of such effects."

7.39. Having reviewed the NIS, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation of the following European sites alone, or in combination with other plans and projects:

- Lough Swilly SAC (002287), and
- Lough Swilly SPA (004075).

## **Appropriate assessment of implications of the proposed development on each European site**

7.40. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could have resulted in significant effects are assessed, and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

7.41. The following sites are subject to appropriate assessment:

- Lough Swilly SAC (002287), and
- Lough Swilly SPA (004075).

The qualifying interests and conservation objectives for these sites are set out above under my screening exercise.

7.42. The main aspects of the proposed development that could adversely affect the conservation objectives of European sites are, during the construction and operational phases of the project, contaminated water leading to a loss of water quality downstream, and, during the construction phase of the project, aerial noise disturbance.

7.43. The qualifying interests that could be affected by a deterioration in water quality would be as follows:

- In the SAC: Estuaries, Atlantic salt meadows, and Otter, and
- In the SPA: All the bird species.

Additionally, during the construction phase, aerial noise could affect the following qualifying interests:

- In the SAC: Otter, and
- In the SPA: All the bird species.

7.44. Under Section 6.5 of its NIS, the applicant sets out a series of mitigation measures, which would address issues arising during the construction and operational phases.

During the construction phase, the need to avoid contaminated water flowing downstream into the River Swilly would be addressed by means of standard best practice methodologies and protocols for:

- Site drainage arrangements, which under Section 2.5.3 of the applicant's Surface Water Management Plan would be undertaken at the outset of the construction phase,
- The storage and handling of materials, plant and equipment, and waste,
- Refuelling and dealing with leaks and spillages,
- Dust minimisation and interception, and
- The laying of concrete.

During the construction phase, the need to limit noise would be addressed by means of standard best practice methodologies and protocols for:

- Operating of plant and machinery,

- Maintenance of plant and machinery, and
- Working hours.

During the operational phase, the need to avoid contaminated water flowing downstream into the River Swilly would be addressed by the following measures:

- The installation of a high capacity, full retention interceptor,
- The installation of a reconfigured stormwater drainage system,
- The provision of a filter drain (500mm wide and 500mm deep) along the northern and eastern boundaries of the site,
- The provision of a 100mm high kerb to the perimeter of the site, and a 100mm high ramp to the entrance of the working site, and
- Regular inspection and maintenance of the stormwater drainage system.

The above delineated drainage arrangements, in particular the filter drain, kerb, and ramp, would overcome the reason for refusing permission to the previous comparable application for the site (21/50032 & ABP-311514-21).

- 7.45. The applicant expresses confidence that, with the above cited mitigation measures in place, no residual impacts would arise.
- 7.46. In-combination effects are considered by the NIS. The extant permission (21/50424 & ABP-313721-22) for a waste transfer station on the adjoining site to the west. This proposal would have its own stormwater drainage system, and so the two sites would be drained independently of one another. No significant in combination effects would ensue.
- 7.47. I consider that the above cited mitigation measures would ensure that the proposal would not adversely affect the Lough Swilly SAC and Lough Swilly SPA. Likewise, I consider that no significant in-combination effects would ensue on these European Sites.
- 7.48. In the light of the foregoing considerations, I am able to ascertain with confidence that the project would not adversely affect the integrity of the Lough Swilly SAC and the River Lough SPA.

7.49. The appellant expresses the view that the application should have been deferred by the PA until the advice of the Wildlife Section of the Development Applications Unit of the Department of Housing, Local Government and Heritage (DoHLGH) had been received. I note in this respect the same body was consulted again at the appeal stage and once more no advice was received. I consider, if it had concerns about the project and nearby European sites, then it would have been likely to have responded, and so it is reasonable for the Board to proceed in the absence of a response.

7.50. The project has been considered in light of the assessment of the requirements of Sections 177U and 177V of the Planning and Development Act 2000, as amended. Having carried out screening for appropriate assessment, it was concluded that it may have a significant effect on the Lough Swilly SAC (002287) and the Lough Swilly SPA (004075). Consequently, an appropriate assessment is required of the implications of the project on the qualifying feature of this site in light of its conservation objective.

On the basis of the information provided with the application and appeal, including the NIS, and in light of the assessment carried out above, I am satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European Sites Nos. 002287 and 004075, in view of the site's conservation objectives.

This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

7.51. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including mitigation measures in relation to the conservation objectives of the Lough Swilly SAC and the Lough Swilly SPA.
- Detailed assessment of in combination effects with other plans and projects.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the River Lough SAC and the River Lough SPA.

## 8.0 Recommendation

8.1. That permission be granted.

## 9.0 Reasons and Considerations

Having regard to the Donegal County Development Plan 2018 – 2024 and the Letterkenny Plan and Local Transport Plan 2023 – 2029, it is considered that, subject to compliance with conditions, the proposed use of the site would be appropriate under the established development zoning of the site and surrounding sites, and it would be compatible with the uses on these sites. Traffic generated by this use would be capable of being accommodated on the public road network, and access arrangements would be satisfactory. Subject to the installation of new on-site drainage arrangements, no water issues would arise. These arrangements would, likewise, provided the needed mitigation to ensure that the proposal would have no adverse affects on the integrity of the neighbouring European Sites. This proposal would thus accord with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. <b>Reason:</b> In the interest of clarity.
2.	(a) The development shall proceed in accordance with Section 2.5.3 of the Surface Water Management Plan for the site, entitled “Proposed timing of works”.

	<p>(b) The proposed kerb to the perimeter of the site and the ramp for the access point to the working area of the site shall be constructed at the same time as the works described In Section 2.5.3.</p> <p><b>Reason:</b> In order to prevent uncontrolled surface water run-off from the site, in the interest of safeguarding water quality in the River Swilly.</p>
3.	<p>The developer shall pay to the planning authority a financial contribution of €712 (seven hundred and twelve euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

*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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Hugh D. Morrison  
Planning Inspector

12<sup>th</sup> February 2024

**Appendix 1**  
**EIA Pre-Screening**  
**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-317354-23		
<b>Proposed Development Summary</b>	The installation of a bulk LPG storage tank and road tanker filling facilities, fire suppression gantry with associated water storage tank and pump house and ancillary site services.		
<b>Development Address</b>	Bunnagee, Letterkenny, Co. Donegal		
<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>	No further action required	
<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) or does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>		Class 3(e) of Part 2: Propane as a fossil fuel comes within this Class.	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>
		N/A	<b>Conclusion</b>
<b>No</b>			No EIAR or Preliminary Examination required
<b>Yes</b>		Threshold is 100,000 tonnes, proposal is for 60 tonnes.	Proceed to Q.4



**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

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

## EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-317354-23	
<b>Proposed Development Summary</b>	The installation of a bulk LPG storage tank and road tanker filling facilities, fire suppression gantry with associated water storage tank and pump house and ancillary site services.	
<b>Development Address</b>	Bunnagee, Letterkenny, Co. Donegal	
<p><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></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site lies within an existing industrial area.</p> <p>The proposal is for a storage facility only.</p>	<p>No</p> <p>No</p>
<p><b>Size of the Development</b></p> <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>Site is adjacent to an existing tank farm.</p> <p>Proposal is small within its context.</p>	<p>No</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 site adjoins European sites, and so, under the proposal, it is the subject of AA.</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>	<p><b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b></p> <p><del>Schedule 7A Information required to enable a Screening Determination to be carried out.</del></p>	<p><b>There is a real likelihood of significant effects on the environment.</b></p> <p><del>EIAR required.</del></p>

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

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

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)