



An
Bord
Pleanála

Inspector's Report

ABP-317604-23

Development	Relocation of a cabin and associated decking used as a holiday letting unit, wastewater treatment system to be decommissioned and wastewater treatment system installed
Location	Loughanmore, Jenkinstown, Co. Louth, A91 Y443
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	2360091
Applicants	Ronan and Samantha Kelly
Type of Application	Planning Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellants	Ronan and Samantha Kelly
Observers	None
Date of Site Inspection	05 January 2024
Inspector	Sinéad O'Connor

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Appendix 1 – Form 1 and Form 2.

1.0 Site Location and Description

- 1.1. The site is irregular in shape and is located on the southern side of the R173, circa 100 metres east of Lordship rural node. The site forms part of the Loughanmore Court landholding that accommodates a dwelling, farm buildings and stables, open-sided shed, sand arena, agricultural fields and part of Lough Anmore. I note that much of the subject site had previously been in quarry use and has been restored to agricultural use. The southern section of the site occurs within the Dundalk Bay Special Area of Conservation (SAC) and Special Protection Area (SPA).
- 1.2. The site comprises the gated entrance from R173, a private gravel lane that runs approximately north to south across the landholding, part of a fenced area under grass, and a single storey timber clad residential cabin with a perimeter deck and hot tub on a levelled gravel area. There is a fuel tank and electricity generator located circa 50 metres north of the existing cabin, on the east side of the lane. Stones and boulders have been arranged to provide informal steps from the southern boundary of the site onto the beach.

2.0 Proposed Development

- 2.1. Permission is sought to relocate the single storey, studio cabin (26 sq.m.) for holiday let and ancillary wastewater treatment system within the grounds of Loughanmore Court. The proposed cabin will connect to public potable water infrastructure. It is proposed to decommission the existing wastewater treatment system serving the cabin at the south of the site.
- 2.2. I note that the existing cabin and ancillary services at the site do not have planning permission. From the documentation submitted, it is my understanding that the word “relocation” is used in the public notices and application form to give surety to the competent authority that the existing cabin will be removed from its current location. For clarity, I have based this assessment on the provision of a cabin at the development site shown, with no assessment of the merits of the existing unauthorised development.

3.0 Planning Authority Decision

3.1. Decision

3.2. On the 23 June 2023 Louth County Council issued a Notification of Decision to refuse planning permission for the proposed development. The 5 no. reasons for refusal are repeated below for reference:

1. The site is located within rural countryside and it is the policy of the Planning Authority to guide tourist accommodation into serviced centres and restrict development in the rural areas. The policy objective of TOU 30 of the Louth County Development Plan 2021-2027, as varied, is to consider the provision of glamping/camping accommodation outside of settlements only where it can be demonstrated that there is a justifiable tourist product/demand or where it is proposed to re-use existing vernacular buildings and the need to develop in a particular area must be balanced against environmental, social and cultural impacts of the development and benefits to the local community. In such cases, documentary evidence shall be submitted to substantiate the proposed development and each individual application will be assessed on its merits. The applicant however has failed to demonstrate compliance with the policy objective of TOU 30 as set out in the Development Plan, and as such, it is considered that the proposed development would interfere with the character of this rural area and coastal location and set an undesirable precedent for similar development in the vicinity and would be contrary to the proper planning and sustainable development of the area.
2. The application given its location adjacent to and overlap with European Sites Dundalk Bay Special Protection Area & Dundalk Bay Special Area of Conservation is contrary to policy objective NGB 3 of the Louth County Development Plan 2021– 2027, as varied, which seeks to protect and conserve European Sites designated under the EU Habitats and Birds Directive. The Planning Authority cannot be satisfied that the proposed development and development undertaken having regard to its location and proximity with the above named European sites and their qualifying interests, in particular in the absence of an assessment of this site in respect of

wintering birds and ex-situ sites, and their relationship with the SPA and potential impacts on the qualifying interests of the European Sites, individually, or in combination with other plans or projects would not be likely to have a significant effect on these European Sites in view of the sites conservation objectives. In such circumstances, the Planning Authority is precluded from granting permission for the subject development.

3. Policy ENV 56 of the Louth County Development Plan 2021 – 2027, as varied, seeks to “protect the special character of the coast by preventing inappropriate development”, and “New development, wherever possible, shall be accommodated within existing developed areas and be climate resilient in their design”. The proposed location is some 205m north of the existing site and it is considered that the proposed site and development will result in an intrusive encroachment of physical development at this location and would militate against the preservation of the rural environment and would set an undesirable precedent for other similar inappropriate development by reason of site selection. Accordingly to grant permission would result in an intrusive encroachment of physical development into the coastline landscape and would therefore be contrary to Policy ENV 56 of the Plan and is contrary to the proper planning and sustainable development of the area.
4. It has not been demonstrated through the submitted details that the existing location of cabin to be relocated and development work to remove the cabin and restore the land as part of this planning application is compliant with policy ENV 52 of the Louth County Development Plan 2021-2027, as varied, which has the policy objective to ensure that the County’s natural coastal defences (beaches, sand dunes, salt marshes and estuary lands) are protected and to ensure they are not put at risk by inappropriate works or development. As such, the development is contrary to Policy ENV 52 of the Plan and contrary to the proper planning and sustainable development of the area.
5. Policy ENV 50 of the Louth County Development Plan 2021 – 2027, as varied, requires that all proposed developments within 100m of the coastline of Louth, outside the main settlements (Levels 1-4) submit a Coastal Erosion Assessment Report. Whilst the proposed new location is some 205m north of

the existing site, the works undertaken and proposed to be undertaken to restore the land are within 100 metres of the coastline and hence would require the applicant to present such a report. Accordingly in the absence of such a report and having regard to the objectives of Policy ENV 50 which states that all new development will be prohibited, unless it can be objectively established based on the best scientific information at the time of the application, and in the absence of any scientific information to the contrary, the Planning Authority is not satisfied that the applicant has demonstrated compliance with policy ENV 50 and as such it is considered that the development would be contrary to the proper planning and sustainable development of the area.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The Louth County Council Planning Report dated 23 June 2023 forms the basis of the Planning Authority's decision. The key points of the report are summarised below:

- The applicant has not provided sufficient information to facilitate Appropriate Assessment screening. The P.A. is not satisfied that the development would not have significant likely effects on the Dundalk Bay SAC and SPA and, therefore, the P.A. is precluded from granting planning permission.
- As this proposed development includes the retention of development, substitute consent will be required from An Bord Pleanála.
- Owing to its small size, the proposed development is assessed as a glamping pod rather than self-catering accommodation.
- Compliance with Policy TOU 30, in respect of glamping/camping accommodation, has not been demonstrated.
- It has not been demonstrated that the site is suitable for tourist accommodation or that there is a requirement for the development at this location.

- Owing to its location remote from the public road and any tourist attraction, the development is car dependant.
- The development works encroach on the rural countryside.
- Compliance with Policies ENV 52 and 56, in respect of impacts on coastal environments, has not been demonstrated.
- A Coastal Erosion Assessment Report has not been submitted in respect of works to remove the existing cabin and associated development, as required under Policy ENV 50.
- The development sets a highly undesirable precedent for the area.
- Adequate sightlines are provided, and no intensification of the existing access would occur due to the proposed development.

3.3.2. Other Technical Reports

Waste Management & Environment: Report dated 19 June 2023 requests Further Information in respect of the layout of the WWTS.

Physical Development Section: Report dated 21 June 2023. No objection subject to conditions.

3.4. Prescribed Bodies

Department of Housing, Local Government and Heritage: Report dated 20 September 2023. The submitted AA screening report does not provide information on the occurrence of QI's or other bird species at the site, Lough Anmore, or in the immediate vicinity of the lands. No bird counts were undertaken to inform the report. Removal of the unauthorised development would likely have a beneficial effect on the European Sites by minimising disturbance.

Uisce Eireann: Submission dated 10 June 2023. No objection subject to condition.

An Taisce: No Response

The Heritage Council: No Response

3.5. Third Party Observations

None.

4.0 Planning History

The planning history of the overall landholding can be summarised as follows:

- P.A. Ref. 991013: On 24 June 2000 planning permission was granted for a sand quarry and quarry reinstatement. This application included a portacabin at the southern boundary of the site.
- P.A. Ref. 06485: On 10 July 2006 planning permission was granted to extend the existing quarry northwards.
- P.A. Ref. RQ30, ABP Ref. QV15.QV0166: On 13 September 2012 an application for review was lodged in respect of a quarry. This application was withdrawn 4 June 2013.
- P.A. Ref. RQ30, ABP Ref. QB15.QB0472: On 24 August 2012 An Bord Pleanála received notification of the Section 261A(3)(a) Notice issued by Louth County Council in respect of a quarry.
- P.A. Ref. 16241: On 3 October 2016 planning permission was granted to extend the existing dwelling, construct stables and storage rooms, construct an entrance gate, retain the conversion of the cattle shed to 10 no. stables, retain stone wall and pillar to the north of the dwelling, and to upgrade the WWTS, all at the northern end of the site.
- P.A. Ref. 17193: On 06 June 2017 planning permission was granted for the retention and completion of the entrance gates and walls, retention of a lean-to storage shed at the stables, and the retention of walls to the west of the dwelling.
- P.A. Ref. 211275: On 2 December 2021 retention permission and planning permission was refused for the retention and completion of a part-built agricultural shed (682 sq.m.).
- P.A. Ref. 22753: On 14 November 2022 retention planning permission was refused for a beach hut, and retention and completion of partially constructed agricultural shed. The 7 no. reasons for refusal are summarised as follows;

- Absence of Appropriate Assessment Screening/Natura Impact Statement and inability to rule out potential impacts on the Dundalk Bay SAC and SPA.
- Failure to demonstrate compliance with Rural Policy Zone 2 qualifying criteria as per Table 3.5 of the Development Plan.
- Encroachment of the development on the coastline.
- Failure to illustrate that the WWTP accords with the EPA Code of Practice, 2021.
- Failure to illustrate that surface water can be managed at the site.
- Absence of detail regarding effluent and waste storage at the existing shed.
- Failure to submit a Coastal Erosion Assessment Report.

At the time of my site visit, 5 January 2024, both the unauthorised agricultural shed and cabin were in place and appear to be in use. I note that the existing unauthorised cabin appears identical to the proposed cabin.

The planning history documents refer to the following planning enforcement files at and adjoining the subject site:

- P.A. Ref. 20/U261: Unauthorised short term let dwelling, site works and ancillary wastewater treatment system. Warning letter issued February 2021. Enforcement Notice served on 17 November 2021 seeking the applicant to remove the unauthorised works.
- P.A. Ref. 21/U022: Alleged unauthorised use of dog kennels for use as residential accommodation. Warning Letter issued in October 2021.
- P.A. Ref. 21/U050: Alleged unauthorised use of a residential property for use as a commercial wedding venue. Warning letter sent April 2021.

5.0 Policy Context

5.1. Development Plan

The Louth County Development Plan 2021-2027 is the relevant Statutory Plan. Policies and objectives of relevance to the proposal include the following:

- The site is not zoned or located within a defined settlement and is, therefore, considered rural. Under the Rural Policy Zone Map (Map No. 3.2) the site is within Rural Policy Zone 2 – Area Under Strong Urban Influence. Development Plan criteria in respect of Rural Policy Zone 2 relate only to proposed residential development.
- Rural Policy Zone Map (Map No. 3.2) and Road Network (Map 7.2) designate the R173 as a Protected Regional Road. Table 7.10 states that new accesses or intensification of existing accesses would be restricted on this road.
- The subject site is within 100 metres of the Lordship Rural Node, which is a Level 5 (lowest level) settlement under Table 2.4 ‘Settlement Hierarchy for County Louth’.
- Section 5.19.2 ‘Diversification’ and Policy EE 61 support farm diversification projects subject to the appropriate scale and use of development.
- Section 6.5 ‘Tourist Accommodation’ outlines that there is a shortage of tourist accommodation in the County. New tourist accommodation must not impact upon unspoilt natural heritage.
- Section 6.5.2 ‘Self-Catering Accommodation’ and Policy TOU 27 state that development should be provided within existing settlements and should be suitably scaled with reference to that settlement. Policy TOU 28 states that self-catering accommodation in the countryside will be resisted unless it comprises conversion or restoration of existing structures.
- Section 6.5.3 ‘Caravan and Camping Sites’ states that small scale camping/glamping sites will be considered in the countryside where there are tourist attractions and a demonstrable tourist demand in the area.
- Under Map 8.5 ‘Landscape Character Areas’ the site forms part of the Cooley Lowlands & Coastal Area, which is of Local Importance. The Louth County Council Landscape Character Assessment (Dec 2002) describes the landscape sensitivity as “very robust” due to strong hedgerows screening development however, isolated housing should be located within existing settlements.
- The site is not located within or proximate to any Areas of Outstanding Natural Beauty or Areas of High Scenic Quality (Map 8.15), Protected Views or Prospects (Map 8.16), or Scenic Road (Map 8.20).

- Section 11.5.5 ‘Development in Coastal Areas’ recommends that development should be accommodated in previously developed areas rather than greenfield sites, where feasible. Policy ENV 57 seeks high quality design in coastal areas to maintain the visual amenities of these areas and to protect coastal habitats or features.
- Section 13.17.1 ‘Extractive Industry’ supports the restoration of quarry pits to uses including agriculture, recreational facilities, and natural habitat areas.

5.2. **Natural Heritage Designations**

The subject site immediately adjoins and is partially within the Dundalk Bay Special Area of Conservation (SAC) (Site Code: 000455) and the Dundalk Bay Special Protection Area (SPA) (Site Code: 004026). Carlingford Mountain SAC (Site Code: 000453) is located 3.21 kilometres north of the site. The Carlingford Shore SAC (Site Code: 002306) is located 6.456 kilometres east of the site and Carlingford Lough SPA (Site Code: 004078) is located 9.8 kilometres north of the site.

5.3. **EIA Screening**

See completed Form 1 and Form 2 in Appendix 1. 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 or EIA Determination, therefore, is not required.

6.0 **The Appeal**

6.1. **Oral Hearing Request**

The Appellant requested that an Oral Hearing take place. The Board Direction dated 17 November 2023 states that an Oral Hearing should not be held on the basis that there is sufficient written evidence to enable the assessment of the issues raised.

6.2. **Grounds of Appeal**

The First Party’s grounds of appeal are summarised below as follows:

- Enforcement Notice Ref. 20/U261 requires the removal of the unauthorised structure, decking, WWTP and rock armour works at the site. These works will be undertaken by the applicant and are not within the scope of this appeal.
- The proposed development does not include the retention of works and, therefore, it is not necessary to obtain substitute consent from the Board.
- This application addressed the reasons for refusal under P.A. Ref. 22753 through the submission of Appropriate Assessment Screening, confirmation of use of the structure as tourist accommodation, relocation of the development away from the coast, and the submission of a Site Characterisation Report and surface water infrastructure details.
- References to rural residential development standards in the P.A. report are irrelevant. Relevant policies in respect of farm diversification are not referred to.
- The P.A. does not state why the subject site is inappropriate for glamping/camping accommodation, with reference to Policy TOU 30. This Policy facilitates flexibility in assessment, and the proposed development should be considered on its merits.
- The provision of tourist accommodation convenient to natural or heritage features is necessary to encourage tourists to stay longer and revisit.
- Tourist demand is influenced by proximity to the beach and beaches are not often located within existing settlements. Flexibility in the application of Policy TOU 30 is, therefore, required.
- Glamping/camping sites are rarely provided in urban locations and due consideration should be given to the nature and character of the surrounding rural area.
- This area is not 'undeveloped' and currently accommodates a mix of uses. Development in the vicinity is a similar distance from the coast, and closer to the coast, than the subject site.
- The site is located in close proximity to the settlement boundary of Lordship Rural Node close to services and transportation infrastructure therein.

- The site is well located with reference to existing tourist attractions. Suitable accommodation is required to sustain tourist demand in this area.
- The existing cabin has been in place for over 5 years, which illustrates its popularity and the demand for tourist accommodation. The development has been successful in bringing tourists to this area.
- The P.A. does not provide details on the appropriateness of the proposed development.
- The proposed development is small (1 no. unit) and is located within an existing farm where it is screened from view. The proposed cabin is 200 metres from the coastline and does not detract from the scenic quality or amenity of the landscape, and is not subject to ENV50.
- The development does not impact on the unspoilt natural heritage of the County as the works are proposed on a former quarry site which removed all vegetation and habitats. The scale and perceived impact of the proposed development should be weighed against the previous quarry use.
- The re-development of a previous worked site, as proposed, aligns with the provisions of Section 6.5.3 of the Development Plan.
- The proposed development is within a working farm holding and would not lead to a proliferation of similar structures.
- The visual and heritage impacts of the proposed development are not akin to larger tourist developments owing to its scale and is reversible.
- The structure is proposed for short term tourist let and will not affect the long-term rental market.
- The subject site is located within an existing farm and comprises a farm diversification project.
- The First Parties keep horses and sheep at the subject site (flock number 0135126X), and the extra income from the proposed development is needed to upkeep these agricultural lands in line with Development Plan policy.
- The existing cabin is not the sole source of income on these agricultural lands, and there is no risk of expanding this operation to multiple units.

- The Development Plan recognises changing patterns of employment in agriculture and identifies farm diversification, including rural tourism, as a means of broadening the employment base in rural areas and providing alternative sources of income.
- The proposed development aligns with Pillar 3 'Maximising our Rural Tourism and Recreation Potential' of the Action Plan for Rural Development – Realising Our Rural Potential (2017).
- The Appropriate Assessment Screening report refers to impacts on wintering birds and concludes that the development is not likely to have significant effects on the designated sites.
- The P.A. precluded itself from adjudicating on the application on the basis that mitigation measures may be required at the site however, the submitted AA screening report states that mitigation measures were not taken into account in this assessment.
- The P.A.'s concerns in respect of impacts on the European Sites relate to the remedial works and the reason for refusal is based on speculative concerns regarding the impacts of existing works at the subject site. These works do not form part of the application and are required to be carried out under Enforcement Notice Ref. 20/U261.
- The internal PA reports did not raise concerns regarding the assessment of wintering birds submitted. The P.A. offers no evidence to disprove the findings of the Appellant's ecologist.
- The construction phase of the proposed development will occur outside of the wintering bird season and will be short term in duration.
- No development is proposed in the shallows or sand and mud flats which provide food and habitat to wintering birds.
- A lack of detail in respect of the WWTP, could have been resolved through a request for Further Information or addressed by way of condition.
- In respect of Policy ENV 50 (requirement to submit a Coastal Erosion Assessment Report) and Policy ENV 56 (to protect the character of the

coast), it is reiterated that the works to remove the unauthorised development and to remediate the existing site fall under the Enforcement Notice.

- The wording of the notices to include the 'relocation' of the cabin was to provide surety to the P.A. that the existing cabin would be removed.
- Policy ENV 56 is worded to facilitate flexibility, and the proposed development should be assessed on its merits. The Matter of climate resilience does not arise.
- Physical Development Section found that the development would not give rise to flooding or coastal erosion.
- The P.A. is inconsistent in their assessment of coastal defences. In recent cases, issues in respect of coastal erosion were addressed by condition.
- All reasons for refusal could have been addressed either through Further Information or by condition.

6.3. Planning Authority Response

A response has been received from the Planning Authority dated 9 August 2023. The response notes that the 1st Party appeal submission justifies the proposed development with reference to farm diversification and includes herd number and maps that had not been submitted with the initial application. The P.A. has no further comment and requests that the Board upholds their decision to refuse planning permission for the proposed development.

7.0 Assessment

Having examined the application details and all other documentation on file, including all submissions received in relation to the appeal, and inspected the site, and having regard to relevant local policies and guidance, I consider that the main issues in this appeal are as follows:

- Rural Development
- Coastal Development
- Wastewater and Surface Water

- Consenting Procedure

7.1. Rural Development

- 7.1.1. The proposed development comprises the provision of 1 no. self-catering tourist accommodation unit, decking, and ancillary surface and foul water services. Section 6.5 of the Development Plan seeks to balance the need for additional tourist accommodation with the requirement to maintain the natural heritage and visual amenity of the area. I note that development standards and policy objectives in respect of all tourist accommodation types seeks to limit development outside of existing settlements however, I consider that there is flexibility in the wording of the Development Plan to allow this project to be assessed on its merits.
- 7.1.2. The P.A. assessed the proposed development as a glamping pod due to the small size of the unit and concluded that the subject site was unsuitable for development owing to its reliance on the private car, distance from any tourist attraction, and encroachment on the countryside.
- 7.1.3. Drawing from the documentation submitted and having undertaken a site visit, I consider that the subject site is located within a transitional area, at the fringe of Lordship Rural Node. The existing pattern of development in the vicinity is typical of a rural settlement and comprises low density residential development, one-off rural housing, farm buildings, and quarries. I note that there are footpaths on both sides of the R173 and public lighting is provided at this location. The appeal submission refers to existing tourist attractions in the locality and provides evidence for ongoing tourist demand with reference to the success of the existing unauthorised cabin. Having visited the area, I consider that the site is well located with reference to existing natural and built tourist attractions. Notwithstanding the unauthorised status of the existing cabin, I accept the appellant's submission in respect of the viability of the existing unit as evidence of sufficient tourist demand. Drawing from the above, I consider the general location of the proposed development is appropriate with reference to Section 6.5 of the Louth County Development Plan 2021-2027.
- 7.1.4. In respect of potential natural heritage and visual impacts and with reference to Policy Objectives ENV 56 and ENV 57, I note that this locality has been the subject of significant development on the seaward side of the R173. Much of the existing

farm had been in quarry use, most recently permitted under P.A. Ref. 06485. The proposed development site is located on a former quarry void that has been restored to cultivated grass and is, therefore, wholly unnatural and does not constitute a greenfield site, in my opinion. I note that the site is not visible from the R173 and is screened from adjoining lands by vegetation and the undulating topography. Owing to its small scale, height, and materiality, the proposed development would not be unduly visible from the beach, in my opinion. In this way, I do not consider that the proposed development would undermine the unspoilt natural heritage and visual amenity of the area.

- 7.1.5. The submitted documents specify that the proposed development is a farm diversification project, which is required to supplement the income of the farm and support the maintenance of the lands. I note the submitted herd number and maps. At the time of my site visit there were horses in the adjoining paddocks, and it was apparent that the development site was also used for keeping livestock. Section 5.19.2 of the Development Plan and Policy Objective EE55 support suitably scaled and located farm diversification projects and rural enterprises. Owing to its small size relative to the overall landholding, I do not consider that the proposed development would undermine the viability of the farm. As is discussed in paragraphs 7.1.3 and 7.1.4 of this report, I consider that the site is well located relative to tourist attractions and existing services in Lordship Rural Nade to accommodate development of this scale and type. In this way, I consider that the proposed development is appropriate with reference to farm diversification provision in the Development Plan.
- 7.1.6. Access to the proposed development is from an existing gate onto the R173, which is a Protected Regional Road. A Transport Statement was submitted with the application and the Physical Development Section had no objection to the proposed development, subject to the maintenance of existing sightlines. Owing to the limited size of the proposed unit and the 60 km/hr speed limit at the site frontage, I do not consider that the proposed development would cause any significant intensification of the existing access or give rise to a traffic hazard.
- 7.1.7. Drawing from the above, I consider that the proposed development aligns with the relevant provisions of the Development Plan with respect to protecting the unspoilt countryside, provision of suitably scaled and located tourist accommodation, and farm diversification.

7.2. Coastal Development

- 7.2.1. The P.A.'s fourth and fifth reasons for refusal refer to the contravention of Policies ENV 52 and 50, respectively. Policy ENV 50 is applicable to development within 100 metres of the coastline and requires the submission of a Coastal Erosion Assessment Report. From the documentation submitted, I consider that the proposed development site is in excess of 200 metres from the coastline and, therefore, is not subject to the provisions of Policy ENV 50. Further to this, I do not consider that the proposed development, owing to its scale, nature and location, would impact on coastal defences in the locality.
- 7.2.2. The Public Notices and Application form refer to the decommissioning of the existing WWTP at the southern portion of the site. The exact location of this WWTP is not shown in Drawing No. P01G 'Plans, Elevations and Site Layout & Location Plans' however, given the location of the existing cabin I consider it likely that the WWTP is within 100 metres of the coastline. Reason for Refusal No. 5 of the PA decision found the proposed development contrary to the provisions of ENV50 owing to the lack of a Coastal Erosion Assessment Report in respect of these works. Given the small scale of the works and the restored agricultural character of the area, I consider, on balance, that a Coastal Erosion Assessment Report is not warranted in this instance. It is my opinion that details of the proposed works and confirmation of steps taken to protect the coastline during the construction phase can be addressed by way of condition. If the Board is minded to grant planning permission for the proposed development, I recommend that a condition be attached to require the submission of a Construction and Demolition Management Plan, to include details of protective measures at the coastline.
- 7.2.3. In respect of Policy ENV 52, which seeks to protect the County's natural coastal defences, I consider the 200-metre separation distance between the development site and the coastline sufficient to prevent impacts on coastal defences. Notwithstanding the above, I note that the southern boundary of the landholding has been substantially varied through quarrying works, as shown in aerial photographs available on the GeoHive Map Viewer ([GeoHive Map Viewer](#)). I consider that little, if any, natural coastal defences remain in place at the landholding. In this way, I do not

consider that the proposed development contravenes Policy ENV 52 of the Development Plan or prejudices natural coastal defences in the area.

- 7.2.4. Drawing from the above, it is my opinion that the proposed development would not have any detrimental impact on existing or natural coastal defences in the area owing to its location removed from the coast.

7.3. Wastewater and Surface Water

- 7.3.1. The proposed cabin is not served by public foul water infrastructure; therefore, it is proposed to provide an on-site WWTP. The proposed WWTP comprises a packaged secondary treatment unit (Tricell Unit or similar) followed by 2 no. Puraflo modules centred on a gravel bed percolation area of 60 sq.m.
- 7.3.2. The submitted Site Characterisation Form dated 08 March 2023 indicates that site conditions are suitable for the adequate treatment of wastewater and the P.A. raised no concerns in respect of site suitability.
- 7.3.3. The Waste Management & Environment Section sought Further Information to confirm that sufficient separation distances are provided at the site. I agree that it is not apparent from the submitted drawings that all minimum separation distances listed in Table 6.2 of the Environmental Protection Agency Code of Practice, Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) (EPA CoP) are provided. From my measurements, the minimum 5 metre distance is provided between the percolation area and the proposed soakaway however, the proposed soakaway does not appear to be located downgradient of the WWTP, as required under the EPA CoP. The separation distance between the proposed secondary treatment unit and the cabin is shown to exceed the 7-metre requirement. Distances to site boundaries, trees and the road are not shown, but appear to meet the EPA CoP requirements. I note that Section 3.0 of the Site Characterisation Form states that there are no lakes within 100 metres of the site however, by my measurements, the proposed percolation area is in the region of 50 metres from Lough Anmore. I consider that the subject site and surrounding landholding are sufficiently large to achieve the necessary separation distances, and I consider that this matter can be suitably addressed by condition.

- 7.3.4. The proposed development includes a soakaway for surface water, and BRE365 calculations were submitted with the application. The Physical Development Section raised no concerns in respect of proposed surface water drainage. Notwithstanding uncertainty regarding the position of the soakaway relative to the WWTP, discussed in Section 7.3.3 of this report, I consider that favourable site conditions exist to allow surface water arising from the development to be collected and discharged appropriately.
- 7.3.5. Drawing from the above, I consider that suitable wastewater and surface water services can be provided at the site. If the Board is minded to grant planning permission for the proposed development, I recommend that a condition be attached requiring the Appellant to submit to the P.A. prior to the commencement of development, layout drawings illustrating compliance with the separation distances specified in the EPA CoP.

7.4. Consenting Procedure

- 7.4.1. The subject site includes unauthorised works at the southern boundary comprising 1 no. short let unit, decking, WWTP, and earth works. In this regard, Appendix 1 of the submitted appeal statement provides a copy of Enforcement Notice (Ref. 20/U261 issued to the 1st Party on 17 November 2021). The Third Schedule 'Particulars of Steps to be Taken' requires the removal of the unauthorised cabin, decking, WWTP and rock armour works at the subject site. The Appellant, in their submission, confirm that these works would be carried out in accordance with the Enforcement Notice. I note that under Section 154(5)(b) of the Planning and Development Act 2000, as amended, the Appellant is required to take the steps specified in the notice including the removal, demolition or alteration of any structure, the discontinuance of any use, and the restoration of the land. I note that these provisions of the Act do not require a person to apply for planning permission or retention permission to undertake the works listed in an Enforcement Notice.
- 7.4.2. Part 4 of the P.A. report states that the proposed development includes a retention element which, owing to potential for significant effects on European Sites, will require substitute consent from An Bord Pleanála.

7.4.3. Part XA of the Planning and Development Act 2000, as amended, describes the process of obtaining Substitute Consent. This process is applicable to the retention of development where EIA, or AA was or is required. Drawing from the documentation submitted, I do not consider that the remediation works specified in the Enforcement Notice form part of the subject application. None of the works outlined in the application documentation are in place at the proposed development site and, therefore, I do not consider that there is any retention aspect of this current application. As is stated in Section 5.3 of this report, I do not consider that the proposed development is of a type or scale that would require EIA or an EIAR determination. In Section 8 of this report, I have screened out the need for Appropriate Assessment in respect of the proposed development. Drawing from the above, I consider that the matter of substitute consent does not arise in this instance.

8.0 Appropriate Assessment Screening

- 8.1.1. The southern portion of the subject site overlaps with the Dundalk Bay SAC (Site Code: 000455) and the Dundalk Bay SPA (Site Code: 004026). Other European Sites in the vicinity are Carlingford Mountain SAC (Site Code: 000453) which is 3.21 kilometres north of the site, Carlingford Shore SAC (Site Code: 002306) which is located 6.456 kilometres east and Carlingford Lough SPA (Site Code: 004078) which is located 9.8 kilometres north of the site.
- 8.1.2. Owing to the small size of the proposed development, the distance of the site from the Carlingford Mountain SAC, Carlingford Shore SAC and Carlingford Lough SPA, and lack of direct hydrological or over-land connections, I consider that these sites can be screened out from further assessment. Qualifying Interests and Conservation objectives for the Dundalk Bay SAC and SPA are listed below.

Natura 2000	Site Code	Qualifying Interests	Conservation Objectives
Dundalk Bay SAC	000455	Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Perennial vegetation of stony banks [1220]	To maintain or restore the favourable conservation status of habitats and species

		<p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p>	of community interest in Dundalk Bay SAC.
Dundalk Bay SPA	004026	<p>Great Crested Grebe (Podiceps cristatus) [A005]</p> <p>Greylag Goose (Anser anser) [A043]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Teal (Anas crecca) [A052]</p> <p>Mallard (Anas platyrhynchos) [A053]</p> <p>Pintail (Anas acuta) [A054]</p> <p>Common Scoter (Melanitta nigra) [A065]</p> <p>Red-breasted Merganser (Mergus serrator) [A069]</p> <p>Oystercatcher (Haematopus ostralegus) [A130]</p> <p>Ringed Plover (Charadrius hiaticula) [A137]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Lapwing (Vanellus vanellus) [A142]</p> <p>Knot (Calidris canutus) [A143]</p> <p>Dunlin (Calidris alpina) [A149]</p>	To maintain the favourable conservation condition of species and habitats in Dundalk Bay SPA.

		Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Common Gull (<i>Larus canus</i>) [A182] Herring Gull (<i>Larus argentatus</i>) [A184] Wetland and Waterbirds [A999]	
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- 8.1.3. The submitted Appropriate Assessment Screening Report, dated March 2023, was prepared and reviewed by suitably qualified and experienced ecologists. I consider that the submitted documentation provides sufficient information in respect of the existing environment, the construction and operation phases of the development and likely significant direct, indirect, and cumulative impacts on QIs to facilitate screening for Appropriate Assessment. The submitted AA screening report concludes in stating that the potential for likely significant effects on any European Sites arising from the project or in combination with other plans and projects can be excluded.
- 8.1.4. During my site visit, 5 January 2024, I noted no bird species at or in the immediate vicinity of the subject site. I noted bird song and 1 no. bird passed overhead when I was standing at the shoreline. There were 2 no. swans on Lough Anmore. No other bird species were visible at Lough Anmore and bird song was audible from the hedgerow vegetation on the eastern side. The proposed cabin is located on improved grassland in an area that had previously been in quarry use. No QI species or habitats were present at the site at the time of the site visit, and no trees or vegetation would be required to be removed as part of the proposed development. Given the size of the proposed development and the scale of land available in the vicinity, I consider that significant ex-situ effects are unlikely to arise.

- 8.1.5. There were no waterbodies or streams within the subject site, and there are no waterbodies or courses shown in the EPA maps. In this way, I do not consider that there is an existing direct surface water linkage between the development site and the adjoining protected sites.
- 8.1.6. At the time of my site visit, the area of the proposed development was relatively firm underfoot and there was no standing water present despite heavy rain in the previous days. Having examined the submitted Site Characterisation Form and soakaway details, I consider that surface and foul water arising from the development can be adequately collected and removed on-site. In this way, I do not consider that likely significant effects on water quality at any designated sites would arise as a result of the proposed development.
- 8.1.7. Having visited the site and reviewed the submitted documentation, I concur with the Department of Housing, Local Government and Heritage submission, dated 20 September 2023, which found that the removal of the existing cabin northwards would have an overall positive impact on the adjoining European Sites by reducing the level of disturbance at the shoreline. The development site is not within or immediately adjoining the mapped areas of the Dundalk Bay SAC or SPA and, therefore, I do not consider that the proposed development would cause a loss or fragmentation of QI habitat. In respect of potential for contamination from surface and groundwater, I consider that the volumes of surface and waste water arising from the development site would be diminutive with reference to the scale of the adjoining Designated sites, and the level of dilution provided in the estuary would remove the potential for likely significant impacts on Qis (species and habitats). Owing to the small scale of the development, its position within an active farm and former quarry, the pattern of existing development in the vicinity and the screening provided by the undulating topography of the area, I do not consider that the proposed development would unduly disturb QI's at or traveling to/from the Dundalk Bay SAC and SPA.
- 8.1.8. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on the Dundalk Bay SAC and SAP, or any other

European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

- 8.1.9. This determination is based on the following: the scale and nature of the proposed development, the character of existing development at the site, the status of the QI's (habitats and species) and their conservation objectives.
- 8.1.10. This screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

9.0 Recommendation

- 9.1. I recommend that planning permission should be granted, subject to conditions.

10.0 Reasons and Considerations

Having regard to the policies and objectives of the Louth County Development Plan 2021-2027, the location of the site relative to Lordship Rural Node and established tourist attractions, the nature of the development as a farm diversification project, the modest scale of works, previous uses at the site and the character of development in the vicinity, I consider that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the natural heritage or visual amenity of the area, would not create a traffic hazard and would constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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
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	<p>shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to the commencement of development, the First Party shall submit to the Planning Authority for written agreement a Construction and Demolition Management Plan for the site. This plan shall include any necessary measures to protect coastal defences at the site and to prevent coastal erosion.</p> <p>Reason: In the interest of orderly development and to prevent impacts on coastal defences.</p>
3.	<p>(a) Prior to the commencement of development, the First Party shall submit to the Planning Authority for written agreement site layout drawings to illustrate compliance with the minimum separation distances required under the "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.</p> <p>(b) The wastewater treatment plant, filter and percolation area shall be constructed and maintained in accordance with the requirements of the "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.</p> <p>(c) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.</p> <p>(d) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the development and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.</p>

	<p>(e) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to commercial short-term letting only (maximum of 1 month), unless otherwise authorised by a prior grant of planning permission.</p> <p>Reason: In the interest of clarity.</p>
5.	<p>Prior to commencement of development, the developer shall enter into water connection agreements with Uisce Eireann.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Details of the materials, colours and textures of all the external finishes to the proposed building shall be agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
7.	<p>(a) Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>(b) Construction works shall not take place between the months of September and March.</p> <p>Reason: To safeguard the residential amenities and prevent disturbance to over-wintering birds.</p>
8.	<p>The developer shall pay to the planning authority a financial contribution 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</p>

<p>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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme.</p> <p>Reason: 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.



Sinéad O'Connor
Planning Inspector

16 January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	317604-23		
Proposed Development Summary	Relocation of a cabin and associated decking used as a holiday letting unit, wastewater treatment system to be decommissioned and wastewater treatment system installed		
Development Address	Loughanmore, Jenkinstown, Co. Louth, A91 Y443		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
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?			
Yes		Class.....	EIA Mandatory EIAR required
No	X		Proceed to Q.3
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]?			
		Threshold	Comment (if relevant)
		N/A	Conclusion
No			No EIAR or Preliminary Examination required
Yes		10. Infrastructure Projects (b) (i) Construction of more than 500 dwelling units	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: Sinead O'Garra

Date: 16 January 2024

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	317604-23	
Proposed Development Summary	Relocation of a cabin and associated decking used as a holiday letting unit, wastewater treatment system to be decommissioned and wastewater treatment system installed	
Development Address	Loughanmore, Jenkinstown, Co. Louth, A91 Y443	
<p>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.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</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 is located on the urban fringe of Lordship Rural Node, and is surrounded by existing residential and agricultural development.</p> <p>The proposed development comprises the construction of 1 no. unit for short-term letting within an existing farm. Due to the small size and character of the proposed development, I do not consider that the construction or operation of the proposal would result in any significant waste, emissions or pollutants.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>The development is modest in size at 26 sq.m., and is, therefore, not exceptional in the context of the existing environment.</p> <p>Owing to its small size and proposed intermittent use, as a typical of holiday lets, I do not consider that likely cumulative effects arise in respect of existing or proposed development.</p>	No

<p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>		
<p>Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The proposed development site is located in close proximity to the Dundalk Bay SAC and SPA. Drawing from my site visit and EPA mapping, there is no direct surface water link between the development site and Dundalk Bay. All surface and wastewater arising would be collected and treated within the site. The owing to the small size of the development, and the topography of the area, significant disturbance of QI species and habits is not likely to occur.</p> <p>Drawing from the information submitted, I do not consider that the proposed development would have the potential to significantly affect other significant environmental sensitivities in the area.</p>	<p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p> <p>X</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>

Inspector: Sinead O'Connell

Date: 16 January 2024.