



An
Bord
Pleanála

Inspector's Report ABP-317826-23

Development	Construction of 6 chalets and all associated site works.
Location	Gubacreeny, Kinlough, Co. Leitrim
Planning Authority	Leitrim County Council
Planning Authority Reg. Ref.	22223
Applicant(s)	Marion and James Kelly.
Type of Application	Permission.
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Marie Keirins and Others.
Observer(s)	N/A.
Date of Site Inspection	12 th of October 2023
Inspector	Stephanie Farrington

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.43 ha, is located within the townland of Gubacreeny along the L-60641 in the northern outskirts of Kinlough, North Leitrim. The site is located to the northwest of the existing Melvin Fields Estate development. The L-60641 forms the southern boundary of the site. The site is currently greenfield and rises from the public road. Site boundaries are defined by existing hedgerows and trees. Existing ESB poles traverse the site.

2.0 Proposed Development

- 2.1. The proposed development, as described in the public notices, seeks permission to (a) erect 6 number 1 bed chalets; (b) erect a bike shed; (c) construct a playground area; (d) connect to the existing public sewer mains; (e) construct a new site entrance and all ancillary works.
- 2.2. Access to the site is proposed via the L-60641. The development, as revised in response to Leitrim County Council's (LCC) request for further information, includes the provision of a public footpath along the L-60641 connecting the site to the existing footpath serving the Melvin Fields development. The development includes connection to existing water, wastewater and storm water mains connections on the L-60641.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Leitrim County Council issued a notification of decision to grant permission for the development in accordance with the following reasons and considerations:

Having regard to the nature, extent and design of the proposed development, the proximity of the subject site to the settlement of Kinlough, the demonstrable degree of connectivity to the settlement and the policy provisions contained within the Leitrim County Development Plan 2023-2029, it is considered that the proposed development, subject to compliance with the conditions set out in the Second

Schedule, would not seriously injure the amenities of the area and would be in accordance with the proper planning and sustainable development of the area.

- 3.1.2. The Council's decision was subject to 14 no. conditions. The following conditions are of note.

Condition no. 3

The 6 no. chalet units shall be used for short stay tourism accommodation only. The subject chalets shall not be used as a permanent place of residence. Full details of the management of the lettings shall be submitted to the Planning Authority for agreement prior to the commencement of the development.

Reason: In the interests of proper planning and sustainable development.

Condition no. 6

Prior to the commencement of any development on site, the applicant/developer shall obtain a Connection Agreement from Uisce Éireann for the provision of a connection to the watermain and wastewater sewer necessary to serve the proposed development. The applicant / developer shall submit a copy of the Connection Agreement from Uisce Éireann to the Planning Authority as confirmation as this condition has been complied with. In the event that Uisce Éireann require the installation of a proprietary wastewater treatment system and pump in order to pretreat the wastewater from the development prior to discharging to the existing wastewater sewer at Melvin Fields, details of such treatment system and pump shall be confirmed to the Planning Authority.

Reason: In the interest of the provision of a proper water supply and wastewater service.

Condition no. 7

Surface water arising from the site, including roofs, footpaths, drives and other hardened areas shall be connected into the surface water drainage network and shall not be permitted to flow onto the public road. Prior to the commencement of development, the applicant / developer shall submit a revised Site Layout Plan at a scale of 1:500 accompanied by details of invert levels which indicate a sufficient gradient between the proposed attenuation chamber and the existing storm sewer network. As the surface water from the proposed development is to discharge into

the surface water drainage network of the adjoining Melvin Fields housing development, the written consent of the registered owner of the common area lands in the Melvin Fields housing development to connect this development will be required as this development has not been taken in charge by Leitrim County Council.

Reason: To ensure that there is no ponding of surface water from the development on the public road and in the interests of road safety.

Condition no. 8

Prior to the commencement of works the applicant shall submit and obtain the written consent from the Planning Authority for a revised surface water design to include 'soft' engineering solutions to attenuate the run off from the site.

Reason: In the interests of proper planning and sustainable development.

Condition no. 9

Prior to the commencement of development, the applicant shall liaise with the North Leitrim District Engineer's Office and submit detailed proposals for the written agreement of the Planning Authority details in relation to the proposed new pedestrian crossing that connects with the existing footpath to the east and shall include specific details on tactile paving and dropped kerbs for the proposed footpath and crossing.

Reason: In the interests of proper planning and sustainable development.

- 3.1.3. The following note is attached to LCC's notification of decision to grant permission for the development.

Please be advised that in relation to the connection of the proposed development to the existing wastewater sewer and watermain within Melvin Fields housing development, which development has not been taken in charge by Leitrim County Council, it is likely that Uisce Éireann is likely to require the written consent agreement of the registered owner of the common area lands in the Melvin Fields housing development to connect to the water services of this development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Area Planner's Report (15/12/2022)

The initial planner's report recommends that permission is refused for the development for reasons relating to (1) traffic hazard, (2) the principle of the development on unzoned lands outside of the settlement boundary of Kinlough and compliance with the provisions of the Leitrim County Development Plan 2015-2023 and (3) the proposed holiday home units do not respect the character of the rural area.

The report is countersigned by the Senior Executive Planner (15/12/2022).

Senior Executive Planner's Report (16/12/2022)

- The report cross refers to the report dated 15/12/2022 which recommends a refusal of planning permission and refers to the subsequent memo received from the Director of Services (dated 16/12/2022) which outlines that it is considered that the development has the potential to comply with Development Plan criteria in relation to the siting of the development and recommends a request for further information in relation to road safety issues.
- The report recommends a request for further information in relation to road safety issues including sightlines and pedestrian connections and surface water proposals.

Area Planner's Report (19/07/2023)

The report recommends that permission is refused for the development in accordance with the following reasons and considerations:

1. Having regard to the location of the proposal site outside the settlement envelope of Kinlough and set within open countryside, it is considered that the proposed development is not location dependent to justify its rural context and is not intrinsically linked to any form of tourism-related recreational development or activity that may justify or require a rural location as prescribed in section 13.19 of the Leitrim County Development Plan 2023-2029. Similarly, no comprehensive justification or evidence in support of the

proposed development, in accordance with the provisions of section 13.19 of the Leitrim County Development Plan 2023-2029, has been provided in the application documentation. Set within this context, it is considered that the principle of the proposed development is not acceptable and not in accordance with the relevant provisions of the Leitrim County Development Plan 2023-2029 and any grant of permission would set an unwelcome precedent for similar types of development, have a negative impact on the rural amenities of Kinlough environs and be contrary to the proper planning and sustainable development of the area.

2. In relation to surface water drainage, foul sewer drainage and watermain systems at the Melvin Fields estate, the Planning Authority note that the applicant does not have the required written consents to connect the proposed development to this existing estate and its aforementioned services. Consequently, the applicant has not demonstrated sufficient legal interest to implement the permission in full. Furthermore, the proposed surface water drainage systems and proposed foul sewer system are considered to be inadequate and not designed to an acceptable standard, consequently, are considered contrary to the proper planning and sustainable development of the area.

Senior Executive Planner's Addendum Report (24/07/23)

- The report refers to the recommendation of the case planner to refuse permission for the development. The SEP's report outlines that following consideration of the subject application, including the responses received from the applicants in relation to the requested further information, the submissions and internal reports received on same and the report of the case planner, they do not agree with the recommendation of the case planner on this application.
- The report refers to the location of the site on unzoned lands outside of but adjacent to the settlement boundary of Kinlough. Notwithstanding this it is stated that the site can demonstrate clear connectivity to the settlement of Kinlough by virtue of its proximity to the town, the clear availability of access to public infrastructure such as the public watermain and foul sewer, the

apparent consents in place to facilitate pedestrian access to the subject site with the wider network of footpath available within the settlement and the capability of connection to the existing surface water drainage system to service the subject site.

- The report refers to the provisions of the Leitrim County Development Plan 2023-2029 and outlines that the proposed development is considered to be suitably located “in or close to towns and villages” as prescribed in Section 13.19 of the Leitrim County Development Plan 2023-2029. The report furthermore outlines that the proposed development accords with policy provisions contained within the Leitrim County Development Plan 2023-2029 and in particular in respect of Policy TOUR INF POL 4 and Objective TOUR INF OBJ 2 in facilitating the sustainable development of tourism accommodation such as glamping/camping facilities within the county
- The report furthermore outlines that whilst the subject site has not been previously developed and is marginally outside the settlement boundary, its attributes are characteristic of an edge-of-town location given the proximity of access to public infrastructural services to benefit the site. As such, the subject site is not considered to be rural in the context of the narrative provided in section 13.19 of the Plan and can clearly demonstrate connectivity to the existing settlement unlike the scenarios prescribed in section 13.19 of the Plan.
- The report refers to the concerns raised within the Taking in Charge Officer’s report on the proposed development and states that the connection of any proposal to the public foul sewer and public watermain systems is a matter for Uisce Éireann and not the Local Authority. The feasibility of the connection is a matter for Uisce Éireann and is something that can be provided for by means of condition in any grant of permission that may issue.
- The report recommends a grant of permission subject to condition.

Correspondence from Senior Planner (25/07/2023)

- The correspondence from the Senior Planner approves the recommendation to grant permission for the development subject to amendments to the wording of proposed condition nos. 6 and 7 and inclusion of an advice note in

relation to consultation with Uisce Éireann consent for connection to water services.

- The report refers to the Screening Assessment submitted in support of the application, the location of the Lough Melvin SAC within 1km of the site and Arroo Mountain SAC within 3km of the site and outlines the following in respect of the Appropriate Assessment *“Having regard to the distance of the subject site from the nearest European Site, to the proposed development being able to connect to water services within the village and to the nature of the proposed development, I am satisfied that the proposed development is not likely to have an adverse impact upon the qualifying interest or conservation objectives of a European Site. It is not considered necessary as a result to require the undertaking of a Stage II Appropriate Assessment”*.

3.2.2. Other Technical Reports

Water Services (02/11/2022)

The report refers to the requirements for a pre connection enquiry to Irish Water.

District Engineer - Leitrim North (25/11/2022)

The report recommends a request for further information in relation to surface water proposals, provision of unobstructed sightlines and pedestrian connections between the site and Kinlough.

Fire Officer (5/12/2022)

No objection subject to condition.

District Engineer – Leitrim North (12/07/2023)

No objection to the principle of the development is raised. The report recommends further information in relation to the following:

- The proposed surface water network to ensure there will be no ponding of surface water within the development or along the adjacent public road.
- An uncontrolled pedestrian crossing.

Taking in Charge Officer (19/07/2023)

The report recommends a refusal of permission in accordance with the following reasons and considerations:

- The Applicant does not have the required consents to connect to the surface water drainage, foul sewer drainage and watermain systems at the Melvin Fields estate, and, consequently has not demonstrated sufficient legal interest to implement the permission.
- The proposed surface water drainage system is not designed to an acceptable standard, will not be fit for purpose, and, consequently, is considered contrary to the proper planning and sustainable development of the area.
- The proposed foul sewer system is not designed to an acceptable standard, will not be fit for purpose, and, consequently, is considered contrary to the proper planning and sustainable development of the area.

The report outlines that in the instance of a grant of permission, the above issues will have to be addressed via condition.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

46 no. 3rd party observations were submitted in respect of the original application. These raised concern in relation to the following:

- The principle of the development on unzoned lands outside of the settlement boundary of Kinlough.
- The proposal is not in accordance with the provisions of the Draft Leitrim County Development Plan 2022-2028.
- Lack of public infrastructure to serve the site including footpaths, lighting and wastewater.
- Traffic impact and the restrictions of the narrow local road to cater the development.

- Impact on residential amenity- noise, litter, antisocial behaviour.
- Impact on flora and fauna.

3 no. 3rd party submissions were submitted in respect of the applicant's FI response.

The following provides a summary of the issues raised:

- Registration of burden of footpath.
- Poor history of adjacent developer and development to allow use of the footpath.
- Traffic Safety on L60641 which is a very narrow road.
- Unknown public Infrastructure connection and deficiencies of existing.
- Deficiencies relating to setback in letter of consent from adjoining landowner.

4.0 Planning History

The following planning history relates to the site.

- PA Ref: P 21-246 – Application for 6 no. chalets and associated site works withdrawn in August 2022.
- PA Ref: 071238 – Application for house and wastewater treatment system submitted in November 2007 and withdrawn in July 2008.
- PA Ref: 07/914 – Permission consequent of outline permission refused in September 2007 for construction of house and wastewater treatment system on the basis that outline permission had expired.
- PA Ref: 01/867 – Outline permission granted for construction of a dwelling and waste treatment system in July 2002.

5.0 Policy Context

5.1. Development Plan

Leitrim County Development Plan 2023-2029

Volume I – Written Statement

Chapter 5 – Tourism

Chapter 5 of the LCDP relates to Tourism. The following policies and objectives are of relevance:

- TOUR INF POL 4 To facilitate the sustainable development of a variety of quality tourist accommodation including hotels, guesthouses, hostels, B&Bs, holiday homes, glamping/camping/caravan and campervans at suitable locations, throughout the county.
- TOUR INF OBJ 2 To facilitate the development of various accommodation such as hostels, hotels, guesthouses, hostels, B&Bs, holiday homes, glamping/camping/caravan and campervans along established walking/hiking routes and adjacent to existing tourism/recreation facilities, subject to satisfying normal planning criteria.

Chapter 13- Development Management Standards

Section 13.19 relates to Tourism Related Development. This outlines the following:

While seeking to ensure that most tourism development locate in or close to towns and villages, the Council recognises that by its nature, some tourism development may require other rural locations..... Any application for such developments shall be accompanied by:

- A comprehensive justification of the need for the development by its nature and space requirements to be located outside of towns and villages.
- Evidence that the proposed development will not have an adverse impact upon the scenic value, heritage value and the environmental, ecological or conservation quality of primary tourism asset(s) and their general environment, and
- Evidence that potential environmental effects of a likely increase in tourists/tourism-related traffic volumes in particular locations/along particular routes, have been considered and mitigation measures proposed.

Such a consideration should include potential impacts on existing infrastructure (including drinking water, wastewater, waste and transport) resulting from tourism proposals. In general, standalone holiday orientated development schemes or new

tourism facilities which cannot demonstrate connectivity to existing settlements shall not be permitted in the open countryside. In exceptional cases, where it can be demonstrated that the facility is dependent on physical or locational factors which are site specific, consideration may be given to such facilities.

13.19.1 Caravan, Glamping and Camping Developments

Caravan, camping/glamping sites shall generally be located within the development boundary of established towns, villages and gaugs. Consideration will be given to small scale facilities in appropriate locations outside of such centres subject to a demand and need for the facility being demonstrated to the satisfaction of the Planning Authority. Applications for caravan, glamping and camping developments shall address the following in addition to the information outlined in Section 13.9:

- A high standard integrated design and layout linking pitches to well-located communal areas and on-site facilities and amenities
- A detailed hard and soft landscaping plan for the overall site
- Mitigation plans for noise and litter, and
- Details of wastewater disposal for the site

Volume II – Settlement Plans

Volume II of the LCDP includes Settlement Plans. Section 6 relates to Kinlough.

Kinlough is designated as a Tier 2B Support Town under the Leitrim County Settlement Hierarchy, with its function recognised as fulfilling *“local service and some specialised employment and tourism functions which play an important role in supporting the social, economic and cultural life within their rural communities”*.

The L-60641 in the vicinity of the Melvin Fields development is subject to Objective KLN 20 which seeks to *“Provide a footpath including public lighting linking Melvin Fields (L-60641-0) and Dartry View (R280) housing developments and along Edenville Road (L-6080-1) to the existing town footpath network”*.

Section 6.11 of the Plan relates to Tourism objectives for Kinlough. The following is of note:

- KLN 26 Support and promote the tourism potential of Kinlough having regard to its accessibility to important tourist destinations in the region including

proximity to natural amenities and recreational opportunities such as Lough Melvin, the North Leitrim Glens area and the Atlantic coastline.

- KLN 27 Provide for the enhancement of tourism and amenity facilities within Kinlough where appropriate and to facilitate leisure tourism/amenity proposals subject to the preservation of the natural amenity of the area. Ensure that development proposals do not give rise to adverse impacts on the receiving environment.

Volume III- Book of Maps

The appeal site is located to the northwest of the settlement boundary of Kinlough as defined within Map 21 of the Leitrim County Development Plan. The site is unzoned.

5.2. Natural Heritage Designations

The nearest designated European sites to the appeal site, including SAC's and Special Protection Areas (SPA's) include the following:

- Lough Melvin SAC (Site Code 000428) – 1km
- Lough Melvin p NHA (Site Code 000428) – 1km
- Arroo Mountain SAC (Site Code 001403) – 3.2km
- Arroo Mountain p NHA (Site Code 001403) – 3.2km
- Sligo/Leitrim Uplands SPA (Site Code 004187) – 3.8km
- Aghavoghil Bog NHA (Site Code 002430) – 6km
- Ben Bulbin, Gleniff and Glenade Complex SAC (Site Code 000623) – 6.2km
- Ben Bulbin, Gleniff and Glenade Complex p NHA (Site Code 000623) – 6.2km
- Bunduff Lough and Machair/Trawalua/Mullaghmore SAC (Site Code 000625) – 5.3km
- Bunduff Lough and Machair/Trawalua/Mullaghmore p NHA (Site Code 000625) – 5.3km 60641
- Donegal Bay SPA (Site Code 004151) – 2.9km

5.3. EIA Screening

- 5.3.1. Class 12 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended) provides that holiday villages which would consist of more than 100 holiday homes outside of a built-up area requires environmental impact assessment. The proposal seeks the construction of 6 no. chalets and all associated site works.
- 5.3.2. Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third-party appeal from Marie Keirins was submitted in respect of Leitrim County Council's notification of decision to grant permission for the development. The following provides a summary of the grounds of appeal:
- The appeal refers to the requirements of Condition no. 6 of LCC's decision which requires the developer to obtain a Connection Agreement from Uisce Éireann for connection to the wastewater and watermain to serve the development. The appeal outlines that Uisce Éireann have not taken in charge either the sewerage system or storm drains network in Melvin Fields. In this regard the appeal outlines that Uisce Éireann cannot authorise the developers with any legal agreement enabling connection to Melvin Fields sewerage system network.
 - The appeal cross refers to the concerns set out within LCC's "Taking in Charge Officer's" report (19/07/2023) and the Area Planner's report which recommends a refusal of planning permission (19/07/2023). The appeal outlines that lack of ownership by Uisce Éireann presents a situation that is contrary to the proper planning and development of the area.

- The appeal raises concerns in relation problems associated with the current sewerage system installed in the Melvin Fields development as it is currently incapable of discharging the site sewerage to the Kinlough mains system. The appeal refers to the evacuation of the system by installation of a pumping unit on site at regular intervals. The appeal raises concern in relation to additional loading associated with the proposed development and potential health/sanitation and environmental issues for the residents of Melvin Fields and adjacent housing developments such as Oakfield Manor.
- The appeal outlines that any effluent escapes will be directed to a local stream which connects directly into the Lough Melvin SAC.
- Appendix A of the appeal includes a list of 43 no. signatures of residents of Melvin Fields and adjoining residents upholding their original objection to the proposal.
- The appeal outlines that the development is unsuitable and requests that permission is refused for the development.

6.2. Applicant Response

6.2.1. The following provides a summary of the key points raised within the applicant's appeal response:

- The appeal response outlines that LCC's decision to grant permission was the correct decision having regard to the County Development Plan and the wider tourism context of the area.
- It is stated that while the site is unzoned, it benefits from connectivity to Kinlough, and the guidance set out within Sections 13.19 of the Leitrim County Development Plan is of relevance.
- The appeal response outlines that the site is not located within a visually sensitive area and the proposed units are single storey and will have minimal visual impact.
- The appeal response refers to the screening report submitted with the application which demonstrates that the development does not have negative environmental implications on any designated sites.

- The proposal seeks to connect to existing water, foul and storm services that have been extended to serve the housing estate at the opposite side of the road in Melvin Fields Estate. The appeal response outlines that a pre connection application has been submitted to Irish Water and refers to the requirements of Condition no. 6 of LCC's decision which requires a connection agreement with Irish Water prior to the commencement of development in this regard.
- The principle of access to the site from the local road network has been agreed with the Area Roads Engineer in LCC.
- The appeal response outlines that connection to services is a post planning and preconstruction matter which can be agreed with LCC and Irish Water prior to construction commencing.
- The appeal response outlines that the services in Melvin Fields Estate are in the process of being taken in charge. The services to which connection is proposed are located on the public road which abuts Melvin Fields Estate. The applicant refers to the letter of consent from the developer of the estate for the applicant to access and amend footpaths along the public road. The applicant is not aware of any issues with the existing services serving Melvin Fields Estate.
- The appeal response outlines that the grant of permission issued by LCC would facilitate the orderly planned development of Kinlough at a location which benefits from connections to the town, provide additional tourism facilities for the town, improve local amenities and has the potential to assist in the taking in charge process of the Melvin Fields Estate.

6.3. Planning Authority Response

6.3.1. Leitrim County Council provided a response to the grounds of appeal. The following provides a summary of the key points raised:

- The Planning Authority (PA) refers to the reference within the appeal to the report from the Taking in Charge Officer dated the 19th of July 2023. The response outlines that, notwithstanding the extensive narrative set out within

this report, the report accepts that the issues raised can be addressed by means of condition. The report refers to Conditions no. 6 and 7 of LCC's decision in this regard and the advice note attached to the planning authority's decision in relation to connection to water services.

- The report outlines that the owner of the Melvin Fields development has provided his agreement for visitors staying in the proposed development to use the footpaths as a mean to gain safe access onwards to Kinlough. LCC's response to the appeal outlines that there is no indication on file or otherwise to suggest that such an agreement to connect to the existing water services will not be forthcoming.
- The report outlines that issues relating to the water and wastewater sewer connection had not been raised during the initial assessment by the Planning Authority. The District Engineers report did not raise objection to the principle of the proposal. The appeal response outlines that Uisce Éireann have no role in relation to storm water drainage and outlines that there are no recorded issues with storm water drainage within the Melvin Fields development.
- It is within the remit of Uisce Éireann to satisfy themselves with regard to watermain and foul sewer connection. In the event that Uisce Éireann cannot grant necessary connections the applicant cannot implement their planning permission. The approach adopted by the Planning Authority is considered a reasoned approach.
- The PA requests ABP to uphold the decision of LCC to grant permission for the development.

7.0 Assessment

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

- Principle of Proposal
- Condition no. 6 – Connection to Infrastructure

7.2. Principle of Proposal

- 7.2.1. The appeal site is located on unzoned land to the northwest of the settlement of Kinlough. The proposed development seeks permission for 6 no. 1 bed holiday chalets. The policies and objectives of the Leitrim County Development Plan 2023-2029 support the development of tourist infrastructure within the County (TOUR INF POL 4, TOUR INF OBJ 2).
- 7.2.2. Section 13.19 of the Leitrim County Development Plan relates to the siting of tourist infrastructure and outlines that caravan, camping/glamping sites shall generally be located within the development boundary of established towns, villages and graigs. The site is located just outside of the settlement boundary of Kinlough along the L60641. At present there are no footpaths provided along L60641 in the vicinity of the site. The submissions on the application raise concern in relation to the principle of the development on unzoned land, outside of the settlement boundary of Kinlough and the lack of pedestrain connections.
- 7.2.3. I consider that linkages between the appeal site and the settlement of Kinlough are a fundamental consideration in considering the principle of the development. The development, as revised in response to Leitrim County Council's (LCC) request for further information, includes the provision of a public footpath along the L-60641 which connects the site to the existing footpath serving the Melvin Fields development. I furthermore note that Objective KLN 20 of the LCDP seeks to *"Provide a footpath including public lighting linking Melvin Fields (L-60641-0) and Dartry View (R280) housing developments and along Edenville Road (L-6080-1) to the existing town footpath network"*. I consider that this will furthermore enhance the pedestrain environment of the area.
- 7.2.4. In conclusion, I consider that the principle of the development of the development is acceptable. While the site is located just outside of the settlement boundary of Kinlough, the proposed development includes extension and connection to the existing pedestrain facilities in the area. I consider that the proposed development accords with policy provisions contained within the Leitrim County Development Plan 2023-2029 including Policy TOUR INF POL 4 and Objective TOUR INF OBJ 2 in facilitating the sustainable development of tourism accommodation such as glamping/camping facilities within the county.

7.3. Condition no. 6 – Connection to Infrastructure

- 7.3.1. The primary grounds of appeal refers to the requirements of Condition no. 6 of LCC's decision which requires the developer to obtain a Connection Agreement from Uisce Éireann for connection to the wastewater and watermain to serve the development as detailed below.

Condition no. 6

“Prior to the commencement of any development on site, the applicant/developer shall obtain a Connection Agreement from Uisce Éireann for the provision of a connection to the watermain and wastewater sewer necessary to serve the proposed development. The applicant / developer shall submit a copy of the Connection Agreement from Uisce Éireann to the Planning Authority as confirmation as this condition has been complied with. In the event that Uisce Éireann require the installation of a proprietary wastewater treatment system and pump in order to pretreat the wastewater from the development prior to discharging to the existing wastewater sewer at Melvin Fields, details of such treatment system and pump shall be confirmed to the Planning Authority.

Reason: In the interest of the provision of a proper water supply and wastewater service”.

- 7.3.2. The appeal outlines that Uisce Éireann have not taken in charge either the sewerage system or storm drains network in Melvin Fields. In this regard the appeal outlines that Uisce Éireann cannot authorise the developers with any legal agreement enabling connection to Melvin Fields sewerage system network. The appeal cross refers to the concerns set out within LCC's "Taking in Charge Officer's" report (19/07/2023) and the Area Planner's report which recommends a refusal of planning permission (19/07/2023). The appeal outlines that lack of ownership by Uisce Éireann presents a situation that is contrary to the proper planning and development of the area and outlines that permission for the development should be refused in this regard.
- 7.3.3. The applicant, in responding to the grounds of appeal, outlines that the necessary consent will be obtained to connect to existing services prior to the commencement of development on site. It is stated that in the instance that consent is not forthcoming that the development cannot proceed.

- 7.3.4. I am of the view that the issues raised in the appeal relating to ownership and consent are civil matters and are not matters that the Board can consider. In this regard, Section 34 (13) of the Planning and Development Act states that, 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'.
- 7.3.5. Section 5.13 of the Development Management Guidelines (DEHLG, 2007) provides guidance on this matter, stating that 'the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts'. I note that the applicant submitted a letter of consent from the developer of Melvin Fields Estate to connect to the existing public footpath. I agree with the view of Leitrim County Council that there is no reason to assume that consent for connection to public infrastructure will not be forthcoming from the developer. I furthermore refer to the advice note attached to LCC's notification of decision to grant permission for the development as follows:

Please be advised that in relation to the connection of the proposed development to the existing wastewater sewer and watermain within Melvin Fields housing development, which development has not been taken in charge by Leitrim County Council, it is likely that Uisce Éireann is likely to require the written consent agreement of the registered owner of the common area lands in the Melvin Fields housing development to connect to the water services of this development.

- 7.3.6. I note that Leitrim County Council's online planning map identifies that Melvin Fields estate is proposed to be taken in charge. Leitrim County Council have not raised objection to the proposed connection in the instance that the estate and associated infrastructure is taken in charge. While the Estates Officer's report raises concerns in relation to the proposed foul sewerage proposals and surface water proposals on site, it is stated that such matters can be addressed by means of condition.
- 7.3.7. On the basis of the information set out within the application and appeal I am satisfied that the principle of the proposed connection to existing services is acceptable and that the issue of consent for connection to existing infrastructure in the vicinity of the site can be addressed by means of condition. I do recommend revisions to the wording of condition no. 6 of LCC's notification of decision to grant permission for the development to omit the reference to the installation of a

wastewater treatment systems. In the instance that such a system is required on site, I am of the opinion that this should be subject to a separate application.

- 7.3.8. The appeal furthermore raises concerns in relation problems associated with the current sewerage system installed in the Melvin Fields development as it is currently incapable of discharging the site sewerage to the Kinlough mains system. The appeal refers to the installation of a pumping unit on site at regular intervals and raises concern in relation to additional loading associated with the proposed development and potential health/sanitation and environmental issues for the residents of Melvin Fields and adjacent housing developments. Concerns in relation to the existing capacity of the sewerage system serving the Melvin Fields estate are raised within the submissions on the application.
- 7.3.9. The proposal includes an on-site foul sewer network which connects to the existing foul sewer on the existing public road to the south as illustrated on the Proposed Site Layout Plan (Drawing no. 2018-02 entitled “Proposed Glamping Site”). I refer to Leitrim County Council’s Taking in Charge Report (19/07/23) which outlines that there is sufficient capacity in the Melvin Fields system to accommodate the development on the basis of the sporadic and minimal flows from the proposed storm and foul drainage systems.
- 7.3.10. Section 6.8.1 of the Leitrim County Development Plan 2023-2029 outlines that the Kinlough wastewater treatment plant has been the subject of recent upgrade works conducted by Irish Water, is designed to collect and treat effluent from a population equivalent (P.E.) of 2,100. The Plan outlines 2020 Irish Water Annual Environmental Report indicates a remaining capacity of 662 P.E. I have also had regard to the nature and small scale of the development. In this regard, I consider that there is capacity within the WWTP to accommodate the development.
- 7.3.11. In conclusion, I do not consider that the proposal represents a scale or format of development which would significantly impact upon the loading of the existing public mains in Kinlough or result in significant health/sanitation or environmental issues within the Melvin Fields Estate or adjoining areas. I consider the points raised by the appellant in relation to impact on the Lough Melvin SAC in Section 8 of this report.

8.0 AA Screening

Screening Compliance with Article 6(3) of the Habitats Directive

- 8.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Background on the Application

- 8.2. A Screening report prepared by F. Davitt Planning and Design Engineers was submitted in conjunction with the application.
- 8.3. The Screening Report provides a description of the proposed development and identifies European Sites within a possible zone of influence of it. The Report concludes that: *“No Natura 2000 sites will be detrimentally affected by the development”*.
- 8.4. 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.

Screening for Appropriate Assessment- Test of likely significant effects

- 8.5. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 8.6. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Project Description and Site Description.

- 8.7. Section 2.2 of the applicant's AA Screening provides a description of the application site and the proposed development. In brief the proposal comprises the construction of 6 no. 1 bed chalets, playground, associated parking and connection to existing public mains.

Submissions and Observations

- 8.8. Leitrim County Council's Screening Determination concludes that "*Having regard to the distance of the subject site from the nearest European Site, to the proposed development being able to connect to water services within the village and to the nature of the proposed development, I am satisfied that the proposed development is not likely to have an adverse impact upon the qualifying interest or conservation objectives of a European Site. It is not considered necessary as a result to require the undertaking of a Stage II Appropriate Assessment*".
- 8.9. The 3rd party appeal raises concern in relation to effluent escapes to a local stream which connects directly into the Lough Melvin SAC.

European Sites

- 8.10. The development site is not located in a European site. The nearest designated site to the appeal site is the Lough Melvin SAC (Site Code 000428) which is c.1km to the east of the appeal site.
- 8.11. The applicant's Screening Report identifies 11 other designated SAC's and SPA's within 15km of the appeal site.
- 8.12. I am satisfied that the potential for impacts on these Natura 2000 sites can be excluded at the preliminary stage due to the separation distances between the European sites and the proposed development site, the nature and scale of the proposed development and the nature of intervening development.

European Sites

- 8.13. The subject site is located approximately 1km from the nearest Natura 2000 site the Lough Melvin SAC (Site Code: 000428). There are other European sites within a 15km search zone, however; in view of the small-scale nature of the development, I am satisfied that there is no possibility of significant effects arising at any European site other than those in the immediate vicinity of the site.
- 8.14. A summary of the Lough Melvin SAC is presented in the table below.

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)
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Lough Melvin SAC (Site Code 000428)	Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130], Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410], Salmo salar (Salmon) [1106], Lutra lutra (Otter) [1355]	c. 1km – Connection via surface water discharge and WWTP
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Identification of Likely Effects

- 8.15. Section 4.1 of the applicant's Screening Report refers to the potential effects on the existing environment. The report outlines that due to the existing separation distances to all Natura 2000 sites will ensure that there will be no impact.
- 8.16. Key potential impacts identified within the Screening Report relate to potential impacts on water quality. The report outlines that the development is served by a wastewater treatment system and that surface water will be directed to a soakpit prior to discharge to the nearby watercourse and on this basis the proposal will have a negligible impact on water quality.
- 8.17. Kinlough Stream which runs to the south of the Melvin Fields Estate flows in an eastern direction and outfalls to Lough Melvin SAC. The existing waste water treatment plant in Kinlough outfalls to Kinlough Stream. The existing river which runs to the south of the Melvin Fields Estate provides a hydrological connection to the SAC. The appeal raises concern in relation to the existing capacity of the foul network serving the Melvin Fields estate and outlines that further loading may result in outfall to the water course.
- 8.18. Having regard to the scale of development, I consider that run off from the site will be limited. Although a source-pathway-receptor linkage exists between the application site and the designated habitats of the Lough Melvin SAC in this instance, given the limited scale of the proposed development, the distance of the appeal site from the SAC and dilution effects I do not consider that impacts on the downstream SAC would arise. I am satisfied, in view of this, that significant effects on the SAC arising during construction and operational are unlikely and the issue can therefore be excluded at this stage.

Cumulative Impacts

- 8.19. As there are no impacts to the Lough Melvin SAC arising as a result of this development, there is no potential for cumulative impacts. There are no likely impacts arising from the proposed development on Natura 2000 sites and therefore cumulative impacts with other projects will not occur.

Screening Determination

- 8.20. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans and projects would not be likely to give rise to significant effects on Lough Melvin SAC (000428) or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore not required.

9.0 Recommendation

I recommend that permission for the proposed development be granted, subject to conditions as set out below.

10.0 Reasons and Considerations

Having regard to the nature, extent and design of the proposed development, the proximity of the subject site to the settlement of Kinlough, the proposed connectivity to the settlement and the policy provisions contained within the Leitrim County Development Plan 2023-2029, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area would not be prejudicial to public health, would be acceptable in terms of pedestrian and traffic safety and would constitute an acceptable use 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, as amended by the further plans and particulars submitted on the 14/06/2023 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.

Reason: In the interest of clarity.

2. The 6 no. chalet units shall be used for short stay tourism accommodation only. The subject chalets shall not be used as a permanent place of residence. Full details of the management of the lettings shall be submitted to the Planning Authority for agreement prior to the commencement of the development.

Reason: To define the terms of the permission.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, as amended, no sign, symbol, nameplate or advertisement shall be erected on the proposed site or structure without the prior written agreement of the Planning Authority or planning permission being obtained, as appropriate.

Reason: In the interests of visual amenity and the proper accommodation of the commercial advertising of the proposal

4. The applicant/developer shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development. The applicant/developer shall submit a copy of the Connection Agreement from Uisce Éireann, together with any necessary consent for connection to existing infrastructure, to the Planning Authority prior to the commencement of development.

Reason: In the interest of public health.

5. Prior to the commencement of development, the developer shall submit revised surface water proposals for written agreement of the planning authority.

Reason: In the interests of proper planning and sustainable development.

6. Prior to the commencement of development, the developer shall submit detailed proposals for a footpath and pedestrian crossing linking the site to the existing footpath in the vicinity of Melvin Fields Estate for written agreement of the planning authority. These works shall be implemented at the developer's expense and shall be implemented prior to first occupation of the development.

Reason: In the interests of proper planning and sustainable development.

7. Details of the proposed landscaping scheme, including planting schedules shall be submitted to the Planning Authority for its written agreement prior to the commencement of development.

Reason: In the interests of visual amenity.

8. The proposed vehicular entrance to the development, internal road network and proposed perimeter footpath and kerbs shall comply with the requirements of Leitrim County Council and in all respects with the standards set out in the Design Manual for Urban Roads and Streets (DMURS).

Reason: In the interests of pedestrian and traffic safety.

9. Details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials [and for the ongoing operation of these facilities] shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to avoid pollution and to protect amenity.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the

provision of broadband infrastructure within the proposed development. Any bulk fuel storage shall be screened from the public view by means of planting or timber picketing.

Reason: In the interests of visual amenity.

11. 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.

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

12. 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 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 the 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.

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.

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.

Stephanie Farrington
Senior Planning Inspector

29th of April 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	317826-23		
Proposed Development Summary	Construction of 6 no. chalets and all associated site works.		
Development Address	Gubacreeny, Kinlough, Co. Leitrim		
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)
No		N/A	No EIAR or Preliminary Examination required
Yes		Class 12 of Part 2 of Schedule 5	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	317826-23	
Proposed Development Summary	Construction of 6 no. chalets and all associated site works.	
Development Address	Gubacreeny, Kinlough, Co. Leitrim	
<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>No.</p> <p>No significant waste, emissions or pollutants are envisaged.</p>	<p>• No</p> <p>No</p>
<p>Size of the Development</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</p>		<p>No</p> <p>No</p>

and/or permitted projects?		
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?	No	No No
• Conclusion		
There is no real likelihood of significant effects on the environment. EIA not required. X	• There is significant and realistic doubt regarding the likelihood of significant effects on the environment. Schedule 7A Information required to enable a Screening Determination to be carried out.	There is a real likelihood of significant effects on the environment. EIAR required.

Inspector: _____

Date: _____