



An  
Bord  
Pleanála

## Inspector's Report ABP-319125-24

### Development

Construction of 61 dwellings.  
Permission for a change of use, extension and re-modelling of two derelict dwellings to doctor's surgery with ancillary areas and 2 no. apartments at first floor level and all ancillary site works. The site is adjoining the protected structure known as 'The Old Forge', Kilkishen (Clare County RPS no. 698)

### Location

Tulla Road, Teeronea, Kilkishen, Co. Clare.

### Planning Authority

Clare County Council

### Planning Authority Reg. Ref.

2360048

### Applicant

Sanford Properties Ltd.

### Type of Application

Permission

### Planning Authority Decision

Refuse permission

### Type of Appeal

First Party

### Appellant

Sanford Properties Ltd.

**Observers**

None

**Date of Site Inspection**

10<sup>th</sup> December 2024

**Inspector**

Siobhan Carroll

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## **1.0 Site Location and Description**

- 1.1. The subject site with a stated area of 2.62 hectares, is located at Kilkishen, Co. Clare. The village of Kilkishen is located approximately 24km to the Ennis and approximately 25km to the north of Limerick City.
- 1.2. The site is situated on the western side of the Main Street the R462. The site has frontage of circa 287m on the Main Street. The boundary on to the Main Street is formed by a stone wall and the section of boundary to the north-eastern section of the site features briars, ivy and other hedging which had grown around and over the existing stone wall.
- 1.3. The northern site boundary extends for circa 118m it adjoins a private access to a property to the west. The western site boundary is circa 175m in length. The southern site boundary adjoins a residential property.
- 1.4. The site contains two dwellings previously constructed and presently vacant with some windows boarded. The dwellings comprise two-storey semi-detached properties with a section of road constructed to north. This section of the site where an entrance onto the R462 was constructed has been secured with the erection of palisade fencing and gates.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the construction of 61 dwellings comprising the following;
  - 3 no. single storey dwellings (2 bedroom units of 79m<sup>2</sup> gross floor area);
  - 9 no. two storey terraced dwellings (3 bedroom units of 105m<sup>2</sup> gross floor area);
  - 8 no. semi-detached 2 storey dwellings with attic room (5 bedroom units of 178m<sup>2</sup> gross floor area);
  - 2 no. 2 storey (corner) dwellings (3 bedroom units of 142m<sup>2</sup> gross floor area);
  - 16 no. 2 storey semi-detached dwellings with attic room (4 bedroom dwellings of 137m<sup>2</sup> gross floor area);
  - 5 no. 2 storey dwellings (2 bedroom dwellings of 98m<sup>2</sup>);

- 16 no. 2 storey detached dwellings (4 bedroom dwellings of 143m<sup>2</sup> gross floor area).

- 2.2. This application also seeks permission for a change of use, extension to and re-modelling of two existing derelict dwelling houses constructed on site (under P06/2921) to doctor's surgery with ancillary areas (waiting areas, reception area, office, consulting rooms, staff canteen, storage and ancillary service areas (toilets, baby changing room, rest room and clinical refuse storage) with 2 no. two bedroom apartments overhead at first floor level.
- 2.3. This application also seeks permission for amended site entrance piers, access roadway, car parking, green areas, footpaths, public lighting, connections to existing public services (main drainage and water supply), removal of / amendments to site boundaries, provision of boundary walls, fences, amendments to ground levels, hard and soft landscaping and all ancillary site works.
- 2.4. This development site is adjoining the protected structure known as 'The Old Forge', Kilkishen (Clare County RPS no. 698).

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. The Planning Authority refused permission for the following reason;

1. The proposed development provides for a connection to the Kilkishen Wastewater Treatment Plant for the purposes of wastewater treatment and disposal. Under CDP11.29(c) of the Clare County Development Plan 2023-2029 it is an objective to ensure that adequate water services will be available to service development prior to the granting of planning permission and to require developers to consult Uisce Eireann regarding available capacity prior to applying for planning permission.

Having regard to the correspondence on file from Uisce Eireann indicating that a wastewater connection cannot be facilitated at this time, it is considered that the proposed development would be premature by reference to the existing deficiencies in the Kilkishen Wastewater Treatment Plant, to which

connection is proposed, and the period within which this constraint can reasonably be expected to cease.

The proposed development would therefore be contrary to the objectives of the Clare County Development Plan 2023-2029 and be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

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

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

3.2.2. Planners report dated 19/4/2023 – It was recommended that further information be sought in relation to a number of issues.

3.2.3. The Planning Authority sought further information in relation to the following matters;

1. Access and Traffic related issues.
2. Submit a lighting plan for the proposed development, designed in accordance with Bat Conservation Trust's latest guidelines with input from a suitably qualified ecologist.
3. Details of the attenuation and soakaway design are required along with details of the location and capacity of the final discharge point.
4. Provide 1 no. north-east to south-west cross section and 3 no. east to west cross sections through the site showing current and proposed ground levels and any retaining structures required to facilitate the proposed development.
5. The Planning Authority notes that the intention to connect to Irish Water infrastructure for the purposes of water supply and wastewater disposal. It has not been satisfactorily demonstrated that a connection to these services can be provided. You are required to undertake the Irish Water Pre-Connection Enquiry process for both water and wastewater connections and submit the results of same to the Planning Authority.
6. Submit revised proposals for boundary treatment.
7. Submit a detailed Landscaping Plan for the proposed development.

8. Provide details of bin storage areas associated with the proposed terraced houses and apartments.

3.2.4. Planners report dated 26/1/24: On the 22<sup>nd</sup> January 2024 Uisce Éireann made a submission on this application stating that their response to the Pre-Connection Enquiry was issued to the applicants on 03/01/2024. Kilkishen Wastewater Treatment Plant does not have sufficient capacity to facilitate the proposed development wastewater load. A Wastewater Treatment Plant upgrade is required in order to take the load. Additionally, wastewater network upgrades area also required to address flooding in the area. Uisce Éireann has no plans to progress any Wastewater Treatment Plant or network upgrades within the current Capital Investment Plan, therefore the connection is feasible. Having regard to the foregoing, there is no viable means of disposing of wastewater that will be generated by the proposed development. The development is premature pending the upgrade of the Kilkishen Wastewater Treatment Plant and associated flood management issues. Recommendation to refuse permission on the basis that the development would be prejudicial to public health.

3.2.5. Other Technical Reports

3.2.6. Area Engineer, Killaloe Municipal District: Report dated 23/1/23 - Further information requested.

3.2.7. Area Engineer, Killaloe Municipal District: Report dated 23/1/24 - The site entrance requires to be setback 3m with sightline of 90m in either direction to accommodate HGV's. Junction layout not acceptable particularly with turning movements from the adjacent housing estate. The applicant will require to implement traffic calming measures via a raised table to cover the proposed development and the existing development to reduce speed at this location.

3.2.8. Road Design Office, Clare County Council: Report dated 6/4/23 - Further information requested.

3.2.9. Road Design Office, Clare County Council: Report dated 10/1/24 - In relation to the layout there is a potential conflict with the Disabled car parking space as a turning bay requires a 1m clearance zone. A shortfall of 6 no. car parking spaces as per Clare County Council Development Plan 2017-2023 standards.



- 3.2.10. Estates Team, Clare County Council: Report dated 24/3/23 - Further information requested.
- 3.2.11. Estates Team, Clare County Council: Report dated 23/1/24 - Generally issues raised in the further information were addressed.
- 3.2.12. Chief Fire Officer Clare County Council: Report dated 28/3/23 - Further information requested.

### **3.3. Prescribed Bodies**

- 3.3.1. Development Applications Unit - Department of Housing, Local Government and Heritage: Report dated 3/4/23 – In relation to archaeology the National Monuments Service of the Department of Housing, Local Government and Heritage recommends that archaeological monitoring be included as a condition of any grant of planning that may issue. Given the scale of the proposed development Clare County Council should consider requesting a lighting plan for the proposed development, which should comply with the Bat Conservation Trust's latest guidelines, as referenced in the latest Clare County Council biodiversity manual. It is the view of the Department that given the proximity of the two SACs Clare County Council should screen for Appropriate Assessment to determine if the proposed development, on its own and in combination with other plans and projects, will have significant effects on the European sites in view of their conservation objectives.
- 3.3.2. Development Applications Unit - Department of Housing, Local Government and Heritage: Report dated 24/1/24 - The Department notes the Further Information supplied and recommends that the lighting plan supplied, which complies with Bat Conservation Trust's latest guidelines, should be made a condition of planning should permission be granted. In addition, the Department recommends that the landscape plan, detailing trees to be planted and linear features and hedgerows to be retained, should also be made a condition of planning.
- 3.3.3. Uisce Éireann: Report dated 2/3/23 - The proposed development if granted will have to connect to the 175mm diameter watermain on public road R462. ArcGIS indicates that the 175mm watermain is uPVC. A bulk water meter should be installed at the take-off point. No objection to water supply.

- 3.3.4. Uisce Éireann: Report dated 22/1/24 - Uisce Éireann (UÉ) has reviewed the plans and particulars and Further Information submitted by the applicants on 21/12/2023 in regard to the proposed development and has the following observation: The applicant engaged with Uisce Éireann via a Pre-Connection Enquiry (Our ref: CDS23006522) and Uisce Éireann has assessed feasibility of connection(s) for the proposals. Uisce Éireann issued a response to the applicants on 03/01/2024 advising that a wastewater connection could not be facilitated in respect of wastewater for the reasons outlined below: There is insufficient capacity for the proposed development. Kilkishen Wastewater Treatment Plant (WWTP) does not have sufficient capacity to facilitate the proposed development wastewater load. A WwTP upgrade is required in order to take the load. Uisce Éireann currently has no plans for this WWTP to be upgraded within the current Capital Investment Plan. Additionally, wastewater network upgrades are also required to address flooding in the area. Uisce Éireann has no plans to progress any WwTP or network upgrades within the current Capital Investment Plan, therefore the connection is not feasible.
- 3.3.5. An Taisce: Kilkishen is a rural village with a weak service space unsuitable for car-based commuter development to serve Ennis, Limerick or Shannon areas. Notwithstanding the zoning of the site, the rationale for development of the scale proposed has not been advanced.

### **3.4. Third Party Observations**

- 3.4.1. The Planning Authority received 3 no. submissions/observations in relation to the application. Issues raised concerned, access and services to lands to the west of the site, potential visual impact of boundary treatment and proposed western site boundary, sightlines at proposed vehicular entrance, potential for littering and antisocial behaviour at proposed laneway.
- 3.4.2. There was a representation from a County Councillor in relation to the application.

## **4.0 Planning History**

- 4.1.1. Reg. Ref. 06/2921 - permission was granted for a development consisting of 76 dwellings as follows; - 7 two storey detached houses, 42 two storey semi-detached houses, 15 terraced houses in 5 no. two storey terraces of 3 houses and 12 terraced

houses in 3 no. two storey terraces of 4 houses and 10 no domestic garages consisting of 2 no. detached garages and 8 no. garages in 4 no. detached double garages with 2 no. accesses to the development off the Tulla Road and including connections to mains drainage and water supply and all associated site works.

- 4.1.2. Reg. Ref. 06/2921 - permission was refused to extend the appropriate period of planning permission 06/2921 for a residential development consisting of 76 no. dwellings.

## **5.0 Policy Context**

### **5.1. Project Ireland 2040-National Planning Framework**

- 5.1.1. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to "prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location".
- 5.1.2. National Policy Objective 35 seeks "to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights".
- 5.1.3. National Planning Objective 13 also provides that "In urban areas, planning and related standards, including in particular height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected".

### **5.2. Section 28 Ministerial Guidelines**

- 5.2.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024)
- ‘Design Manual for Urban Roads and Streets’ (DMURS) (2019)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) (2009)

### **5.3. Clare County Development Plan 2023 - 2029**

- 5.3.1. Chapter 3 refers to – Core Strategy.
- 5.3.2. As detailed in Table 3.1 – Settlement Hierarchy in County Clare. Kilkishen is categorised as a Tier 1 - Large Village.
- 5.3.3. Chapter 11 refers to Physical Infrastructure, Environment and Energy
- 5.3.4. Section 11.4.3 refers to Wastewater Management
- 5.3.5. Uisce Éireann has responsibility for the provision and management of wastewater facilities serving sewered towns and villages, including the management of storm water for combined sewers. The maintenance, upgrading and provision of the county’s wastewater drainage system is essential to accommodate future development requirements and to ensure the sustainable development and environmental protection of the county. At present there are significant service and compliance issues in many existing wastewater systems in County Clare. A number of treatment plant and network projects are being progressed under Uisce Éireann’s 2020-2024 Programme of Investment to address these issues.
- 5.3.6. Sludge is a by-product of wastewater treatment operations. To minimise risk to human health and the environment Clare County Council will work with Uisce Éireann in the implementation of the National Wastewater Sludge Management Plan for the management of sludge derived from wastewater treatment processes.
- 5.3.7. Development Plan Objective: Wastewater Treatment and Disposal
- 5.3.8. CDP 11.32 (h) - It is an objective of Clare County Council: (h) Where settlements have no public wastewater treatment infrastructure, and in settlements which have limited or insufficient capacity to facilitate development, to consider alternative developer led/provided shared use wastewater treatment infrastructure, including

those incorporating nature-based solutions, to serve development where it can be clearly demonstrated that the system is in compliance with relevant EPA Guidelines on design standards and which will allow connection to a public system when it is provided. Any such consideration will be subject to the following criteria:

- i. Connection to an existing public wastewater treatment system is not currently available.
- ii. Environmental and planning requirements are satisfied including plan adequacy, site suitability and a suitable means of sludge and treated effluent disposal.
- iii. The land on which the treatment plant is located is transferred to Uisce Éireann on their request if/when a public system is provided.
- iv. The management and maintenance of the shared wastewater treatment and disposal infrastructure following its completion shall be the responsibility of a legally constituted management company. This management company will be responsible for the adequate maintenance, operation and management of the shared infrastructure. It shall be a condition of sale of all elements of the permitted development that the purchaser become a shareholder in the management company and include a similar condition on any contract for subsequent disposal of the property.
- v. Adherence to the environmental assessment criteria set out in section 11.4.3.1 of this plan.
- vi. As a condition of grant of planning permission, new developments will be required to connect to the public network when connection becomes available, subject to a connection agreement with Uisce Éireann.

5.3.9. Volume 3c of the Development Plan refers to Killaloe Municipal District Settlement Plans.

5.3.10. Section 3 refers to Large Villages. Kilkishen is a designated a Large Village.

5.3.11. As per the zoning map the appeal site at Tulla Road, Teeronea, Kilkishen, Co. Clare is located within the Kikishen settlement boundary. The site is located predominately on lands zoned “Residential”. The north-eastern corner of the section of the site is zoned Existing Residential it contains two vacant dwellings.

- 5.3.12. The Forge in Kilkishen which is a Protected Structure adjoins a section of the eastern boundary of the site. RPS No. 698 – The Old Forge, Forge/Smithy, Clonlea, Kilkishen.

#### **5.4. Natural Heritage Designations**

- 5.4.1. Kilkishen House SAC (Site Code 002319) is located 1.1km to the south-west of the appeal site.
- 5.4.2. Danes Hole, Poulnalecka SAC (Site Code 000030) is located 2.7km to the east of the appeal site.
- 5.4.3. Slieve Bernagh Bog SAC (Site Code 002312) is located 9.2km to the east of the appeal site.
- 5.4.4. Newgrove House SAC (Site Code 002157) is located 8.3km to the north-west of the appeal site.
- 5.4.5. Lower River Shannon SAC (Site Code 002165) is located 10.7km to the west of the appeal site.
- 5.4.6. River Shannon and River Fergus Estuaries (Site Code 004077) is located 11.9km to the west of the appeal site.
- 5.4.7. Slieve Aughty Mountains SPA (Site Code 004168) is located 8.7km to the north of the appeal site.
- 5.4.8. Lough Gash Turlough SAC (Site Code 000051) is located 11.5km to the south-west of the appeal site.
- 5.4.9. Ratty River Cave SAC (Site Code 002316) is located 4.8km to the south of the appeal site.
- 5.4.10. Cloonloun More Bog NHA (Site Code 002307) is located 3.2km to the north-east of the appeal site.
- 5.4.11. Doon Lough NHA (Site Code 000337) is located 3.1km to the east of the appeal site.
- 5.4.12. Gortacullin Bog NHA (Site Code 002401) is located 5.1km to the south-east of the appeal site.

## **6.0 EIA Screening**

- 6.1.1. See Forms 1 and 2 in Appendices 1 and 2 attached below. 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 an EIA determination therefore is not required.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

A first party appeal has been submitted by Rob Shanahan Architects on behalf of the applicant Sanford Properties Ltd. The issues raised are as follows:

- Permission was refused by Clare County Council for the following reason;
  1. The proposed development provides for a connection to the Kilkishen Wastewater Treatment Plant for the purposes of wastewater treatment and disposal. Under CDP11.29(c) of the Clare County Development Plan 2023-2029 it is an objective to ensure that adequate water services will be available to service development prior to the granting of planning permission and to require developers to consult Uisce Eireann regarding available capacity prior to applying for planning permission.

Having regard to the correspondence on file from Uisce Eireann indicating that a wastewater connection cannot be facilitated at this time, it is considered that the proposed development would be premature by reference to the existing deficiencies in the Kilkishen Wastewater Treatment Plant, to which connection is proposed, and the period within which this constraint can reasonably be expected to cease.

The proposed development would therefore be contrary to the objectives of the Clare County Development Plan 2023-2029 and be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

- The applicant wishes to highlight the following information in relation to the application. Sanford Properties Ltd. purchased the zoned site which was 2018. Under Reg. Ref. 06/2921 permission was granted for a scheme comprising 76 no. dwellings on the site in 2007. The previous owner had commenced development and had partially constructed two dwellings at the site entrance. The economic downturn halted the further development of the site.
- In 2020 Sanford Properties Ltd. began discussions with Clare County Council with a view to progressing a proposal for residential development on the site. Sketch design layouts for the site were discussed with the Area Planner in late 2020. The scheme was amended and adjusted in 2021 with the new Area Planner. The applicant states that they took onboard elements from other referenced developments in the County as requested.
- The discussions with the Planning section of Clare County Council were based on the Clare Development Plan 2017 – 2023 and the application was made during the lifetime of that plan. Table 2.4 of the 2017-2023 Development Plan refers to the 'Core Strategy Population Targets' sets a projected target population for Kilkishen as 732 residents and clearly states that anticipated water and wastewater services are available. Page 51 of the Clare County Development Plan 2023-2029 states that; 'Kilkishen is served by a public wastewater treatment plant (WWTP) which has the capacity to cater for the target population. Population numbers have however been reduced down from 732 to 681.
- Foul Water drainage and capacity of the Kilkishen Wastewater treatment plant was raised in 'item 5' of the Council's request for further information issued on 19<sup>th</sup> April 2023. The applicant submitted a pre-connection enquiry to Irish Water/Uisce Éireann.
- Irish Waters, 'Settlements with Waste Water Discharge Authorisations – Wastewater Treatment Capacity Register shows Kilkishen as being category 'Green' status which demonstrates that capacity is available in the village system. The applicant received a letter in early January 2024 which



contradicted this and noted that adequate capacity was not available in the public system.

- The applicant's Consultant Engineer attempted on numerous occasions to contact engineers in both the Local Authority and Uisce Éireann to clarify the extent of foul water capacity available without response. A proposal for an onsite treatment system was provided to the Planning Department of the Council in the hope that a grant of permission could be achieved with conditions relating to the Local Authorities conditions relation to the Local Authorities preferred drainage proposal and phasing of the development.
- The Clare Development Plan 2023 – 2029 was adopted in April 2023. It outlines that "Kilkishen is connected to Shannon/Sixmilebridge Regional Water Supply. A project to upgrade Castle Lake Water Treatment Plant is planned and will be completed within the lifetime of the plan, subject to necessary approvals. Kilkishen is served by a public wastewater treatment plant (WWTP) which has the capacity to cater for the target population.
- Discussions with the Housing Section of Clare County Council in late 2022 led to an agreed total of 16 no. dwelling units of varying sizes being allocated for social/affordable housing on the development site.
- The site is referred to in the Killaloe Municipal District Section of the Clare Development Plan 2023-2029 it states; "The development of these lands commenced over a decade ago but works remain unfinished. On site remains the legacy of the incomplete works with two unfinished dwellings in poor condition which are on the Derelict Sites Register. The site also includes an old forge building.
- Sanford Properties Ltd. purchased the site in 2018 after the previous planning permission had expired and part of this proposal includes for the refurbishment and extension to the existing derelict dwelling houses to provide for a doctor's surgery with two apartments overhead.
- It is stated that members of the community have been refused permission to construct one off houses outside the village on the basis that zoned land was available for development within the village on this development site.

- The email issued from the Area Planner on 24<sup>th</sup> January stated that the provision of on-site systems is not something which they would be overly keen on, given the negative experience with same in the past in terms of maintenance, management and taking in charge.
- The applicant highlights that the Development Plan does under Objective CDP 11.32(h) provide for policy support for same subject to a number of criteria.
- The applicant requests that the Board condition that either a permanent or temporary treatment plant be installed to deal with foul water drainage subject to compliance with relevant guidelines to allow development to commence.
- It is stated that at a Council meeting of the 9<sup>th</sup> March 2023, Councillors elected to amend the Clare Development Plan 2023-2029, to include the following text in Objective CDP11.32 Wastewater Treatment and Disposal part (h) as follows: (h) where settlements have no public wastewater treatment infrastructure and in settlements which have limited or insufficient capacity to facilitate development, to consider alternative developer led/provided shared use wastewater treatment infrastructure, including those incorporating nature-based solutions, to serve development where it can be clearly demonstrated that the system is in compliance with relevant EPA Guidelines on design standards and which will allow connection to a public system when it is provided.

## **7.2. Planning Authority Response**

A response to the first party appeal was received from the Planning Authority. The issues raised are as follows;

- The proposed development site is located in the village of Kilkishen. Lands within the red line boundary of the proposed site are zoned a mix of residential, Existing Residential and Agricultural.
- The Planning Authority supports the principle of a residential development on appropriately zoned areas of the site and engage in extensive consultation with the applicants in terms of the layout and design of this development.

- Notwithstanding the Planning Authority's support for this application the key issue in this application refers to the lack of adequate wastewater treatment.
- The refusal of permission relates solely to the lack of capacity of public wastewater treatment infrastructure in the village. Both Clare County Council and the applicant/their representatives engaged with Uisce Éireann on this matter. Uisce Éireann were clear in their position that there is no capacity in the public network and a connection for the proposed development cannot be facilitated.
- The proposal from the applicant to introduce an on-site wastewater treatment system was received on 24/1/2024. It was submitted via email shortly before the decision date. The Planning Authority considered that the proposal would constitute that the proposal would constitute a significant alteration to the development proposal which would have required a significant alteration to the development proposal which would have required revised site notices for public consultation. Given that the information was received two days before the statutory decision date on the application, there was no possibility of readvertising the proposal.
- In any event the details submitted did not show compliance with Objective CDP 11.32 (h) of the Plan.
- Objective CDP 11.32 (h) of the Clare Development Plan 2023 – 2029 allows for developer led shared wastewater treatment system in settlements where there is insufficient capacity in the public wastewater treatment infrastructure. However, this is subject to strict criteria as set out in the Development Plan policy.
- It was not clear, based on the limited information provided, that the required criteria could be met on the proposed development site. The documentation submitted with the appeal also does not adequately address the provisions of the aforementioned policy and it is not clear to the Planning Authority as to whether any new on-site system would be appropriate (on-site percolation tests, detailed design proposals and management proposals etc).

- This policy also requires that the land on which the treatment plant is located is transferred to Uisce Éireann if/when the public system is provided/upgraded it is not clear from the appeal whether engagement with Uisce Éireann has taken place in this regard.
- The Board is advised that whilst that Objective CDP 11.32 of the Clare Development Plan 2023 – 2029 facilitates an on-site system it must be clearly demonstrated that such a system would be appropriate to the site and the subject development. The Planning Authority have had serious legacy issues with on-site systems over the years in terms of maintenance and taking in charge. Should the Board consider that an on-site system is appropriate in this instance it is respectfully requested that full criteria under Objective CDP 11.32 are met and that the Planning Authority are given a further opportunity to comment on any such revised proposals.
- As it stands however and based on the details submitted with the appeal to date, the Planning Authority does not consider that issues raised in its decision have been addressed.
- In all other respects the Planning Authority refers to the considerations set out in the Planner's report on this application. They respectfully request that the Board uphold the Council's decision.

## 8.0 **Assessment**

Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, the report/s of the local authority, and having inspected the site and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issue in this appeal can be considered are as follows:

- Wastewater treatment

## **8.1. Wastewater treatment**

- 8.1.1. Refusal reason no. 1 issued by the Planning Authority stated that it is considered that the proposed development would be premature by reference to the existing deficiencies in the Kilkishen Wastewater Treatment Plan to which connection is proposed and the period within which this constraint may reasonably be expected to cease.
- 8.1.2. The reason for refusal also refers to Objective CDP 11.29(c) of the Clare County Development Plan 2023-2023 which states that 'it is an objective of Clare County Council (c) to ensure that adequate water services will be available to service development prior to the granting of planning permission and to require developers to consult Uisce Éireann regarding available capacity prior to applying for planning permission.'
- 8.1.3. The first party in the appeal have highlighted the planning history on the site. Under Reg. Ref. 06/2921 permission was granted for a scheme of 76 no. dwellings. While two dwellings were constructed on foot of this permission the development did not proceed any further as a result of the economic downturn. The first party highlighted that they submitted a pre-planning query in respect of the site in 2020 and that the application was made during the lifetime of the Clare Development Plan 2017-2023.
- 8.1.4. Regarding the matter of the capacity of the Kilkishen WWTP the first party noted that the matter was raised under item no. 5 of the further information issued by the Planning Authority. The applicant submitted a pre-connection enquiry to Irish Water/Uisce Éireann and they received a letter in early January 2024 which advised them that adequate capacity was not available in the public system.
- 8.1.5. The first party highlighted in the appeal that Irish Waters, Settlements with Waste Water Discharge Authorisations – Wastewater Treatment Capacity Register shows Kilkishen as being category 'Green' status which demonstrates that capacity is available in the village system. I reviewed the Irish Waters, Settlements with Waste Water Discharge Authorisations – Wastewater Treatment Capacity Register which was published in December 2024 and I note that in relation to the capacity of Kilkishen WWTP it states that it is categorised as 'Green' status, that spare capacity is available. In relation to the information contained in the register I would note that the disclaimer sets out that the register provides an indication only of available

capacity at a treatment plant based on available information at the date of publication and are subject to change, that the information is provided for guidance only and cannot be taken as confirmation that capacity is available for a particular development. It is further advised that an executed Connection Agreement is required to ensure a connection can be made and capacity is available for your development. Accordingly, while I would note the point made by the first party in relation to the details provided on the Settlements with Waste Water Discharge Authorisations – Wastewater Treatment Capacity Register, this is for guidance and informational purposes primarily and the applicant is therefore required to seek a connection agreement from Uisce Éireann.

- 8.1.6. The first party's Consultant Engineer stated that they sought to contact engineers in both the Local Authority and Uisce Éireann to clarify the extent of foul water capacity available and that they did not received responses.
- 8.1.7. In relation to the feasibility of connection to the Kilkishen Wastewater Treatment Plant (WWTP) I note the report from Uisce Éireann dated 22/1/2024 which was prepared following the submission of further information. They confirmed that the applicant engaged with Uisce Éireann via a Pre-Connection Enquiry (Our ref: CDS23006522) and Uisce Éireann has assessed feasibility of connection for the proposal. Uisce Éireann stated that they issued a response to the applicant on 03/01/2024 advising that a wastewater connection could not be facilitated in respect of wastewater because there is insufficient capacity for the proposed development. Uisce Éireann stated that Kilkishen Wastewater Treatment Plant (WWTP) does not have sufficient capacity to facilitate the proposed development wastewater load and that a WWTP upgrade is required in order to take the load. Uisce Éireann confirmed that currently there are no plans for this WWTP to be upgraded within the current Capital Investment Plan. Additionally, wastewater network upgrades are also required to address flooding in the area. Uisce Éireann stated that it has no plans to progress any WWTP or network upgrades within the current Capital Investment Plan, therefore the connection is not feasible.
- 8.1.8. In relation to the design of Kilkishen WWTP it has a capacity of 750 PE. The treatment plant provides tertiary treatment with phosphorus removal. The WWTP was constructed circa 2002 and is located to the east of Kilkishen adjacent to the shoreline of Clonlea lough and approximately 50m south of the ruins of Clonlea

church and graveyard. The EPA Annual Environmental Report – D0420-01 for 2023 states that the WWTP discharge was not compliant with the ELV's set in the wastewater discharge licence for ortho-Phosphate (as P) – unspecified mg/l. The Capital Investment Plan – Uisce Éireann 2020-2024 set out the projects and programmes for which investment was planned in order that upgrades and expansion in water and wastewater infrastructure can be carried out. The list of Capital Projects is set out and in relation to Co. Clare, I note that the Kilkishen WWTP was not included in the list of projects for the county.

- 8.1.9. In order to overcome the matter of the inadequate foul water capacity of the treatment plant the first party had contacted the Planning Department of the Council and suggested the installation of an on-site treatment plant. However, they were advised by the Council that the use of on-site treatment plants for such schemes was generally not permitted on the basis of previous negative experience in terms of maintenance, management and taking in charge.
- 8.1.10. The first party have in their appeal requested that the Board consider that either a permanent or temporary on-site treatment plant be installed on site in order to address the matter of foul drainage. The first party highlighted Objective CDP 11.32(h) which states that "Where settlements have no public wastewater treatment infrastructure, and in settlements which have limited or insufficient capacity to facilitate development, to consider alternative developer led/provided shared use wastewater treatment infrastructure, including those incorporating nature-based solutions, to serve development where it can be clearly demonstrated that the system is in compliance with relevant EPA Guidelines on design standards and which will allow connection to a public system when it is provided."
- 8.1.11. It is set out under Objective CDP 11.32(h) that any consideration of this is subject to the following criteria specifically that (i) Connection to an existing public wastewater treatment system is not currently available (ii) Environmental and planning requirements are satisfied including plan adequacy, site suitability and a suitable means of sludge and treated effluent disposal (iii) The land on which the treatment plant is located is transferred to Uisce Éireann on their request if/when a public system is provided (iv) The management and maintenance of the shared wastewater treatment and disposal infrastructure following its completion shall be the responsibility of a legally constituted management company (v) Adherence to the

environmental assessment criteria set out in section 11.4.3.1 of this plan and (vi) As a condition of grant of planning permission, new developments will be required to connect to the public network when connection becomes available.

8.1.12. While the first party have requested that the Board consider the installation of either a temporary or permanent on-site treatment plant, they did not submit further details including plans indicating the proposed location of the treatment plant, site suitability test results, design specifications for the proposed treatment plant and details of the proposed maintenance and management of the treatment plant.

8.1.13. The response from the Planning Authority to the first party appeal notes that they received the proposal to introduce an on-site wastewater treatment on 24/1/2024 which was shortly before the decision date. The Planning Authority highlighted that given that the proposal would constitute a significant alteration to the development proposal which would have required a significant alteration to the development proposal which would have required revised site notices for public consultation and given that the information was received two days before the statutory decision date on the application, there was no possibility of readvertising the proposal.

8.1.14. In relation to the applicant's request that the Board consider their proposal for either a temporary or permanent on-site treatment plant, the Planning Authority have advised the Board that whilst Objective CDP 11.32 of the Clare Development Plan facilitates the use of an on-site system it must be clearly demonstrated that such a system would be appropriate to the site and the subject development. The Planning Authority have stated in their response that they have experienced serious legacy issues in relation to the provision of on-site systems over the years in terms of maintenance and taking in charge. The Planning Authority have stated that should the Board consider that an on-site system is appropriate in this instance that they would request that the full criteria under Objective CDP 11.32 are met and that they are given a further opportunity to comment on any such revised proposals. However, the Planning Authority do not consider that the issues raised in its decision have been addressed in the appeal.

8.1.15. The first party have argued that the Board could grant permission for the proposed development with the inclusion of a condition which specified that the scheme be served by either a temporary or permanent on-site treatment plant on the basis that



Objective 11.32(h) of the Clare County Development Plan provides for it. While this development plan objective does provide a mechanism whereby the Council can consider alternative developer led wastewater treatment system it is subject to specific requirements. These requirements are that (i) connection to an existing public wastewater treatment system is not currently available (ii) environmental and planning requirements are satisfied including plan adequacy, site suitability and a suitable means of sludge and treated effluent disposal (iii) the land on which the treatment plant is located is transferred to Uisce Éireann on their request if/when a public system is provided (iv) the management and maintenance of the shared wastewater treatment and disposal infrastructure following its completion shall be the responsibility of a legally constituted management company (v) Adherence to the environmental assessment criteria set out in section 11.4.3.1 of the plan. In relation to these criteria the current situation with the capacity of the Kilkishen WWTP does mean that connection to an existing public wastewater treatment system is not currently available. However, information in respect of the other criteria including the plans indicating the proposed location of the treatment plant, site suitability test results, design specifications for the proposed treatment plant and details of the proposed maintenance and management of the treatment plant have not been submitted with the application or appeal. Furthermore, I note that part (v) of the criteria under Objective 11.32(h) refers to adherence to the environmental assessment criteria set out in section 11.4.3.1 of the plan. Section 11.4.3.1 of the Clare County Development Plan refers to environmental assessment criteria and it states that it will be a requirement that it be demonstrated with scientific certainty that the construction, operation, maintenance, monitoring and decommissioning of any such developer led/provided shared use wastewater treatment infrastructure will not give rise to adverse effects on the site integrity of any European Sites in view of their conservation objectives and having regard to the characteristics of the species or habitat, including their structure, function, conservation status and sensitivity to change. In the absence of design details as set out above there is a shortfall of information to carry out environmental assessment as required under Section 11.4.3.1 of the Clare County Development Plan.

- 8.1.16. Accordingly, having regard to the existing deficiencies in the Kilkishen WWTP it is not capable of accommodating the additional loading the proposed development

would generate. While I note the request from the applicant that permission be granted by the Board with the attachment of a condition that either a permanent or temporary treatment plant be installed on-site to deal with lack of capacity in the Kilkishen WWTP, I do not consider that such a proposal is appropriate in this case having regard to the provisions of Objective 11.32(h) of the Clare County Development Plan 2023 - 2029. Furthermore, I would highlight the response from the Planning Authority to the appeal which requests that the Board uphold their decision to refuse permission for the proposed development. Accordingly, I would recommend a refusal of permission on the grounds of prematurity.

## **9.0 AA Screening**

### **9.1. AA Screening – Refer to Appendix 3**

### **9.2. Overall Conclusion – Screening Determination**

- 9.2.1. Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude that that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites namely, Kilkishen House SAC and Danes Hole (Poulnalecka) SAC or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on:

- Standard pollution controls that would be employed regardless of proximity to a European Site and effectiveness of same.
- Distance from European sites.
- The absence of a meaningful pathway to any European site.
- Taking into account the screening determination by the planning authority.

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

## 10.0 Recommendation

10.1.1. I recommend that permission be refused for the reasons and considerations set out below.

## 11.0 Reasons and Considerations

1. It is considered that the proposed development would be premature by reference to the existing deficiencies in the Kilkishen wastewater treatment plant to which connection is proposed and that the period within which this constraint may reasonably be expected to cease. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

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

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Siobhan Carroll  
Planning Inspector

19<sup>th</sup> February 2025

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála</b> <b>Case Reference</b>	319125-24		
<b>Proposed Development Summary</b>	Construction of 61 dwellings. Permission for a change of use, extension and re-modelling of two derelict dwellings to doctor's surgery with ancillary areas and 2 no. apartments at first floor level and all ancillary site works. Site adjoins protected structure. 'The Old Forge', Kilkishen (Clare Co. RPS no. 698).		
<b>Development Address</b>	Tulla Road, Teeronea, Kilkishen, Co. Clare		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	✓	Class 10(b)(i), Schedule 5 Part 2 Class 10(b)(iv), Schedule 5 Part 2	Proceed to Q3.
<b>No</b>			
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required

<b>No</b>	✓		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	✓	EIA is mandatory for developments comprising over 500 dwelling units or urban development over 10 hectares in size or 2 hectares if the site is regarded as being within a business district. The proposal is significantly below this threshold being 61 no. dwelling units and the site has an area of 2.62 hectares but it is not within a business district.	Preliminary examination required (Form 2)

<b>5. Has Schedule 7A information been submitted?</b>		
<b>No</b>	✓	<b>Pre-screening determination conclusion remains as above (Q1 to Q4)</b>
<b>Yes</b>		<b>Screening Determination required</b>

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

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	<b>ABP- 319125-24</b>
<b>Proposed Development Summary</b>	Construction of 61 dwellings. Permission for a change of use, extension and re-modelling of two derelict dwellings to doctor's surgery with ancillary areas and 2 no. apartments at first floor level and all ancillary site works. Site adjoins protected structure. 'The Old Forge', Kilkishen (Clare Co. RPS no. 698).
<b>Development Address</b>	Tulla Road, Teeronea, Kilkishen, Co. Clare.
<p><b>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<b>Characteristics of proposed development</b> (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The development has a modest footprint, comes forward as a standalone project, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.

<p><b>Location of development</b></p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The development is removed from sensitive natural habitats, centres of population and designated sites and landscapes of identified significance in the County Development Plan. The site adjoins a Protected Structure 'The Old Forge', Kilkishen (Clare Co. RPS no. 698). However, having regard to the siting and design of the scheme relative to Protected Structure it will have no undue impact.</p> <p>There are no protected species/habitats on site.</p>
<p><b>Types and characteristics of potential impacts</b></p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>
<p><b>Conclusion</b></p>	
<p><b>Likelihood of Significant Effects</b></p>	<p><b>Conclusion in respect of EIA</b></p> <p><b>Yes or No</b></p>

There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
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:** \_\_\_\_\_

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

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

(only where Schedule 7A information or EIAR required)



### **Appendix 3 – Appropriate Assessment Screening**

- 1.1 I have considered the proposed development of in light of the requirements of S 177S and 177U of the Planning and Development Act 2000 as amended.
- 1.2 The site is not located within or immediately adjacent to any European Sites. The closest European Sites, part of the Natura 2000 Network, are Kilkishen House SAC (Site Code 002319) which is located circa 1.1km to the south-west of the appeal site, Danes Hole (Poulnalecka) SAC (Site Code 000030) located circa 2.7km to the east of the appeal site, Slieve Bernagh Bog SAC (Site Code 002312) located circa 9.2km to the east of the appeal site. Ratty River Cave SAC (Site Code 002316) is located circa 4.8km to the south of the appeal site.
- 1.3 Newgrove House SAC (Site Code 002157) is located 8.3km to the north-west of the appeal site. Lower River Shannon SAC (Site Code 002165) is located circa 10.7km to the west of the appeal site. River Shannon and River Fergus Estuaries (Site Code 004077) is located circa 11.9km to the west of the appeal site. Slieve Aughty Mountains SPA (Site Code 004168) is located circa 8.7km to the north of the appeal site. Lough Gash Turlough SAC (Site Code 000051) is located circa 11.5km to the south-west of the appeal site.
- 1.4 A detailed description is presented in Section 2.0 of my report. In summary, the proposed development comprises the construction of 61 dwellings, permission for a change of use, extension and re-modelling of two derelict dwellings to doctor's surgery with ancillary areas and 2 no. apartments at first floor level and all ancillary site works.
- 1.5 As part of the request for further information the Planning Authority sought information regarding the submission of a lighting plan for the proposed development in order that it could be established whether there were any potential impacts arising which would affect Kilkishen House SAC which is designated for the protection of Lesser horseshoe bat species.

- 1.6 Appropriate Assessment Screening was undertaken by Clare County Council as part of their planning assessment and a finding of no likely significant effects on a European Site was determined. Clare County Council concluded the proposed development would not require the preparation of a Natura Impact Statement and Appropriate Assessment was not carried out.
- 1.7 The screening report of Clare County Council determined that the likely zone of impact is within 4km of the application site having regard to the nature and scale of the proposed development. The two European Sites identified as being within the Zone of Influence (Zol) for the proposed development are Kilkishen House SAC (Site Code 002319) and Danes Hole (Poulnalecka) SAC (Site Code Site Code 000030). Having regard to the greater separation distance between the appeal site and the other European sites detailed in Section 1.2 and 1.3 above I am satisfied that those sites are outside the Zone of Influence.

#### **Potential effect mechanisms from the project**

- 1.8 In relation to the matter of habitat loss or alteration the proposed development site is not located directly adjacent to any European sites and therefore there will be no direct loss or alteration of the habitat. Regarding the issue of habitat/species fragmentation the proposed development would not result in any direct habitat loss or fragmentation.
- 1.9 In relation to the matter of disturbance and/or displacement of species the proposed development does not have the potential to cause a disturbance and/or displacement to species of qualifying interest in the European sites identified within the zone of influence of the appeal site.
- 1.10 The proposed development is not considered to have the potential to result in the reduction in the baseline population of species associated with any of the European sites identified within the zone of influence.
- 1.11 There is no direct surface water connection between the appeal site and any of the European sites identified within the zone of influence.
- 1.12 In relation to the operational phase in direct effects are not anticipated on the basis that surface water arising at the proposed development will be dealt with on site using an attenuation tank and infiltration system with SuDS elements. Furthermore,

based on OPW records there have been no previous floods recorded in the area and flooding therefore is not considered to be an issue at this location.

### **European Sites at risk**

- 1.13 In relation to the Natura 2000 sites which are identified as being in the potential zone of influence of the appeal site. Kilkishen House SAC (Site Code 002319) is situated 1.1km to the south-west of the appeal site. Danes Hole (Poulnalecka) SAC (Site Code 000030) is situated 2.7km to the east of the appeal site. In determining whether there is a potential for significant effect on any European Sites it is necessary to establish qualifying interest features at risk. In respect of Kilkishen House SAC the species of qualifying interest is Lesser Horseshoe Bat. The conservation objective is to restore the conservation condition of Lesser Horseshoe Bat in Kilkishen House SAC, which is defined by a list of attributes and targets.
- 1.14 In relation to Danes Hole (Poulnalecka) SAC the qualifying interests are Caves not open to the public, Old sessile oak woods with Ilex and Blechnum in the British Isles and Lesser Horseshoe Bat. The conservation objective for Old sessile oak woods with Ilex and Blechnum in the British Isles is to maintain the favourable condition of the species which is defined by a list of attributes and targets. Regarding Lesser Horseshoe Bat the conservation objective is to restore the favourable conservation condition of Lesser Horseshoe Bat in Danes Hole, Poulnalecka SAC, which is defined by a list of attributes and targets.

Table 1.

<b>Effect mechanism</b>	<b>Impact pathway/Zone influence</b>	<b>European Sites</b>	<b>Qualifying interest features at risk</b>
Increased level of lighting and activity on the site.	Appeal site is within foraging range of the SAC	Kilkishen House SAC (Site Code 002319)	Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]
Increased level of lighting and activity on the site.	No identified connections. The appeal site is not	Danes Hole (Poulnalecka) SAC	Rhinolophus hipposideros

	within the identified 2.5km range of the roost	(Site Code 000030)	(Lesser Horseshoe Bat) [1303]
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### Likely significant effects on the European site(s) alone

- 1.15 Accordingly, in order to determine any likely significant effects on the identified European site Kilkishen House SAC (Site Code 002319) it is necessary to examine the qualifying interests which are specifically at risk in terms of the status of their conservation objective being to restore them.

Table 2.

Table 2: Could the project undermine the conservation objectives 'alone'		
European Site and qualifying feature	Conservation objective (summary) [provide link/ refer back to AA Screening Report]	Could the conservation objectives be undermined (Y/N)?
		Increase level of lighting and activity on the site
Kilkishen House SAC (Site Code 002319)	<a href="#">ConservationObjectives.rdl</a>	
Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]	Restore favourable conservation status; Target minimum number of 100 bats for the summer roost; Target minimum number of 441 bats for the winter roost; Target - No decline in winter roosts; Target - No decline in summer roosts; Target - No decline in auxiliary roosts; Target – No significant decline in extent of potential foraging habitat within 2.5km of qualifying roosts; Target – No significant loss of linear features in within 2.5km of qualifying roosts;	No The proposed development includes a lighting plan which is designed in accordance with Bat Conservation Ireland Guidance.

- 1.16 As detailed above, in respect of the qualifying interest potentially at risk within the SAC which is Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303] there is no

potential risk from an increase level of lighting on the basis that the lighting plan is in accordance with Bat Conservation Ireland Guidance.

- 1.17 I conclude that the proposed development would have no likely significant effect 'alone' on the qualifying feature of Kilkishen House SAC (Site Code 002319).

#### **In combination effects**

- 1.18 In relation to future plans and other projects I carried out a planning search for applications within the immediate vicinity of the site. I note that there are none which would in combination with the proposal give rise to significant effects. In relation to plans that refer to the area the Clare County Development Plan 2023-2029 includes Volume 3c of the Development Plan which refers to Killaloe Municipal District Settlement Plans and Section 3 which refers to Large Villages with Kilkishen designated as a large village and a plan for it contained within this section of the plan. The plan was prepared in accordance with European and national legislation, Clare County Council has carried out: a Strategic Environmental Assessment of the Plan; Appropriate Assessment under the Habitats Directive; and a Strategic Flood Risk Assessment, all of which informed the preparation of the County Development Plan.

#### **Overall Conclusion – Screening Determination**

- 1.19 Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude that that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites namely, Kilkishen House SAC and Danes Hole (Poulnalecka) SAC or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on:

- Standard pollution controls that would be employed regardless of proximity to a European Site and effectiveness of same.
- Distance from European sites.
- The absence of a meaningful pathway to any European site.

- Taking into account the screening determination by the planning authority.

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