



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319231-24

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<b>Development</b>	Installation of a wastewater treatment unit and soil polishing filter
<b>Location</b>	The Red Gates, Killeen, Corofin, County Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	23/60343
<b>Applicant(s)</b>	The Red Gates c/o Desmond Tully
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Notification to Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Kaye Maahs and Stephen Maahs
<b>Observer(s)</b>	1. An Taisce 2. Janet Buell
<b>Date of Site Inspection</b>	6 <sup>th</sup> February 2025
<b>Inspector</b>	Gary Farrelly

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.166 hectares and is located within the rural townland of Killeen, County Clare, which is located approximately 1.5km southeast of the village of Corofin. The subject site is located on a landholding and premises known as 'The Red Gates'. The premises comprises of a number of buildings, described in the application documentation as the main dwelling and principal residence of the applicant (*c. 30 metres west of the site*), building number 1 (*immediately adjacent to the western boundary of the site*) and building number 2 (*c. 50 metres southwest of the site*). A timber cabin and shed were also observed to the south of building number 2 on the date of the site inspection. The buildings onsite are currently served by a single wastewater treatment unit and polishing filter which is located approximately 43 metres west of the proposed percolation area. Access to the premises is via a private road which is accessed off the local road L-5232.
- 1.2. The site is located approximately 30 metres south of the Corofin Wetlands Special Protection Area (SPA) (Site Code 004220) and East Burren Complex Special Area of Conservation (SAC) (Site Code 001926). The site is located approximately 400 metres south of Lough Atedaun and approximately 50 metres from its high water level as observed on the date of the site inspection. The subject site is located outside Flood Zones A and B for fluvial or coastal flooding<sup>1</sup> and is located outside an area at risk of groundwater flooding<sup>2</sup>.
- 1.3. The topography of the site slopes downwards from north to south towards Lough Atedaun. It is characterised by agricultural grassland and is bounded to the northeast by an area of woodland, with the north, south and eastern boundaries being undefined.

## 2.0 Proposed Development

- 2.1. Permission is sought for the installation of a new wastewater treatment unit and soil polishing filter to serve existing short term tourism accommodation (building no. 1). It is also proposed to provide a future connection to a subsequent application which does not form part of this application (building no. 2). The proposed treatment system

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

<sup>2</sup> <https://dcenr.maps.arcgis.com/apps/webappviewer/index.html?id=848f83c85799436b808652f9c735b1cc>

has been designed to cater for a capacity of 14 population equivalent (PE). The proposed works also include the relaying, disconnection and infilling of existing foul lines, however, these works are not included within the red-line boundary of the site.

2.2. It is proposed to plant a grove of 5 no. willow trees along the north boundary of the site to act as tertiary wastewater treatment and to enhance the biodiversity of the site.

2.3. The application has been accompanied by the following documents:

- Site Characterisation Report (SCR), as updated at further information stage. This recorded a subsurface percolation value of 18.61min/25mm.
- An assessment of the hydrogeological conditions in the vicinity of Lough Atedaun (author David Drew B.A. PhD, Karst Hydrogeologist). (*This was updated at appeal stage to replace the incorrect planning application number quoted on the original report*).
- Screening Report for Appropriate Assessment (SRAA), as updated at further information stage. A further response from the author of the SRAA is provided as part of the appeal documentation.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Clare County Council, the planning authority (PA), issued a notification to grant permission, by Order dated the 15<sup>th</sup> of February 2024, subject to 3 no. standard conditions. These conditions included for the treatment system to be installed and commissioned by a qualified person, the entering of a maintenance contract and the landscaping of the site in accordance with the details submitted.

#### 3.2. Planning Authority Reports

##### Planning Reports

There are a total of two area planner (AP) reports on file which assessed the development in terms of its principle, public health and flood risk. The AP requested further information for the applicant to submit details of future development intentions, and the submission of a revised SCR and SRAA that accurately reflected the nature

and extent of the development. After submission of the further information the AP recommended a grant of permission, which was endorsed by the Senior Executive Planner. The AP's screening for appropriate assessment determined that the development would not result in likely significant effects to the Natura 2000 sites and that Appropriate Assessment (AA) was not required. In terms of Environmental Impact Assessment (EIA), the AP considered that the development represented sub-threshold development and that there was no real likelihood of significant effects on the environment. The need for EIA was excluded at preliminary examination and a screening determination was not required.

#### Other Technical Reports

Environment Section (*reports dated 04/10/23 and 31/01/24*) – This section assessed the submitted SCR and considered that it demonstrated that there was sufficient depth of unsaturated soil with suitable percolation values to effectively attenuate and percolate wastewater. It was noted that the system was designed in accordance with the 2021 EPA Code of Practice. A number of conditions were recommended in the event of a grant of permission.

Municipal District Office (*email dated 27/09/23*) – This section had no observation to make.

### **3.3. Prescribed Bodies**

An Taisce (*report dated 31/01/24*) – This Body raised a number of concerns with the application including in relation to the lodgement of two parallel applications for an integrated development, the history of non-compliance on the landholding, the removal of alluvial woodland within the landholding within the SAC/SPA. It was submitted that an integrated AA was required to address all development that has occurred on site.

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

There was 1 no. third party submission which objected to the development on the grounds of, inter alia, a violation of EPA regulations due to the wastewater treatment system approved under application ref. 08/1684 not being installed, the history of retention and project splitting onsite, the proximity of the wastewater treatment system to the SPA/SAC and the capacity of the system.

## 4.0 Relevant Planning History

(a) PA ref. 24/60358 (related to building no. 2)

Permission was sought by The Red Gates (c/o Desmond Tully) to retain a shed for proposed use as short term tourism accommodation. The submitted site layout plan illustrated a connection to the proposed wastewater treatment unit subject of this appeal. The application was subsequently withdrawn on 21<sup>st</sup> January 2025.

(b) PA ref. 23/60344 (related to building no. 2)

Permission was sought by The Red Gates to retain a shed and further extension for use as short term tourist accommodation. As per ref. 24/60358, the submitted site layout plan illustrated a connection to the proposed wastewater treatment unit subject of this appeal. The application was deemed withdrawn after no response to a clarification of further information request.

(c) PA ref. 22/1102 / ABP ref. 317596-23 (related to the subject site and wider red Gates site)

Permission was sought by The Red Gates for two glamping pods, one short-term accommodation timber cabin to replace an existing storage shed, vehicular access, proprietary wastewater treatment system, change of use from shed to short term tourist accommodation and retention of an extension to the shed for a change of use. The PA issued a notification of a split decision; to grant permission for the two glamping pods, car parking area, vehicular access and proprietary wastewater treatment system and to refuse permission for the change of use and retention of extension.

### Reasons for Refusal

- 1. The Planning Authority notes that significant works have been carried out on site which do not have the benefit of planning permission nor can they be considered exempted development under the provisions of the Planning Acts or Regulations. The proposed retention of an extension on this site without the concurrent or prior regularisation of the works which have already been undertaken in respect of a converted shed, would compound an unauthorised*

*use of the site and would be contrary to the proper planning and development of the area.*

2. *It is considered that the proposed development comprising a short term tourist accommodation modular build timber cabin to replace existing storage shed, by reason of its proximity to adjoining residential property to the south, would be injurious to the amenities of these properties by reason of general nuisance and would when taken in conjunction with the existing and proposed other holiday accommodation on site represent an over development of the site in a rural area without services. The proposed development would therefore be contrary to the proper planning and development of the area.*

The split-decision was subsequently appealed by a third party to the Board. However, the application was declared withdrawn by the applicant on 2<sup>nd</sup> August 2023.

(d) PA ref. 08/1685 (related to the main dwelling)

Permission was granted to Desmond Tully to retain the conversion of a shed to a dwelling and installation of a domestic wastewater treatment unit.

(e) PA ref. 08/1684 (related to building no. 1)

Permission was granted to Desmond Tully to retain the conversion of an outbuilding to a self-contained 2 bedroom unit for short term tourism use and permission for the installation of a domestic wastewater treatment unit.

(f) PA ref. 20/868 (separate site c. 130 metres west of Red Gates)

Permission was granted by the PA on 20<sup>th</sup> January 2021 for the construction of a dwellinghouse and wastewater treatment system.

The submitted site characterisation report indicated the direction of groundwater flow was to the north. However, the submitted hydrological report indicated that it was highly probable that waters discharged at the site would recharge groundwater south of the lake and flow south/southeast.

## 5.0 Policy Context

### 5.1. Clare County Development Plan 2023-2029

#### Objective CDP 11.32 Wastewater Treatment and Disposal

- g) To permit the development of single dwelling houses in unserved areas only where it is demonstrated to the satisfaction of the Planning Authority that the proposed wastewater treatment system is in accordance with the Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ ), EPA (2021);
- i) To permit the development of treatment systems for small businesses/community facilities in unserved areas where they are in single ownership and where it is demonstrated to the satisfaction of the Planning Authority that the proposed wastewater treatment system is in accordance with Wastewater Treatment Manuals- Treatment Systems for Small Communities, Business, Leisure Centres and Hotels, EPA (1999) or any future versions.
- k) To ensure that any private wastewater treatment system proposed complies with the environmental requirements of Objectives CDP 3.3 of this plan.

#### Objective CDP 3.3 Appropriate Assessment, Strategic Environmental Assessment and Strategic Flood Risk Assessment

- a) To require compliance with the objectives and requirements of the Habitats Directive, specifically Article 6(3) and where necessary 6(4), Birds, Water Framework, and all other relevant EU Directives and all relevant transposing national legislation;
- b) To require project planning to be fully informed by ecological and environmental constraints at the earliest stage of project development and any necessary assessment to be undertaken, including assessments of disturbance to species, where required together with the preparation of both statutory and non-Statutory Ecological Impact Assessments (EclA);
- c) To protect, manage and enhance ecological connectivity and improve the coherence of the Natura 2000 Network;
- d) To require all proposals to ensure there is 'no net loss' of biodiversity within developments;

- e) To ensure that European sites and Natural Heritage Areas (designated proposed NHAs) are appropriately protected;
- f) To require the preparation and assessment of all plans and projects to have regard to the information, data and requirements of the Appropriate Assessment Natura Impact Report, SEA Environmental Report and Strategic Flood Risk Assessment Report contained in Volume 10 of this development plan; and
- g) to require compliance with the objectives of the Water Framework Directive and support the implementation of the 3rd Cycle River Basin Management Plan (and any other iteration during the lifetime of the plan).

## 5.2. National Policy

- Project Ireland 2040 – National Planning Framework (2018) and National Development Plan 2021-2030
- Climate Action Plan 2024
- Ireland’s 4th National Biodiversity Action Plan (NBAP) 2023-2030
  - The NBAP includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss. Section 59B(1) of the Wildlife (Amendment) Act 2000 (as amended) requires the Board, as a public body, to have regard to the objectives and targets of the NBAP in the performance of its functions, to the extent that they may affect or relate to the functions of the Board. The impact of development on biodiversity, including species and habitats, can be assessed at a European, National and Local level and is taken into account in our decision-making having regard to the Habitats and Birds Directives, Environmental Impact Assessment Directive, Water Framework Directive and Marine Strategy Framework Directive, and other relevant legislation, strategy and policy where applicable.

## 5.3. National Guidance

- Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009)



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

The subject site is located approximately 30 metres from the Corofin Wetlands Special Protection Area (SPA) (Site Code 004220) and the East Burren Complex Special Area of Conservation (SAC) (Site Code 001926). This is also designated as a proposed Natural Heritage Area (pNHA). The site is also located approximately 750 metres north of Ballycullinan Lake SAC (Site Code 000016) and pNHA and approximately 1.8km north of Ballycullinan, Old Domestic Building SAC (Site Code 002246).

#### **5.5. Environmental Impact Assessment (EIA) Screening**

Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required. I refer the Board to Appendix 1 regarding this preliminary examination.

### **6.0 The Appeal**

#### **6.1. Grounds of Appeal**

A third-party appeal from Kaye Maahs and Stephen Maahs was received by the Board on 8<sup>th</sup> March 2024. The grounds of appeal are summarised as follows:

- It is requested that planning permission is refused.
- The application is interlinked with application ref. 23/60344 at the same site by the same applicant indicating a larger development agenda at play.
- The submitted screening report lacks in-depth necessary scientific facts on how the placement of a large scale wastewater treatment plant could affect the integrity of the adjacent Natura 2000 sites by itself or in-combination with existing or future developments.
- The razing of edge land habitat and alluvial woodlands to the north of the site within the SAC/SPA is relevant as there has been a loss of valuable biodiversity

at the site. This cannot be reestablished by the planting of a grove of Willow trees.

- No mitigation measures or considerations have been given to the Lesser Horseshoe Bat impacted by the razing of the lands to the north, nor has the adverse impacts of the current lighting on site been considered. A full light spill model and a full bat survey should have taken place.
- There remains doubts about the direction of groundwater flow at the site due to contradictory information submitted within the documentation. The initial site characterisation report estimated it to be north, however, the revised site characterisation report estimated it to be south (from hydrologist report). Within applications 08/1685 and 08/1684 it was stated that the groundwater flows to the north/north east of the site. The hydrology report states that it flows south away from Atedaun and clarification should be sought by an independent body due to the proximity to the SAC/SPA.
- The hydrogeological report appears to reference general flow of groundwater in the area and not exact groundwater flow direction. The flow direction needs to be exact and not generalised due to the proximity to the Natura 2000 site. Due to the site sloping downwards to the north it would be natural to assume that any water would flow towards Lough Atedaun.
- The hydrogeologist report references application ref. 20/868 which is for a neighbouring site to the west.
- The proposed wastewater treatment system has a capacity of 14PE and together with the existing 7PE treatment system onsite, this gives a total capacity of 21PE. The existing wastewater treatment plant is being operated above capacity and in violation of EPA regulations.
- The intentions for future development or expansions at the site have not been satisfactorily addressed after a further information request by the PA. The guest capacity for the building subject of this application was previously outlined as 2 guests in application ref. 22/1102 which has increased to 6 guests.
- There is a concerning history of retention, project splitting, unauthorised building works and deviations from permissions granted at the site.

- The wastewater treatment system granted under application ref. 08/1684 was not installed.
- The building granted retention permission under ref. 08/1684 was connected to the wastewater treatment system granted under ref. 08/1685 without permission.
- There is only one wastewater treatment system onsite, with a capacity of 7PE, catering for all buildings onsite.
- The impact of the overloading must be established before any further development commences.

## 6.2. First-Party Response

A response by the applicant to the third-party appeal was received by the Board on 3<sup>rd</sup> April 2024. The response is summarised as follows:

- It is acknowledged that the wastewater treatment plant granted under application ref. 08/1684 was not installed and the 2-bedroom unit was connected to the treatment system approved under 08/1685. It is understood that this is unauthorised, however, no enforcement proceedings were received and as it is over 12 years since the works were carried out, such proceedings would be statute barred.
- The in-situ plant is overloaded and the proposed development seeks to rectify this wrong. The proposed treatment plant is in the same location as the one granted under 08/1684.
- The appeal is frivolous and vexatious in nature and should be disregarded by the Board under Section 138 of the Planning and Development Act 2000, as amended.
- The site comprises of a main dwelling and extensions all of which are planning compliant and is the principal private residence of the applicant. The house is served by a 7PE wastewater treatment system and polishing unit. This is a 2-bed unit and is occasionally rented out for AirB&B purposes for which planning permission is not required.

- The single storey building to the east of the dwelling was granted retention permission under 08/1684 for change of use to a 2-bed unit. This is rented out for Air B&B and can accommodate up to six guests at any one time.
- A shed in which retention permission is being sought under 23/60344 for short term tourism accommodation is a 2-bed unit that may facilitate up to 6 guests.
- The reason for splitting the project was that the subject application was applied for as part of the larger development under 22/1102 in which a split decision was issued and the application later withdrawn. It was advised that a separate application for a WWTS would likely be granted permission and it was hoped that there would be no issues in this regard. The methodology has been accepted by the planning authority and there is no hidden agenda.
- The submitted SRAA and the appeal response by the author of the SRAA prove beyond all reasonable scientific doubt that there will be no impact on the adjacent Natura 2000 site.
- The location of the wastewater treatment plant from the European site is 50 metres and not 34 metres as suggested by the appellant. The existing 08/1685 plant which is even closer is currently overloaded. This will be downgraded in the future to only serve the main dwelling house onsite.
- There are no surface water streams or drains in the vicinity of the development that could potentially carry any treated or untreated wastewater to the European sites. Therefore, there will be no risk to the integrity of the Natura 2000 site.
- Maintenance works were carried out in 2019 which involved the clearance of hazel and ash deadwood. This was not alluvial woodland and there are no such woodlands on the landholding. Alluvial woodland develops in tidal semi aquatic zones and comprise of Alder and Willow species and are generally not grazed.
- Part of the works (0.6 acres) were within the Natura 2000 site and the National Parks and Wildlife Service (NPWS) was notified of these actions. An NPWS ranger visited the lands and a letter was received from the NPWS stating that consent was required for such works and to desist from further works. The NPWS are the appropriate body with respect of such actions and it is not an issue for planning to resolve. It has been resolved and dealt with by the NPWS.

- The works were carried outside the site boundary and are inconsequential as they do not relate to the proposed development.
- Previous conclusions that the groundwater flowed north was based on the author of a report who is not a hydrologist and on an assumption based on existing land gradients.
- A qualified specialised hydrologist who specialises in Karst Hydrology was engaged by the applicant to produce a hydrology report. This is the same report as submitted under application ref. 22/1102 however the report is still relevant to the current application. It is noted that the incorrect application number was cited on the report and a revised report has now been submitted. This report concluded that groundwater flows south away from Atedaun joining the regional groundwater flow system towards the springs near Ennis. This is based on best scientific advice and was accepted by the planning authority.
- The proposed treatment plant has been sized to cater for foul effluent from building number 1, approved under application ref. 08/1684, to cater for a capacity of 6 persons, and to cater for foul effluent from building number 2, if permission is granted (ref. 23/60344), to also cater for a capacity of 6 persons. It has been sized at 14PE to provide a freeboard of 2PE. The extra capacity is being provided in the event of a future expansion and has been accepted by the PA.
- The applicant's principal residence on the site is to be served solely by the existing treatment plant of 7PE.
- It is urged that the Board disregard the appeal and uphold the decision of the PA to grant permission.

A report from the author of the SRAA was also provided and is summarised as follows:

- The scrub removal occurred before the site survey in 2023 and 2024 and occurred on a 0.6 acre of land which was located on a higher peninsula of limestone jutting north into the floodplain and lake. Observations of the land above water were of dry limestone grassland with some diseased ash trees with most ash trees onsite exhibiting ash die-back. Plants inspected at herb and grass level were not of typical plants associated with seasonal flooding nor was

there any alluvial debris characteristics of flood sediments being deposited on the soil.

- It is impossible to assess vegetation that is no longer present, however, it seems unlikely that alluvial woodland was present previously on the area that was cleared due to the land being higher than flood levels. The woodland which remains in other areas would suggest a scrub and low forest containing ash and blackthorn.
- It is proposed that planting of native trees as a linear woodland will be undertaken both for landscape and biodiversity consideration and to filter light or low level noise associated with the construction phase.
- There will be a comprehensive lighting plan for the entire development taking into account the habitat that this area provides for the Lesser Horseshoe Bat and the creation of new commuting and foraging corridors along the lake. A hedgerow will be established to further screen the cottages and will act as both a barrier to disturbance and a screen for any light or background noise.
- Artificial lighting is highly disturbing on LHBs as it can act as a barrier to movement. Lighting near roosts can delay emergence and ultimately cause roost abandonment.
- A number of lighting measures are outlined such as using minimal lighting, spread below or near the horizontal, the use of narrow spectrum bulbs, reduction in heights. Lighting is mostly required in winter months when bat species are not active.

### 6.3. Planning Authority Response

The PA issued a response to the Board on 19<sup>th</sup> March 2024. This response is summarised as follows:

- It is requested that the Board upholds the decision of the Council.
- The planning rationale for project splitting was provided by the applicant and after submission of a revised AA at further information, it was considered acceptable because the assessment of in-combination effects was not prevented or infringed by the lodging of two applications.

- The PA had regard to the submitted SRAA and in particular the assessment of impact and the conclusion. It was considered that it contained sufficient information to rule out the potential for significant effects on the European sites as a result of the proposed installation of an adequately sized wastewater treatment plant and soil polishing filter.
- The PA had regard to the most recent hydrogeological report for a nearby site (ref. 20/868) as well as the SCR received and accepts that the hydrogeological report was not site specific but was considered useful for providing information about the hydrology and geology of the immediate environs of the site.
- The PA do not consider that it is premature to grant permission for the wastewater treatment system (WWTS) notwithstanding clarification sought on 23/600344.
- It is in the interest of public health, environmental protection and sustainable development to grant permission for the proposed new WWTS it is acknowledged that it may be sized in excess of the PE loading generated if 23/600344 is refused. The WWTS is to serve other development onsite irrespective of whether 23/600344 is granted or refused.
- The Environment Section report dated 4<sup>th</sup> October 2023 clarifies the total PE loading that can be accommodated by the existing and proposed WWTPs.
- Notwithstanding the history of non-compliance, it is considered that it would be preferable to enable the provision of an adequately sized plant that can cater for existing development and potential future development in the interest of public health, rather than refuse permission to allow an unsatisfactory arrangement to continue in operation.
- The installation of a new wastewater treatment unit and percolation area would have a positive effect on the environment and public health.

#### 6.4. Observations

An observation from An Taisce was received by the Board on 4th April 2024. The issues raised in this observation are summarised as follows:

- It is undesirable that two parallel planning applications have been lodged for what should have been advanced as an integrated development.
- There is a history of non-compliance on the landholding and the advertising website of the site should be examined.
- Analysis of aerial photograph in the EPA ArcGIS map shows an area of alluvial woodland in the northern portion of the applicant's landholding, which extends into the SAC/SPA. The more recent Google map of the area shows this area of woodland entirely removed with a track running through it. The area of removed woodland extends into the SAC/SPA boundary.
- The revised AA (December 2023) is fundamentally deficient in failing to address this issue. The requirement for a remedial Natura Impact Statement on the woodland removal needs to be addressed before any further development can be considered.
- It is submitted that the entirety of any continuing development on the site and any variation or extension to the development should be subject to AA and an integrated planning application.
- Proper data is required on the existing wastewater management regime and impact before any new application can be considered.

An observation from Janet Buell was received by the Board on 4<sup>th</sup> April 2024. The issues raised by the observer are covered in the grounds of appeal and are summarised as follows:

- The cumulative effects of the 08/1685 wastewater treatment system not installed have not been considered.
- The guest numbers of the properties provided by the applicant are not accurate and it appears that there may be plans to expand the tourism accommodation.
- A retention application must be treated with caution as unauthorised development that has damaged or is likely to damage the integrity of a Natura 2000 site will not be approved subsequently.



- No information in relation to certification of installation of the wastewater treatment system, system testing and photos have been provided which was required by the Council.
- The effects of the removal of the woodland and hedgerow on the overall hydrology of the receiving environment have not been considered.
- Information regarding the construction methods, materials and mitigation measures used on the shed and extension have not been provided by the applicant, which was requested by the Council.
- The AA report should be considered inadequate, incomplete and not appropriate due to errors in the report.
- Corofin hosts known roosts of the Lesser Horseshoe Bat and a light spill review and bat survey should have been completed for the site.

A further observation from Janet Buell was received by the Board on 4<sup>th</sup> May 2024 in response to the first-party's response to the Board on 3<sup>rd</sup> April 2024. This response is summarised as follows:

- Concerns regarding impacts on the natural environment do not make them frivolous.
- The true nature of the former woodland will never be known as the root systems were removed along with the trees.
- There is no mention of the well on the downhill slope on the property within the hydrology report.
- There is nothing in the letter from the NPWS that indicates that 0.6 acres is the amount of woodland removed.
- The applicant has ignored the lighting recommendations within the Ecologist's response to the grounds of appeal as new lights have been installed shining directly into the Natura site.

#### **6.5. Further Response from Third-Party Appellant**

On 2<sup>nd</sup> May 2024 the third-party appellant issued a response to the first-party's response to the grounds of appeal. The response is summarised as follows:

- The concerns listed in the appeal are genuine, sincere and earnest in nature and no ill-will is bared towards the applicant.
- The applicant has recently installed additional lighting that is causing significant light pollution into the European site. The submitted biodiversity report highlighted that such lighting would impact the LHBs. Further hedgerow at the western boundary of the property has been removed increasing light pollution.
- It is agreed that the issue of the WWTS must be addressed, however, given its size and scale, the aim is to secure sufficient capacity for future expansion which contradicts decision ref. 22/1102.
- As the biodiversity officer only visited the site once in 2023/2024, it cannot be asserted beyond reasonable doubt what vegetation was in place and whether it was alluvial woodland or not. However, it was wildlife habitat in a protected area that was removed without permission.
- The revised hydrogeological report states that it seems highly probable that waters discharged at the site would recharge groundwater south of the lake and then flow south/south east. This leaves reasonable scientific doubt about the actual flow of water. Given the slope of the site towards the lake, common sense dictates any water would flow north towards the lake.
- The rationale for the size of the WWTS is assuming 23/60344 is approved. Approval of this application is premature without a decision on 23/60344 and this is a structure that was already refused retention permission under ref. 22/1102.
- There is a very concerning history onsite with regards to breaches to planning legislation. The applicant carries out works first and retrospectively applies for retention permission. The applicant failed to install the 08/1684 WWTS.
- A number of images from April 2024 are provided titled 'light pollution'.

#### **6.6. Further Response from Planning Authority**

On 26<sup>th</sup> April 2024, the PA issued a further response to the Board. This is summarised as follows:

- The PA concurs with the context and planning history as described by the applicant.
- With regards to the alluvial woodlands, it is noted that this area falls outside the red line of the subject site and is a matter being dealt with by the NPWS.
- It is noted that the revised hydrological report confirms that the groundwater flow direction is southwards away from Lough Atedaun.
- The PA concurs with the scale and size of the wastewater treatment plant.

## 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, the reports of the local authority, and having inspected the site, and having regard to the relevant local, regional and national policies and guidance, I consider that the substantive issues in this appeal to be considered are in relation to the following:

- Planning History
- Issue of Project Splitting
- Wastewater Treatment Suitability
- Other Issues

### Planning History

7.2. The Board should note that there is an extensive planning history associated with the wider site of the Red Gates.

#### Main Dwelling (08/1685)

7.3. As part of application ref. 08/1685 permission was granted to retain an extension to the building described as the main dwelling onsite and to install a wastewater treatment unit to serve this building. The Board should note that this wastewater treatment unit was constructed, is operational onsite and is currently operating above its 7PE capacity, as acknowledged by the applicant.

#### Building No. 1 (08/1684)

- 7.4. This short term tourism accommodation building, which is to connect into the proposed wastewater treatment unit subject of this appeal, was approved for such tourism use under application ref. 08/1684. However, the building was to be served by its own wastewater treatment unit which was never constructed. The Board should note that it is instead, without the benefit of planning permission, connected into the wastewater treatment unit approved under application ref. 08/1685.

#### Building No. 2

- 7.5. There are two recent planning applications associated with building no. 2; they are refs. 23/60344 and 24/60358. These applications sought permission to retain a converted shed for short term tourism accommodation and the submitted plans illustrated a connection into the proposed wastewater treatment unit subject of this appeal. However, they were both subsequently withdrawn by the applicant. The Board should note that this building is also currently, without the benefit of planning permission, connected to the wastewater treatment unit approved under application ref. 08/1685.

#### Application ref. 22/1102

- 7.6. This was a planning application for a wider development proposal within the Red Gates which included glamping pods and a log cabin. On the date of my site inspection I observed said log cabin to the south of building no. 2. The Board should note that after a split decision from the PA and a third party appeal to the Board the applicant withdrew this application. It should be noted that the wastewater treatment unit proposed as part of application ref. 22/1102 was also designed for a 14PE capacity.

#### Conclusion

- 7.7. Having regard to the above, the Board should note that there is a history of withdrawn planning applications, splitting of developments into separate planning applications and unauthorised developments within the Red Gates site. These issues have been raised by the appellant and observers and whilst all parties should note that the matter of enforcement falls under the jurisdiction of the PA, I do have serious concerns with the applicant's approach to the proposed development as I will further outline below.

## **Issue of Project Splitting**

- 7.8. I note the concerns raised by both the appellant and the observers regarding the splitting of this application with application ref. 23/60344 (*most recently ref. 24/60358*). I also acknowledge the applicant's reasoning for adopting such an approach.
- 7.9. The submitted site layout plan illustrates that the proposed wastewater treatment unit is to be served by a "*foul line for a future connection*". I note that this is to building no. 2, which is a structure already in-situ and does not have the benefit of planning permission. Furthermore, it is currently, without the benefit of planning permission, connected to a treatment unit onsite which, according to the applicant, is overloaded. Therefore, it is clear that building no. 2 is not independent of the proposed wastewater treatment unit and is wholly reliant on the success of the subject application. As a result, it is my view that the subdivision of these developments into two separate planning applications represents a piecemeal approach to the development of the Red Gates site which I consider to be contrary to the proper planning and sustainable development of the area.
- 7.10. Furthermore, notwithstanding the applicant's comments that the buildings onsite can each host 6 guests, the Board should note that Table 3.2 of the 2021 Environmental Protection Agency (EPA) Code of Practice for Domestic Waste Water Treatment Systems outlines that a 2-bedroom property equates to a wastewater treatment design capacity of 4PE. It has been stated by the applicant that building no. 1 and building no. 2 are both 2-bed units which I note would equate to a PE of 8. Having regard to this, to the 14PE design capacity of the proposed wastewater treatment unit and to the planning history of the site where the same 14PE design capacity was proposed for a wider development proposal under application ref. 22/1102, it is my view that there is uncertainty on the wider development proposal that the wastewater treatment unit is intended to serve. Therefore, I consider that it would be premature to grant permission for the proposed development without knowing same.
- 7.11. Additionally, the Board should also note that the submitted site layout plan illustrates works proposed outside the red-line boundary of the site which includes the disconnection of building no. 1 to the in-situ wastewater treatment unit and the infilling of the existing foul line. Therefore, I consider that the application is deficient in this regard.

## **Wastewater Treatment Suitability**

- 7.12. Notwithstanding my conclusions above, I will proceed to assess the suitability of the site for the wastewater treatment unit. Due to the 14PE design capacity and the proposal to serve a number of properties within the Red Gates site, I consider the 1999 EPA Wastewater Treatment Manual for Small Communities, Business, Leisure Centres and Hotels the relevant guidance document. Furthermore, the Board should note that whilst the 2021 EPA Code of Practice relates to guidance for domestic wastewater treatment systems, it sets out a methodology for site assessment, selection and installation and maintenance of such systems, which I also consider relevant to the proposed development.
- 7.13. Having reviewed the contents of the submitted Site Characterisation Report (SCR) and the Geological Survey Ireland (GSI) Groundwater Public Data Viewer<sup>3</sup>, I note that the underground aquifer in the area is classed as a Regionally Important Karstified type aquifer which has a 'High' groundwater vulnerability rating. The SCR has described that a trial hole of 2 metres was excavated, and bedrock was encountered at a depth of 2 metres. There was no water table encountered or signs of mottling. Therefore, in accordance with Section 5.4.2 of the 2021 EPA Code of Practice, the vulnerability must be considered to be 'Extreme', which generates a ground water protection response of R2<sup>2</sup>. It is noted that a secondary treatment system and polishing filter is proposed with the filter invert at 800mm below ground level allowing for 1200mm separation distance, which I note complies with the requirements of R2<sup>2</sup>. The sub-surface percolation value was calculated at 18.61min/25mm indicating that the site is suitable for a wastewater treatment unit.

Notwithstanding my conclusion above, the Board should note that this does not contradict my screening for appropriate assessment (AA) conclusions below under Section 8 of this report, due to the sensitivity of the surrounding environment.

### **Other Issues**

- 7.14. The Board should note that there have been a number of issues raised by the appellant and observers regarding issues relating to unauthorised developments onsite

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<sup>3</sup> <https://gsi.geodata.gov.ie/portal/apps/webappviewer/index.html?id=d333a8a9b6ab44378411fc0d973db4ef>

including the erection of external lighting. However, such matters are a planning enforcement issue which fall under the jurisdiction of the PA.

- 7.15. The Board should also note that the applicant has requested dismissal of the third-party appeal under the provisions of Section 138 of the Planning and Development Act 2000, as amended, on the grounds of it being frivolous and vexatious in nature. I note that the third-party appellant lives approximately 300 metres from the Red Gates complex. Having reviewed the contents of the file and considered the contents and nature of the third-party's grounds of appeal, it is my view that legitimate planning and environmental issues have been raised by the appellant. Therefore, I am satisfied that the appeal is not vexatious, frivolous or without substance or foundation. It is my recommendation to the Board that the appeal should not be dismissed.

## 8.0 **Appropriate Assessment (AA) Screening**

### (a) Stage 1, Article 6(3) of Habitats Directive

- 8.1. I have considered the project in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. The application has been accompanied by a number of documents which I have previously listed under paragraph 2.3 of this report. The information presented in these reports informs this screening determination.
- 8.2. It should be noted that the submitted SRAA states that the author has been commissioned by the applicant to prepare a "*Natura Impact Statement (NIS)*". However, in the interest of clarity, the Board should note that a NIS does not accompany this application or appeal.

### (b) Description of the proposed development

- 8.3. The proposed development comprises the installation of a wastewater treatment unit and soil polishing filter. Lough Atedaun is located approximately 400 metres north of the subject site. I noted on the date of my site inspection (*6<sup>th</sup> February 2025*) that the high water level of the Lough was approximately 50 metres from the northern boundary of the subject site.
- 8.4. The proposed development also includes for the planting of a grove of 5 no. willow trees to the north and downhill of the proposed treatment unit. The submitted SRAA

states that the provision of this buffer zone below the treatment unit will capture any possibility of overland flow reaching designated waterbodies. The submitted site layout plan also states that it will act as tertiary wastewater treatment as well as to enhance the biodiversity of the site.

(c) Consultations and submissions

8.5. The PA referred the application to the Development Applications Unit (DAU) of the Department of Housing, Local Government and Heritage, however, no response was received from this prescribed body. After the applicant's submission of the further information, An Taisce provided a response to the PA. An Taisce has also provided an observation to the Board as part of this appeal. Issues raised within the observation include the following related to the appropriate assessment process:

- The submitted screening report does not address the felling of alluvial woodland to the north of the site within the SAC/SPA.
- The requirement for a remedial Natura Impact Statement (NIS) on the woodland removal.
- The entire development at the Red Gates should be subject to AA.

(d) European Sites

8.6. I have identified the following European sites within a potential zone of influence of the proposed development:

- East Burren Complex Special Area of Conservation (SAC) (Site Code 001926)
- Corofin Wetlands Special Protection Area (SPA) (Site Code 004220)
- Ballycullinan, Old Domestic Building SAC (Site Code 002246)

8.7. European sites SAC001926 and SPA004220 are located approximately 30 metres north of the subject site and approximately 55 metres north of the proposed wastewater treatment unit. The topography of the subject site slopes downwards to the boundary of these European sites. SAC002246 is located approximately 1.8km south of the site. Table 7.1 below provides a summary of the relevant European sites and their QIs.



Table 7.1

European site	Qualifying Interests (QI)	Distance	Connections
<b>East Burren Complex SAC</b>	<p><b><u>Habitat</u></b></p> <p>Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140]</p> <p>Turloughs [3180]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Juniperus communis formations on heaths or calcareous grasslands [5130]</p> <p>Calaminarian grasslands of the Violetalia calaminariae [6130]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510]</p> <p>Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alkaline fens [7230]</p> <p>Limestone pavements [8240]</p> <p>Caves not open to the public [8310]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Euphydryas aurinia (Marsh Fritillary) [1065]</p> <p><b><u>Species</u></b></p> <p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p> <p>Lutra lutra (Otter) [1355]</p>	<p>40 metres (approximately 50 metres to high water level of Lough Atedaun)</p>	<p>Yes, proximity</p>
<b>Corofin Wetlands SPA</b>	<p>Little Grebe (Tachybaptus ruficollis) [A004]</p>	<p>40 metres</p>	<p>Yes, proximity</p>

	Whooper Swan ( <i>Cygnus cygnus</i> ) [A038] Wigeon ( <i>Anas penelope</i> ) [A050] Teal ( <i>Anas crecca</i> ) [A052] Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156] Wetland and Waterbirds [A999]		
<b>Ballycullinan, Old Domestic Building SAC</b>	Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]	1.8km (c. 2km from known roost)	No direct connection. Potential foraging connection.

8.14. The East Burren Complex SAC boundary encompasses Lough Atedaun which includes QI[3140]. The National Parks and Wildlife Service (NPWS) Conservation Objectives Supporting Document (2022)<sup>4</sup> states that the conservation objective for QI [3140] is to restore its favourable conservation condition, which is defined by, inter alia, maintaining appropriate water and sediment pH, alkalinity and cation concentrations and restoring the concentration of nutrients to sufficiently low levels to support the habitat and its typical species. Eutrophication can lead to temporary increases in pH to toxic levels.

8.15. Having reviewed the NPWS' Article 17 Habitat Assessment (2019)<sup>5</sup>, I note that this hard water lake habitat is dominated by algae, particularly stoneworts (*Chara* spp.) and is under significant pressure from eutrophication. The movement of pollutants, such as phosphorus, through groundwater is a significant concern and discharges of wastewater to groundwater is identified as a pressure and threat to this QI. Furthermore, I have also reviewed the Environmental Protection Agency (EPA) catchments data<sup>6</sup> and note that Lough Atedaun is classed as 'poor' ecological status which is 'at risk' of not meeting its environmental objective of good or high status under the Water Framework Directive.

<sup>4</sup> [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO001926.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO001926.pdf)

<sup>5</sup> <https://www.npws.ie/publications/article-17-reports/article-17-reports-2019>

<sup>6</sup> [https://www.catchments.ie/data/#/waterbody/IE\\_SH\\_27\\_108?\\_k=lhs44x](https://www.catchments.ie/data/#/waterbody/IE_SH_27_108?_k=lhs44x)

8.16. In relation to QI[1303] I note that the nearest known roosts are Roost ID 131, approximately 2km south of the site (*Map 2 of NPWS' 2018 Conservation Objective Supporting Document for SAC002246*<sup>7</sup>), and Roost ID 132, approximately 3km northwest of the site (*Map 10 of NPWS' 2022 Conservation Objective Supporting Document for SAC001926*). The conservation objective for this QI is to restore its favourable conservation condition which is defined by, inter alia, no significant decline of foraging habitat within 2.5km of roosts, no significant loss of linear features such as hedgerow, treelines and stone walls within 2.5km of each roost and no significant increase in artificial light intensity along commuting routes.

(e) Likely impacts of the project

8.17. Having regard to the nature of the proposed development and to the proximity of the proposed development to East Burren Complex SAC, Corofin Wetlands SPA and Ballycullinan, Old Domestic Building SAC, impacts generated by the construction and operation of the 14 PE wastewater treatment unit require consideration. I consider that the sources of impact include:

- Movement of pollutants, such as phosphorus, through groundwater and runoff to Lough Atedaun leading to eutrophication.
- Release of silt and sediment during site works to surface water.
- Release of construction related compounds including hydrocarbons to surface water.
- Increased human disturbance at the site.

8.18. I note the concerns of the appellant and the observers regarding the removal of woodland to the north of the site and within the Corofin Wetlands Special Protection Area (SPA) (Site Code 004220) and East Burren Complex Special Area of Conservation (SAC) (Site Code 001926). However, the Board should note that the area in contention is located outside the boundary of the subject site and according to the PA is a matter being dealt with by the NPWS.

(f) Likely significant effects on the European sites in view of the conservation objectives

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<sup>7</sup> [https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO002246.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002246.pdf)

8.19. I consider that the proposed development has the potential to result in the following effects:

- Decrease in water quality of Lough Atedaun as a result of eutrophication.

8.20. I noted no surface water connections between the site and Lough Atedaun on the date of my site inspection that could accommodate the transfer of silt, sediment or pollutants to the waterbody.

8.21. With regards to potential disturbance on the QIs of the SPA and on the *Rhinolophus hipposideros* (Lesser Horseshoe Bat), having regard to the nature of the development, to the limited scale of construction works associated with such a development and to the fact that works would be undertaken during the daytime, I consider that the proposed development would not likely result in a significant disturbance effect on the QIs of the SPA or on the *Rhinolophus hipposideros* (Lesser Horseshoe Bat) [1303].

#### Direction of Groundwater Flow

8.22. I have reviewed the GSI Groundwater Public Data Viewer and note that there are no karst traced underground connections within the vicinity of the subject site. The nearest mapped underground flow route is approximately 2.5km east of the site at Lough Keagh which follows a flow path to the Pouladower spring (approximately 1.5km north of Ennis).

8.23. I note the contents of the submitted Hydrogeological Assessment (HA) outlining that the strata of the carboniferous limestone bedrock are almost horizontal with groundwater flow in the highly karstified aquifer being strongly influenced by near-impermeable clay wayboards interbedded in the limestones dominated by north-south and east-west system of veins and joints. I note that it is stated that it has not been possible to trace the water sinking in Lough Atedaun as water levels have not dropped sufficiently to assess where sinkholes are located. It is stated that it is highly probable that water sinking in Lough Atedaun reemerges at Moymore Quarry (4.5km southeast of site) before continuing underground to Pouladower spring or other routes to springs near Ennis. It is stated that there is no indication that the site is underlain by layers of lower permeability material that could laterally deflect vertically percolating water to Lough Atedaun. An investigation of the site in March 2023 during wet hydrological conditions found no outflows or vegetative changes to the north of the site.

- 8.24. Notwithstanding the findings of this report, it should be noted that it is based on the general hydrogeological conditions in the vicinity of the site, is not site-specific and is based on a high probability assumption that groundwater flows away from Lough Atedaun. I also acknowledge due to the karstified nature of the underlying aquifer it is difficult to trace such groundwater flow.
- 8.25. However, having regard to the nature of the development comprising of a 14PE wastewater treatment unit, to the uncertainty of the wider development proposal that the wastewater treatment unit is intended to serve, to the proximity of the treatment unit to the European sites, to the topography of lands sloping downwards to Lough Atedaun and to the nature of the qualifying interests of the SAC, particularly QI[3140] which is highly sensitive to changes in nutrient content, it is my view that possible significant effects cannot be excluded and, therefore, the project should be taken through to stage 2 appropriate assessment (AA).
- 8.26. Additionally, it should be noted that the submitted SSRA acknowledges that the proposed Willow buffer zone to the north of the treatment unit is aimed at capturing any possible overland flow reaching designated waterbodies. The site layout plan states that it will act as a tertiary filter as well as enhancing biodiversity. I consider this design measure to be an acknowledgement that there could be an impact on the adjacent European sites.
- 8.27. To conclude, I have determined above that the project alone will possibly have a significant effect on the European sites, and therefore, I consider that there is no requirement to consider in-combination with other plans or projects.

(g) Screening Determination

- 8.28. In accordance with Section 177U of the Planning and Development Act 2000 (as amended), I determine that an appropriate assessment (stage 2), under Section 177V of the Planning and Development Act 2000, as amended, of the proposed development is required, as it cannot be excluded, on the basis of objective information, that the proposed development will not have a significant effect on the East Burren Complex Special Area of Conservation (SAC) (Site Code 001926), in view of the site's conservation objectives.
- 8.29. This determination does not presume that the project will definitely have a significant effect, but it is based on the mere probability of such an effect.

## 9.0 Recommendation

It is my recommendation to the Board that permission should be **Refused** for the reasons and considerations set out below.

## 10.0 Reasons and Considerations

1. It is considered that the exclusion of certain structures and works from the proposed development, but which are intrinsically linked to the proposed wastewater treatment unit and soil polishing filter, represents piecemeal development that would be contrary to the proper planning and sustainable development of the area. Furthermore, having regard to the nature of the proposed development, to the design capacity of the proposed wastewater treatment unit, to the planning history of the site and on the basis of the information provided with the application and appeal, it is considered that there is uncertainty on the wider development proposal that the wastewater treatment unit is intended to serve, and therefore, it is considered that it would be premature in giving further consideration to a grant of planning permission.
2. Having regard to the proximity of the proposed development to the Burren East Complex Special Area of Conservation (Site Code 0019626), to the uncertainty of the wider development proposal that the wastewater treatment unit is intended to serve, to the characteristics of Lough Atedaun and its sensitivity to eutrophication and to the uncertainty regarding the direction of groundwater flow in the area on the basis of the information provided with the application and appeal, the Board cannot be satisfied, that the proposed development, individually, or in-combination with other plans or projects, would not be likely to have a significant effect on the Burren East Complex Special Area of Conservation (Site Code 0019626), in view of the site's conservation objectives. In such circumstances, the Board is precluded from giving further consideration to a grant of planning 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.

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Gary Farrelly

Planning Inspector

18<sup>th</sup> February 2025

## Appendix 1

### (a) Form 1: EIA Pre-Screening

<b>An Bord Pleanála</b> Case Reference	ABP-319231-24		
<b>Proposed Development Summary</b>	The installation of a wastewater treatment unit and soil polishing filter		
<b>Development Address</b>	The Red Gates, Killeen, Corofin, County 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>X</b>
		<b>No</b>	<b>No further action required</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>	<b>X</b>	Part 1, Class 13: Wastewater treatment plants with a capacity exceeding 150,000PE Part 2, Class 11(c): Wastewater treatment plants with a capacity greater than 10,000PE	Proceed to Q.3
<b><del>No</del></b>			<b><del>No further action required</del></b>
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b><del>Yes</del></b>			<b><del>EIA Mandatory EIAR required</del></b>
<b>No</b>	<b>X</b>		Proceed to Q.4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	<b>X</b>	<ul style="list-style-type: none"> <li>• The development is for a wastewater treatment unit with a capacity of 14PE</li> </ul>	Preliminary examination required (Form 2)
<b>4. Has Schedule 7A information been submitted?</b>			
<b>No</b>	<b>X</b>	Pre-screening determination conclusion remains as above (Q1 to Q4)	



Yes		Screening Determination required
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**(b) Form 2 - EIA Preliminary Examination**

<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. This preliminary examination should be read with, and in the light of, the rest of the Inspector’s Report attached herewith.</p>	
<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).</p>	<p>The development is for a wastewater treatment unit and soil polishing filter. The unit will have a capacity of 14PE. The size of the development is not exceptional in the context of the existing environment. Subsurface percolation value calculated at 18.61min/25mm in accordance with EPA Code of Practice. Localised construction impacts expected, topsoil removal etc.</p> <p>There is no real likelihood of significant cumulative effects with existing and permitted projects in the area in terms of the EIA Directive.</p>
<p><b>Location of development</b>  (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 subject site is located within an agricultural field approximately 400 metres from Lough Atedaun and 50 metres from its high water level.</p> <p>The subject site is located outside Flood Zones A and B for coastal or fluvial flooding and is not located within an area at risk of groundwater flooding.</p> <p>There are no known recorded monuments within close proximity of the site, having reviewed the Historic Environment Viewer.</p> <p>The subject site is located approx. 30 metres from the Corofin Wetlands Special Protection Area (SPA) (Site Code 004220) and East Burren Complex Special Area of Conservation (SAC) (Site Code 001926), which is also a pNHA. My appropriate assessment screening under Section 8 of this report does not exclude potential significant effects on the conservation objectives of these European sites. However, I consider that this issue can be adequately dealt with under the Habitats Directive as there is no likelihood of other significant effects on the environment.</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>Whilst it has been concluded that there is potential for significant effects on a European site(s), having regard to the characteristics of the proposed development, its location and the types and characteristics of potential impacts, there is no potential for significant effects on other environmental parameters. I am satisfied therefore that EIA is not warranted.</p>	
<p><b>Conclusion</b></p>		
<p><b>Likelihood of Significant Effects</b></p>	<p><b>Conclusion in respect of EIA</b></p>	
<p>There is no real likelihood of significant effects on the environment.</p>	<p>EIA is not required.</p>	<p><b>X</b></p>
<p><del>There is significant and realistic doubt regarding the likelihood of significant effects on the environment</del></p>	<p><del>Schedule 7A Information required to enable a Screening Determination to be carried out.</del></p>	
<p><del>There is a real likelihood of significant effects on the environment.</del></p>	<p><del>EIAR required.</del></p>	

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Gary Farrelly  
 Planning Inspector  
 18<sup>th</sup> February 2025