



An
Coimisiún
Pleanála

Inspector's Report ABP-322234-25

Development

The proposed development will service and consists of alterations to the Kilfenora Wastewater Treatment Plant and Percolation Area development, approved by An Bord Pleanála under reference ABP-305756-19, and consists of:

- 1 – Disconnection and capping of existing gravity effluent pipe (pipework to retained in situ).
- 2 – Installation of new gravity pipe and connection to pumping station.
- 3 - All ancillary site development and excavation works above and below ground necessary to facilitate the development.

A Natura Impact Statement (NIS) will be submitted to the Planning Authority with the application.

Location	Ballybreen (Townland), Kilfenora, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	25/60011
Applicant	Uisce Éireann
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Michael Duffy
Observers	None
Date of Site Inspection	19 th June 2025
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. This appeal site has a stated area of 0.136 Ha and is located in the townland of Ballybreen, Kilfenora, Co. Clare. The appeal site is located c. 840 metres south-west of the centre of the village.
- 1.2. The appeal site, which consists of an area of grassland, accommodates an existing gravity sewer pipe (which is to be decommissioned). The appeal site is broadly rectangular in shape and extends northwards from a percolation area/percolation beds. The percolation area¹ accommodates a 4 no. stratified sand filters, a pumping station and control kiosk. Both the percolation area (inc. associated infrastructure) and the wwtp, which is located c. 700 metres north-west of the appeal site, were permitted under PA. Ref. 19/31 & ABP. Ref. 305756-19. The purpose of the of the sand filters within the percolation area site is stated as dissipating hydraulic loading of highly treated effluent over a wide area, and not to act as a polishing filter.
- 1.3. The appeal site is surrounded by lands which are in agricultural use. A wayleave traverses the appeal site and also extends in a north-easterly direction. The R481 is south of the appeal site and provides access the percolation area site.
- 1.4. There is a swallow hole (Ballybreen Swallow hole) located within the percolation area site. A small fluvial watercourse enters the percolation area site from the south-east under the R481 road in a culvert. This stream flows north and disappears down a swallow-hole located within the percolation area site.

2.0 Proposed Development

- 2.1. The development description contained in the public notices describes the proposed development as comprising, alterations to the Kilfenora Wastewater Treatment Plant and Percolation Area development approved by An Bord Pleanála under reference ABP-305756-19, more specifically:
 - Disconnection and capping of existing gravity effluent pipe (pipework to retained in situ); and,
 - Installation of new gravity pipe and connection to pumping station.

¹ Indicated as being within the control/ownership of the applicant, as denoted by the blue line boundary.

In addition, the development description in the public notices refers to, all ancillary site development and excavation works above and below ground necessary to facilitate the development.

- 2.2. The particulars submitted with the planning application/appeal provides the background to the proposal and a detailed description of the proposed development. The following is pertinent.

Background -

- On the 6th of March 2020, Uisce Eireann (formerly Irish Water) obtained planning permission for upgrade works to the Kilfenora Wastewater Treatment Plant (WWTP), PA. Ref. 19/31 / An Bord Pleanála Reference ABP-305756-19 refers. The project ensures compliance with the Urban Wastewater Treatment Directive and ensures that the WWTP delivers tertiary treatment for all of its catchment. The development of the new WWTP ends the practice of direct discharge to groundwater.
- The Kilfenora WWTP, including the percolation beds are substantially complete. The development proposed under this application are required before the wwtp can be commissioned.

The Proposal -

- The existing effluent pipeline, which is 770 metres in length and connects the wwtp to the percolation site, will be retained over the majority of its length, but intercepted approximately 60 metres north-east of the percolation area.
- At this location, the existing 150mm (dia) effluent pipeline, which currently carries treated effluent from the Kilfenora Wastewater Treatment Plant (WWTP) and discharges directly to a swallow hole (Ballybreen Swallow Hole) in the percolation site, will be disconnected and capped at an existing manhole north-east of the percolation site.
- A new sealed gravity pipe (also 150 mm dia) will be laid in a 600 mm wide excavated trench, at a depth of 0.7 metres - 1.7 metres bgl (below ground level).
- The alignment of the new gravity effluent pipe will extend from existing manhole located north-east of the percolation site to a new permitted manhole within the percolation area in the north-east corner.

- From the new permitted manhole, the new gravity effluent pipe will connect into the permitted underground pumping station, which will pump treated effluent to the 4 no. percolation beds.
- The new pipe is uPVC and will be laid to a gradient of 1:67.
- The proposal will involve the removing of grass turves and excavation of a trench, which will be backfilled following the laying of the pipework, with reinstatement of grassland.
- The disconnected section of pipeline will remain in-situ under the ground.
- The new gravity pipe will facilitate the discharge of treated effluent through the filter beds before entering the bedrock aquifer, as opposed to point source direct discharge (i.e. to the Ballybreen Swallow hole).

2.3. The planning application/appeal was accompanied by the following reports;

- Cover Letter
- Kilfenora WWTP Upgrade & Percolation Site Gravity Effluent Pipe Technical Note
- Appropriate Assessment Screening
- Natura Impact Statement (NIS)
- Ecological Impact Assessment (EcIA)
- Environmental Impact Assessment Screening
- Hydrogeological Assessment
- Construction Environmental Management Plan (CEMP)
- Site Specific Flood Risk Assessment (SSFRA)

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to GRANT Permission on the 12th of March 2025 subject to 2 no. conditions, as follows;

C1 – development to be carried out as per drawings and particulars submitted.

C2 – all mitigation measures in EclA, NIS and CEMP to be implemented.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer notes –

- the principle of the proposed development is acceptable.
- development contributions are not necessary as no floor area is proposed.

3.2.2. Other Technical Reports

Road Design Office – report recommends that waste shall be managed in accordance with the Waste Management Act, 1996, and that only permitted waste contractors be used.

Environmental Assessment Officer – report relates to PA. Ref. 25/60011 and 25/60013². In respect of PA. Ref. 25/60011 (i.e. the subject of this appeal) the report notes -

- NIS does not include development permitted under PA. 19/31 under consideration of cumulative effects, and is not in keeping with the requirements of Appropriate Assessment legislation.
- the area experiences fast groundwater movement, based on tracer studies.
- current inputs at Ballybreen swallow hole do not appear to be affecting water quality in the River Fergus, therefore it can be concluded that the ongoing operation of the Kilfenora WWTP is not affecting water quality in the River Fergus.
- as the percolation beds are not required to provide additional treatment any inundation would not be expected to result in a deterioration of water quality.

² Concurrent planning application for alterations to access and drainage at WWTP Site and Percolation Area Site.

- nutrient ELV's³ will be lower than the existing effluent quality being discharged to the Ballybreen swallow hole, which can only improve water quality in the River Fergus.
- while potentially being exposed to inundation at times (partial saturation of the two northern percolation beds), given the percolation beds are not necessary to provide additional treatment there should be no impact on water quality, and given that the water quality results downstream are not evidencing any deterioration in water quality at present there is no risk of adverse effects on the conservation objectives of associated European Sites.
- proposal is considered sub-threshold development for purpose of EIA. Based on information submitted there is no requirement for an EIAR.

West Clare Municipal District Office - report notes no specific comments.

Roads, Water Services and Environment Section – report notes no objection, and that the percolation area complies with Condition no. 4⁴ of ABP. Ref. 305756-19.

3.3. **Prescribed Bodies/Government Departments**

None received.

3.4. **Third Party Observations**

The report of the Planning Officer summarises issues raised in the observations (2 no.) submitted in respect of the planning application as follows;

- Procedural and ownership issues.
- The proposal will result in flooding.
- Unauthorised development on the site, which is causing flooding, requires regularisation prior to the proposal being considered. In-situ sub-soil was removed from the site.

³ Emission Limit Values.

⁴ That the percolation areas comply with Table B.3 of the EPA Code of Practice for Single Houses, 2009.

- The NIS is incorrect as works carried out were not in accordance with PA. Ref. 19/31. The NIS refers to the gravity effluent pipe and not the rest of the development.
- Flooding at the site only began after the development permitted under PA. Ref. 19/31 was carried out. Flooding arises on the site due to rock breaking which impacted the course of the swallow hole.
- The NIS does not include downstream sampling.

4.0 Planning History

Appeal Site (also inc. Kilfenora WWTP Site)

PA. Ref. 25/60013 – Permission GRANTED for alterations to the Kilfenora wastewater treatment plant and percolation area development approved by An Bord Pleanála under reference ABP-305756-19, and consists of: 1 - Modifications to site access and internal roads at the wastewater treatment plant to include (a) raising of access road level from the public road (L1034) to the site entrance gates, to include provision of permeable paving finish, and (b) widening/reconfiguration of internal road in focused areas, permeable paving finish, hard surface area and gully, and provision of petrol interceptor. 2 - Modifications to site access and internal road at the percolation area to include new roadside channel drain and provision of permeable paving finish. 3 - All ancillary site development and excavation works above and below ground necessary to facilitate the development. A Natura Impact Statement (NIS) will be submitted to the Planning Authority with the application. This application is currently on appeal to An Bord Pleanála, ABP. Ref. 322250-25 refers.

PA. Ref. R22/43 – Section 5 referral, the question in which was ‘whether the removal of all soils and subsoils within the plot area (outlined in the submitted maps) at Ballybreen, Kilfenora Co. Clare is or is not development, and is or is not exempted development. The Planning Authority concluded that (a) the removal of all soils and subsoils within the plot area constitutes “works” which come within the scope of section 2 (1) of the Planning and Development Act 2000, as amended; (b) the said works constitute “development” which comes within the scope of section 3 (1) of the Planning and Development Act 2000, as amended; (c) the said development falls within the terms and conditions of PA. Ref. 19/31 as amended by An Bord Pleanála Ref. 30575-

19. Clare County Council decided the removal of all soils and subsoils within the plot area in question is development which has the benefit of planning permission.

PA. Ref. 20/679 & PL03.308904 - Permission REFUSED for a dwelling , garage, on-site wastewater treatment system, a new entrance and ancillary ground works.

PA. Ref. 20/670 – Permission REFUSED for a dwelling , garage, on-site wastewater treatment system, a new entrance and ancillary ground works.

PA. Ref. 19/31 – Permission GRANTED for (1) construction of a new 330 PE wastewater treatment plant and demolition of the existing treatment works in the townland of Killcarragh. The development will consist of inlet works; a storm water storage tank; treatment works including tertiary filtration and UV disinfection; sludge treatment; a control kiosk; flood protection bund; site lighting; a 2.4m high security fence; and a scheme identification sign. All associated site development and site excavation works above and below ground for the wastewater treatment plant. (2) Provision of the following in the townland of Ballybreen: The construction of a percolation area, including a treated effluent pumping station; a control kiosk; an internal road; site lighting; a 1.2m high fence; and a scheme identification sign. All associated site development and site excavation works above and below ground for the percolation area. A Natura Impact Statement was submitted with this planning application.

5.0 Policy Context

5.1 Ministerial Guidelines

5.1.1 Having regard to the nature of the proposed development and to the location of the appeal site, I consider the following Guidelines to be pertinent to the assessment of the proposal.

- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities (2010).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).

5.2. Development Plan

5.2.1. The relevant Development Plan is the Clare County Development Plan 2023-2029.

5.2.2 The appeal site is not zoned under the Clare County Development Plan 2023 – 2029, being located outside the settlement boundary of the village. There are a number of Recorded Monuments located to the north-east of the appeal site, Ref.'s CL 016 – 007 (Ringfort) and CL 016 – 009 (Enclosure) refer.

5.2.3. The provisions of the Clare County Development Plan 2023-2029 relevant to this assessment are as follows:

- CDP 11.26 (Water Framework Directive & River Basin Management)
- CDP 11.27 (Water Resources)
- CDP 11.32 (Wastewater Treatment & Disposal)
- CDP 15.3 (European Sites)

5.3 Natural Heritage Designations

- East Burren Complex SAC (Site Code: 001926) – c. 6 km east.
- Corofin Wetland SPA (Site Code: 004220) – c. 9.2 km south-east.
- Inagh River Estuary SAC (Site Code: 000036) – c. 8 km south-west.
- Ballyteige Clare SAC (Site Code: 000994) – c. 5 km north-west.
- Moneen Mountain SAC (Site Code: 000054) - c. 3.7 km north-east.
- Moneen Mountain pNHA (Site Code: 000054) - c. 3.7 km north-east.

5.4. EIA Screening

The proposed development is not a class for the purpose of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations, 2001, as amended (or Part V of the 1994 Road Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination for EIA. Refer to Form 1/Appendix 1 of report.

I consider that any issues arising from the proximity/connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment).

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal by Michael Duffy against the decision to grant permission. The grounds of appeal may be summarised under the following headings;

Procedural Issues -

- The application is invalid a planning application was lodged in respect in the WWTP Site and the Percolation Area Site on the same day. PA. Ref. 25/60013 also relates to the Percolation Area Site. One of the site notices should have been yellow, as required under Article 19 (4) of the Planning and Development Regulations, 2001, as amended.
- Development description which refers to 'all ancillary site development and excavation works above and below ground necessary to facilitate the development' is ambiguous and conflicts with Sweetman v An Bord Pleanála [2021] IEHC 662.
- No landowner consent submitted. The lands within the red line boundary of the site are not shown to be within the control of the applicant on the site layout.
- No details of pre-application meeting provided.
- The red line boundary of the site does not include certain works.
- The proposal to replace some of the pipe outside the red line boundary renders the application invalid.

Alleged Unauthorised Development -

- Development carried out under PA. Ref. 19/31 & ABP. Ref. 305756-19 was not constructed in accordance with the permission. A temporary wwtp discharging directly to groundwater via the Ballybreen swallow hole was used on the site as part of the works, permission did not exist for this and it was not considered in the Appropriate Assessment carried out by the Board. Rock crushing was also carried out on the site, which similarly was not included in the planning application or in the Appropriate Assessment.

- The stormwater overflow from the wwtp was modified during the works which was not included in the application and therefore not considered in the Appropriate Assessment carried out by the Board. This stormwater overflow is an unlawful unmonitored direct discharge to groundwater via the swallow hole proximate to the wwtp. It is not addressed in the NIS submitted with this application and was not addressed in the environmental assessment carried out by the Planning Authority or in the Appropriate Assessment carried out by the decision maker.
- A surface water mitigation settlement pond was not installed for the duration of the works, as was required by a planning condition under PA. Ref. 19/31 & ABP. Ref. 305756-19.
- The polishing filter site was excavated to bedrock/in-situ sub-soil removed, which was not included in the planning application, and not considered in the Appropriate Assessment carried out by the Board. This has caused flooding of neighbouring lands. The sub-soil was removed because it was unsuitable.
- The planning status of the site requires regularisation, i.e. substitute consent, before any further development can be considered.

Flooding -

- Flooding occurs on the site without any loading on the polishing filters.
- Flooding of the site only occurred after the development permitted under PA. Ref. 19/31 & ABP. Ref. 305756-19 was carried out. Rainfall now passes through impermeable bedrock due to the unauthorised removal of soil, causing flooding of adjacent lands. Rock breaking on the site has also changed the course of the swallow hole causing flooding of the swallow hole. The flooding is in effect a direct discharge to groundwater.

Other Issues –

- T-test results submitted under PA. Ref. 19/31 & ABP. Ref. 305756-19 suggest poor drainage/percolation on the site. This is evidenced by flooding of adjoining lands. The polishing filters (at the time) were not designed in accordance with the 2009 EPA Code of Practice.

- The development has not resulted in the removal of direct discharge to groundwater to the Ballybreen swallow hole, or to the Kilfenora swallow hole at the WWTP site.
- Consideration of the unauthorised development should be given in the NIS.
- The PE design of the Kilfenora WWTP, at 330 PE, is inadequate for the nature of the settlement it serves.
- Condition no. 4 of ABP. Ref. 305756-19 is likely unenforceable.
- The discharge licence needs to be reviewed by the EPA.
- Gravel will not attenuate discharge and the comment of the Planning Authority that inundation will not lead to a deterioration in water quality is incredible.
- Effluent is only being tested for a limited number of parameters.
- No Water Framework Directive Assessment was carried out.

NIS -

- Lickeen Lake has not been investigated. Wider connectivity to European sites cannot be ruled out.
- Sampling of 13 no. downstream private wells has not been undertaken in the NIS.
- This NIS is flawed, and does not address, how unauthorised development may already have impacted protected sites; the removal of sub-soil and consequent discharge directly onto bedrock; the non-installation of a reserve discharge dewatering area, which was required by condition under ABP. Ref. 305756-19; and the crushing of rock on the site.
- The NIS fails to consider unauthorised development on the site.
- Substitute consent is required for unauthorised development undertaken at the site.
- It is unclear if the site was flooded during the ecological walkovers carried out on the site.
- The Planning Authority noted that the NIS is not in keeping with legislative requirements.

- The Planning Authority have concluded on Appropriate Assessment based on incomplete information and have disregarded environmental information provided to it.

The appellant requests that regard is also given to his submissions to the Planning Authority.

The appeal submission is accompanied by 4 no. appendices, a Geotechnical Report; a Detailed Design Report for Kilfenora WWTP; and e-mail correspondence.

6.2. **Applicant Response**

The applicant submitted a response in respect of the third party appeal submission, summarised as follows;

- Background to proposal outlined (i.e. to facilitate connection to the percolation area pumping station).
- The applicant refutes claims of unauthorised development and notes that allegations of same are not a relevant matter for this appeal. The appellant's claim in respect of this issue is subject to separate legal proceedings. The excavation of some in-situ soil was envisaged under PA. Ref. 19/31 & ABP. Ref. 3105756-19.
- The site notice erected accords with Article 19(4) of the Planning and Development Regulations, 2001, as amended. 2 no. white site notices relating to 2 no. concurrent applications were erected on the same day, and as such there was no subsequent application lodged within 6 months necessitating a yellow site notice.
- The development description accords with Article 18 of the Planning and Development Regulations, 2001, as amended, and provided a brief description of the proposed development. The Development Management Guidelines for Planning Authorities, 2007 provides that development descriptions are not required to contain excessive detail.
- The submitted site plan includes a red line around the application site boundary and indicates lands which are within the applicant's control in blue. The applicant has demonstrated sufficient legal interest in the lands.

Other lands previously in third party ownership were subject of a Compulsory Purchase Order.

- Regarding the appellant's contention that excavation of the 'polishing filter site' has caused flooding, the following is noted;
 - There is no connection between the construction make-up of the percolation beds and alleged flooding from the existing Ballybreen swallow hole.
 - The SSFRA explains that occasionally (estimated to be at least 3 times per year) the Ballybreen swallow hole cannot always cater for the streamflow entering it from the surface water stream serving the catchment to the south of the percolation site, discharging to the swallow hole. When flows in excess of the 300l/s arrive at the swallow hole the flows overtop the swallow hole and flow in a northerly and northeasterly direction towards the lower lying lands of the Ballybreen basin. It is also important to note that such overflow events are typically associated with short duration rainstorm events and not associated with a high typical winter groundwater table as described in the SSFRA.
 - The appellant alleges that the bedrock beneath the percolation beds is pure-bedded limestone and impermeable. This cannot be fact as the rainfall currently falling on the area passes through the ground and into the groundwater via the weathered permeable epikarst fractures which link up with the main conduit system, (as described in the Hydrogeological Assessment).
 - The appellant alleges that flooding will be exacerbated when the treated effluent is delivered to the percolation beds. This is not correct. The existing situation is that this treated effluent flow is being discharged to the swallow-hole and would spill at times of flood. The proposed works (new gravity effluent pipe connection) will enable this point discharge to the swallow hole to be diverted and distributed over the large surface area (1,760 sq.m) of the percolation beds.

- The proposed gravity effluent pipe infrastructure is considered water compatible type development and the proposed manhole covers and pipe sections will be fully sealed to prevent any ingress of flood waters. The ground reinstatement the pipeline trench will be like for like with existing ground levels maintained along the pipeline route on completion.
 - Even in the extreme 100 year flood, the percolation beds within the unsaturated layers will provide 468m' of attenuation storage representing almost 47hours storage at the treated effluent discharge rate of 2.781/s. This is very favorable over the existing situation of a direct discharge to the swallow-hole that spills during flood conditions.
 - Having regard to the scale and nature of the proposed works under the subject application, they will not give rise to any increase in flood risk in the local area and this has been robustly demonstrated as part of the submitted SSFRA.
 - The use of imported stone was envisaged in the original application, and the EPA CoP 2009 provides for site improvement works where necessary.
 - The percolation beds are not intended to treat effluent, rather to end point discharge to the Ballybreen swallow hole.
- Regarding hydrogeology, many of the issues raised by the appellant pertain to the development permitted under PA. Ref. 19/31 & ABP. Ref. 3105756-19 and not the development before the Board. In relation to hydrogeology the following is noted;
- The replacement of the subsoil under the percolation beds with a more consistent, highly permeable fill media has no negative impact on the dispersal of the final tertiary treated, disinfected effluent and its loading to groundwater.
 - Claims made in respect of differences between the 2009 and 2021 EPA Codes of Practice in terms of the percolation test

methodology used for subsoils is inaccurate and points raised about the measurement subsoil percolation values and design based upon those values are not relevant.

- The diversion of the direct hydraulic loading of effluent from the WWTP into the swallow hole to the more indirect discharge and dispersal over a wide area via the sand filters, underlying media and epikarst, which is being proposed under current proposal, will dampen any peak hydraulic loading at the swallow hole and therefore actually ameliorate some risk of local flooding.
 - The appellant claims that the development will not result in the removal of the direct discharge to the swallow hole, however, the very reason that the sand filters have been designed and constructed is to provide an indirect discharge to groundwater, whereby the final tertiary treated disinfected effluent is distributed onto the top of the filters to provide an even hydraulic loading which then percolates via the sand media and underlying Class 6C fill to the underlying karstified bedrock.
 - Regarding the appellant's contention that groundwater quality data downstream of the swallow hole and the fact that some wells had been shown to be contaminated in the past, the rationale of the new WWTP at Kilfenora is to stop the direct discharge of poorly treated effluent into the swallow hole and thereby improve the downstream water quality.
 - The proposed development will not result in any negative impacts on hydrogeology in the area.
- Regrading NIS, the following is noted;
- Many of the issues raised by the appellant pertain to the development permitted under PA. Ref. 19/31 & ABP. Ref. 3105756-19 and not the development currently before the Board.
 - The constructed WWTP and Percolation Area was part of the baseline scenario.

- The Planning Authority carried out its own in-combination assessment.
- The Appropriate Assessment Screening Report submitted with the application concludes that "on the basis of the HIA, there is no potential for cumulative impacts with surface water drainage and the ongoing treated wastewater discharges". There is no potential for combined or cumulative effects on downstream European Sites. In the context of effluent treatment and discharge, no operational impacts of the Proposed Development works alone were identified at Appropriate Assessment Screening stage as these works do not alter/amend the permitted treatment process or discharge location of the Kilfenora WWTP in any way.
- No reliance is placed on any beneficial effect of the percolation beds in terms of wastewater treatment, and while their functioning under normal and flooded scenarios has been described in the HIA, it is not therefore relevant to the Appropriate Assessment.
- A groundwater conduit link toward the River Fergus system, providing a hydrological link between the Kilfenora discharges and several European Sites, is acknowledged in all submitted information. The water quality monitoring location at Poplar bridge on the River Fergus lies downstream of where the main karst conduit emerges to form the river, and reflects the condition of waters hydrologically/hydro-geologically upstream of the closest connected European Sites. This monitoring data includes periods prior to the upgrade of the WWTP. It also encompasses all other catchment pressures. The potential for adverse effects to any European Sites were excluded by the Planning Authority on the basis of the nature and scale of the source impacts (the highly treated nature of the discharge), the dilution capacity afforded by the intervening groundwater and surface waters between Kilfenora and the European Sites, and water quality monitoring data from the River Fergus at Poplar bridge and from local group water schemes

(which demonstrates sufficient dilution has been achieved). It is objectively concluded that the proposed development will not adversely affect the integrity of any Natura 2000 sites, and there is no reasonable scientific doubt in relation to this conclusion.

- Regarding the appellant's contention that the proposed development does not comply with the provisions of the Water Framework Directive, the primary purpose of the Kilfenora WWTP upgrades is to stop the direct discharge of poorly treated effluent into the swallow hole and thereby improve the downstream water quality. The appeal response includes a Water Framework Directive Assessment statement confirming that protection of water bodies has been considered as a proactive part of project design and that the proposed development will not cause a deterioration in status in any water body in compliance with all requirements of the WFD.

The applicant's response to the third party appeal is also accompanied by 4 no. appendices. These appended reports are responses to issues raised by the appellant in respect of ecology, flooding, hydrogeology and have generally been incorporated into the applicant's response to the appeal (summarised above). Issues raised in the appended report not included in the above summary are as follows;

- Regarding hydrogeology, the appellant makes detailed submissions about the minimal difference between the 2009 and 2021 EPA Codes of Practice in terms of the percolation test methodology used for subsoils. However, the appellant has confused the design loading rate recommended for a polishing filter (i.e. one that is designed to achieve tertiary treatment) and the sand filters at Kilfenora which are designed for dispersal of clean (i.e. tertiary treated disinfected effluent). These filters have been correctly designed for an on-site wastewater treatment system discharging tertiary treated effluent to ground according to the saturated hydraulic conductivity of the sand media and underlying subsoil at the time (see below).
- The Class 6C fill which has much higher permeability makes any discussion on the subsoil T-value a moot point in terms of the current

planning application, given that the fill has a higher permeability than the subsoil it replaced which therefore means that the dispersal system could have been designed to an even higher hydraulic loading rate.

- The appeal also claims that a T-value below T3 is considered a failure, which is true if you intend to use the subsoil as part of the treatment process, but not true if the subsoil is just being used to disperse highly treated effluent, as is the case at Kilfenora.

6.3. Planning Authority Response

The Planning Authority submitted a response in respect of the third party appeal submission, summarised as follows;

- The provision of suitable wastewater treatment facilities is critical to the achievement of County Development Plan objectives for the village. The project will support the operation of the Kilfenora WWTP, and will ensure compliance with the Urban Wastewater Treatment Directive and ensure that the wastewater treatment plant delivers tertiary treatment for all of its catchment.
- The development approved under ABP-305756-19 is substantially completed. As part of this the need to decommission the existing gravity effluent pipe and replace it with a new pipe to connect to the percolation area pumping station was identified and the subject application was submitted on this basis.
- Under CDP 11.32 Waste Water treatment and Disposal, it is an objective to support the implementation of Uisce Éireann Investment Plans and to advocate for the provision, by Uisce Éireann, of adequate wastewater treatment facilities.
- The proposed development is ancillary to the development of the treatment plant previously permitted by the Board.
- A meeting was held with the applicant but it was not a formal Section 247 meeting.
- The application was deemed valid, and accorded with Article 19 (4) of the Planning and Development Regulations, 2001, as amended.

- The applicant has indicated that it is the owner of the site and the Planning Authority has no reason to doubt this. Section 34 (13) of the Planning and Development Act, 2000, as amended applies in any event.
- Intermittent flooding is indicated on satellite mapping (2005 – 2017), contrary to the appellant's assertion that flooding only occurred after the construction of the PA. Ref. 19/31 & ABP. Ref. 305756-19. The area was also indicated on historic mapping as being 'liable to flooding'.
- The final surface water receptor for the effluent arising from the Kilfenora WWTP is the River Fergus at Poplar Bridge. The most recent monitoring data demonstrates that the water quality within the River Fergus downstream of the Kilfenora swallow holes/Elmvale Springs is in compliance with Schedule 5 of the European Communities Environmental Objectives (Surface Water) Regulations 2009 (S.I. No. 272 of 2009) for all relevant 95%ile Environmental Quality Standards (EQSs with the exception of two low DO results, likely to reflect the high groundwater input. The surface waterbody has been assigned a "Good" Q value status also. The overall surface water status of the River Fergus at this location has been assigned Good Status (2016-2021) under the WFD. A summary of the water quality of the River Fergus at Poplar Bridge (between 2009 to 2013 and between 2016 to 2021) which is downstream of the main Elmvale Springs shows the high-water quality of the river at this location (see Groundwater Risk Assessment and Natura Impact Assessment), despite the ongoing discharge of Kilfenora WWTP directly into the karst network. The water quality measured at the Poplar Bridge location represents inputs not only from the current discharges to the Ballybreen swallow hole but also other more diffuse sources such as domestic wastewater treatment systems and agriculture, hence, it was concluded that the current inputs at Ballybreen swallow hole do not appear to be materially impacting surface water quality in the River Fergus and the associated SAC.
- Monitoring data available for Leamanah and other private GWS (2009-2013) identified as being at risk of contamination by the Kilfenora WWTP discharge indicated ammonium (NH₄) concentrations below 0.03-0.05

mg/l, 10 to 6 times below the limit of 0.3 mg/l in the Drinking Water Regulations. Therefore, it is reasonable to assume that with a proposed Emission Limit Value (ELVs) of 1.0 mg/l as outlined in the planning application for Kilfenora the concentrations at the downstream receptors will remain below the 0.3 mg/l limit. From an environmental (ecological) risk perspective, the proposed nutrient ELVs are lower than the existing effluent quality being discharged directly into the Ballybreen swallow hole and will be met for more than 95% of the time, which can only improve the water quality in the River Fergus.

- Allegations of the temporary use of a waste water treatment plant are subject to Section 160 Circuit Court proceedings.
- Regarding the excavation of subsoil from the polishing filter, the issue was the subject of a Section 5 (R22/43 refers) where it was determined that the removal of all soils and subsoils within the plot area was development which has the benefit of planning permission, ABP 305756-19 refers.
- Condition No. 4 of the An Bord Pleanála Order ABP-305756-19 required that the percolation area shall comply with the requirements of Table B.3 of the Code of Practice: Wastewater Treatment Systems for Single Houses, published by the Environment Protection Agency in 2009 to ensure suitable separation between the percolation area and karst features. Table B.3 of the Code of Practice is entitled "Recommended minimum distance between a receptor and a percolation area or polishing filter". The Percolation area as constructed has complied with the requirements of this condition.
- The submission of the Planning Authority requests that the decision to grant permission is upheld by the Board.
- The submission of the Planning Authority includes 4 no. appendices, providing referral and enforcement history on the site; minutes of a meeting held with Uisce Éireann; extracts from the EPA Code of Practice 2009; and aerial images purporting to show flooding at the Percolation Area Site.

6.4. Observations

None received.

6.5. Further Responses

The Planning Authority submitted a subsequent response (dated 6th of June 2025) in respect of the applicant's submission. A number of issues addressed in the submission are also contained in their initial submission to the Commission (dated 6th May 2025). Additional issues raised can be summarised as follows;

- The Planning Authority agrees with the findings of the Flood risk report and has no reason to doubt the SSFRA.
- The Planning Authority concur with the applicant's reasoning for constructing the percolation beds, i.e. to facilitate indirect discharge to ground water and to provide for a cessation of surcharging to the swallow hole, ensuring compliance with the Urban Waste Water Treatment Directive and the WFD. The Planning Authority does not consider that the proposal would have an adverse effect on the hydrogeology of the area or cause a deterioration to the status of water quality downstream.
- The Planning Authority concurs with the observation that the WWTP and percolation site was considered as part of the baseline scenario, and that the potential for adverse effects on European Sites can be excluded on the basis of the highly treated nature of discharge, the dilution afforded by intervening ground and surface water and water quality monitoring data from the River Fergus, and local group water schemes.
- Submission includes appended report from Environmental Assessment Officer, the contents of which are reflected in the submission itself.

6.6. The appellant submitted a response in respect of the applicant's submission. A number of issues raised relate to a separate appeal (i.e. ABP. Ref. 322250-25) and I have not included these in the summary below. Issues raised in the appellant's submission pertinent to the current appeal (i.e. ABP. Ref. 322234-25) can be summarised as follows;

- The 2 no. proposals under appeal are as a result of inadequacies in the original parent application.

- The Planner's reports in respect of previous withdrawn applications PA. Ref. 22/1121 and 22/1122 should be made available to the Board.
- The original site testing of the site and polishing filter design was flawed i.e. under PA. Ref. 19/31 and ABP. Ref. 305756-19.
- The caretaker's confirmation that the site floods was not included in the application.
- Flooding on the site occurs due to rock breaking which was carried out on the site and the infiltration beds which provide for rapid assimilation to sloped bedrock. The soil also has limited hydraulic capacity. The solution to the issue is the replacement of the original soil on the site.
- The allegation of unauthorised development is reasserted. Substitute consent is required.
- The development description is inadequate, i.e. reference to works above and below ground, and conflicts with the requirement to describe the nature and extent of the development.
- The contaminated status of water closer to the site than Elmvale Bridge (which is 9km from the site and noted as having good water status) is not addressed.
- The applicant has not stated which specific elements of the appeal are unclear/irrelevant.
- The appellant reiterates the contention one of the planning applications is invalid as one of the site notices should have been yellow.
- Michael King is the absolute owner of the lands in Folio CE19258 and did not consent to the application.
- Flooding has previously occurred on the public road, and the SSFRA is inaccurate in suggesting that its flooding is a 1:100 year event.
- The SSFRA conclusion in respect of the extent of flooding is subjective.
- The applicant makes no attempt to address the issue of flooding which has occurred on the site since the development permitted under PA. Ref. 19/31 and ABP. Ref. 305756-19 was carried out.

- The suitability of the percolation site is inadequate.
- Bedrock beneath the site was never tested.
- There is no evidence that the Planning Authority/the Board had/have best scientific knowledge available to it.
- The development permitted under PA. Ref. 19/31, including overflows of untreated effluent, was not addressed in the NIS.
- In the context of WFD Assessment, the status of downstream wells have not been addressed; there is no explanation of the good status of water and the boil notices; there is no proper cumulative assessment; and the applicant has only considered the footprint of the development and not stormwater discharges directly to the swallow hole.
- Subsoil is required for discharge, not bedrock, epikarst or class 6C fill.
- The design loading for the Ballybreen site should be clarified.
- There is no assessment of the ability of bedrock to transmit effluent.

5 no. appendices are attached to the appellant's submission, referred to as AIE information sought from applicant; photographs; Landowner Folio; contaminated downstream wells; and extracts UE report re. contaminated wells.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeal, the applicant's response to same, the submission(s) of the Planning Authority, the appellant's subsequent response and having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Scope of Appeal
- Impact on Water Quality
- Flood Risk
- Issues Arising

- Appropriate Assessment

7.2. Scope of Appeal

- 7.2.1. The appellant raises a number of procedural issues in relation to the planning application, specifically that one of the site notices associated with the 2 no. concurrent planning applications at the appeal site should have been yellow in colour; that the wording of the development description in the public notices is ambiguous/inadequate; and that the applicant has not demonstrated ownership of the site.
- 7.2.2. In terms of procedural matters and the alleged irregularities in terms of the erection of the site notice(s) and the development description, I note that both matters were considered acceptable by the Planning Authority, and I am satisfied that this did not prevent the concerned party from making representations. The assessment (below) represents my *de novo* consideration of all planning issues material to the proposed development. In terms of the applicant's legal interest in the site, the applicant states that it is the legal owner of the site. Any further legal dispute is considered a civil matter, to be resolved between the parties, having regard to the provisions of Section 34(13) of the Planning and Development Act, 2000, as amended, and is outside the scope of the planning appeal.
- 7.2.3. The appellant alleges that unauthorised development was carried out at the site, including the removal of subsoil from the percolation area. The applicant, in its response to the appeal, refutes claims of unauthorised development, notes that allegations of same are not a relevant matter for this appeal, and notes that the issue is subject to separate legal proceedings. In their response, the Planning Authority similarly refers to separate legal proceedings in respect of this issue. Additionally, in relation to the issue of the removal of subsoil from the percolation area, the Planning Authority refer to a Section 5 referral on the site, i.e. PA. Ref. R22/43, the decision in respect of which was that the removal of all soils and subsoils fell within the conditions of PA. Ref. 19/31 & Ref. 305756-19 and therefore had the benefit of planning permission. I note that the Commission has no role planning enforcement and I consider that the issues raised in this regard fall outside the scope of the appeal.

7.2.4. The appellant raises a number of concerns in relation to the development which was permitted under PA. Ref. 19/31 & Ref. 305756-19, specifically in relation to the nature of soil on the site/suitability of the site; the adequacy of the design of the wwtp with reference to PE capacity; the adequacy of the NIS submitted with PA. Ref. 19/31 & Ref. 305756-19; the enforceability of conditions attached to PA. Ref. 19/31 & Ref. 305756-19; and; that the polishing filters were not designed in accordance with the 2009 EPA Code of Practice. I submit to the Commission that consideration of this appeal should be based on the development proposed under the current. In my opinion it is not appropriate for the appellant to seek to challenge the merits of, aspects of the development which has been permitted under PA. Ref. 19/31 & Ref. 305756-19.

7.3. Impact on Water Quality

7.3.1. The applicant has submitted a Water Framework Directive Assessment to the Commission in its response to the appeal. The WFD Assessment submitted by the applicant addressed construction and operational phases of the proposed development and concludes that the proposed development will not cause a deterioration in the status of any water body in compliance with all requirements of the WFD. The WFD Assessment notes that there are no Bathing Waters, Shellfish Waters or Nutrient Sensitive Areas within 2km of the site, and the proposal does not include in-stream works. The WFD Assessment includes an in combination assessment, alongside the concurrent proposal for a modifications to the site access and internal access road at the WWTP Site and the Percolation Area Site.

7.3.2. The proposed development comprises, at the Percolation Site, disconnection and capping of existing gravity effluent pipe, installation of new gravity pipe and connection to pumping station, and all ancillary site development and excavation works above and below ground necessary to facilitate the development. The appeal submission notes that no Water Framework Directive Assessment was carried out. General concerns with regard to the drainage design were also raised in the appeal although these issues were raised in the context of the permitted/substantially complete development.

7.3.3. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive, which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

7.3.4. The reason for this conclusion is as follows:

- The nature and extent of the proposed development, entailing shallow excavations.
- The mitigation measures proposed during the construction phase of the proposed development i.e. CEMP.
- The findings of the Water Framework Directive Assessment submitted by the applicant in their response to the third party appeal.
- The findings of the Site Specific Flood Risk Assessment.

7.3.5. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment. (See Appendix 4 for WFD Screening Matrix).

7.4. Flood Risk

7.4.1. The appellant raises concerns in relation to flood risk, specifically that flooding occurs on the site without any loading on the polishing filters; that flooding only commenced after the development permitted under PA. Ref. 19/31 & ABP. Ref. 305756-19 was carried out; and that that the unauthorised removal of soil and rock breaking on the site caused flooding. As addressed above, a number of the issues raised by the

appellant relate to the permitted and substantially complete development and are outside the scope of the current appeal.

7.4.2. The applicant has submitted a SSFRA⁵ with the planning application. The SSFRA was informed by satellite imagery, lidar surveys, rainfall records and 2D rainfall-runoff modelling. The SSFRA notes a flood history at the appeal site, specifically combined fluvial and groundwater flooding at the Percolation Area site, resulting in flooding to the lower-lying, northern section of the site, however the SSFRA states that there is no impact from this existing flood risk on the operation and treatment performance of the proposed effluent disposal operation at the Percolation Area.

7.4.3. The SSFRA notes the following;

- at the Percolation Site, flooding (estimated at least 3 times/year) is caused by lack of flow capacity at the swallow hole, resulting in ponding of water in the north and north-east of the site.
- flood level estimation simulations show that these flood waters build up to a level of 57.5 to 57.6m OD before spilling westward through the dry-stone field wall and over a natural bedrock crest area to the north-west of the Percolation Site, after which the land falls away to the west and north-west towards the extensive flood area in Ballybreen basin.
- the proposed works on the site will not alter or affect this spill level and will not impact negatively flood levels at the site or surrounding lands.
- even in the extreme 100year flood, the percolation beds within the unsaturated layers will provide 468m³ of attenuation storage representing almost 47 hours storage at the treated effluent discharge rate of 2.78l/s. This is beneficial over the existing situation of a direct discharge to the swallow-hole that spills during flood conditions. Computed maximum extreme flood level will result in partially saturated conditions in the

⁵ The SSFRA also addresses a separate development for alterations to internal access roads and drainage proposed under a concurrent planning application PA. Ref. 25/60013, and subject to a current appeal to the Commission (ABP. Ref. 322250-25 refers).

gravels of the two northerly percolation beds. Such flood conditions will not affect the surface distribution to ground of the pumped treated effluent at the site, which is the objective of the percolation beds, in order to avoid point source discharge to the swallow-hole.

- the infrastructure is considered water compatible and the proposed manhole covers and pipe section will be fully sealed to prevent water ingress. Ground reinstatement of the pipeline trench will be like for like.
- the gravity effluent pipeline is associated with the same flood risk and flood source as the percolation site. The manhole cover level at F3.1 is 57.625mOD and the manhole cover level at the pumping station is 57.50m OD. The pipe inverts are 57.015m OD at F3.1 and 55.93mOD at the pumping station manhole. This puts the entire length of the pipeline within a floodplain area. The pipeline is buried and will not interfere with or represent an obstacle to the flooding regime.

7.4.4. The SSFRA concludes the following;

- there is no residual flood risk or flood impact associated with the proposed gravity effluent pipeline and its connection to the pumping station at the Ballybreen percolation area facility.
- there is no adverse flood impact from the diversion of the treated effluent discharge from the Ballybreen Swallow hole to the Percolation Beds which are generously sized allowing only vertical infiltration to the groundwater.
- the proposed gravity effluent pipeline and connection is suitably protected from flood risk and will not impact on flooding and flood risk elsewhere, both to the third-party surrounding lands or any downstream lands.

Having regard to the findings and conclusions of the SSFRA, which is based on simulations/modelling, I am satisfied that the proposed development would not

increase the risk or extent of flooding within the site, or on adjacent third party lands, including the public road, and is acceptable from a flood risk perspective.

7.5. Issues Arising

- 7.5.1. Development Contributions – neither the Notification of Decision to Grant Permission issued by Clare County Council in respect of the current proposal, nor the permission granted under PA. Ref. 19/31 & ABP. Ref. 305756-19, included a condition requiring the payment of a development contribution. In the event of a grant of permission for the proposed development I consider that a condition requiring the payment of a development contribution is not required.
- 7.5.2. Conditions of Planning Authority – the Notification of Decision to Grant Permission issued by Clare County Council includes 2 no. planning conditions. The first condition requires compliance with the drawings and particulars submitted, and the second condition requires the implementation of mitigation measures contained in the EclA, the NIS and the CEMP. Should the Commission grant permission for the proposed development I recommend that both conditions are included in any subsequent grant of permission issued by the Commission.
- 7.5.3. Nature of Application – the development description contained in the public notices refers to the proposed development as alterations to the Kilfenora WWTP and Percolation Area development, approved under ABP Ref. 305756-19. The proposed development does not comprise an alteration to a specific planning permission i.e. ABP Ref. 305756-19, but rather alterations to the development permitted under that permission, which I note is substantially complete/complete and awaiting commission. A planning condition linking any subsequent permission granted under this application/appeal is therefore not required.
- 7.5.4. Archaeology – I note the presence of archaeology in the vicinity of the appeal site, and I note that under PA. Ref. 19/31 and ABP Ref. 305756-19 Condition no. 6 required the preservation, recording and protection of archaeological features which may exist on the site. Noting the nature and extent of the development proposed under the current

application, and the shallow depth of excavations concerned, I do not consider that a specific archaeology condition is necessary.

- 7.5.5. Red line boundary – the appellant’s submission notes that the proposal to replace some of the pipe is outside the red line boundary and renders the application invalid. From reviewing the drawings submitted with the application/appeal I note that part of the existing pipe which is to be decommissioned is not within the red line boundary of the site. The proposal as it relates to this section of existing pipe is to decommission it and for it to be retained in-situ. Therefore there are no works proposed to this area of the site and reference to this element is informative, clarifying that it is the applicant’s intention for the new pipe to replace the old pipe, and for the old redundant pipe to remain in situ. I consider the applicant’s approach in this regard to be acceptable.

7.6. **Stage 1 - Appropriate Assessment Screening**

- 7.6.1. In accordance with Section 177U of the Planning and Development Act, 2000, as amended, and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects East Burren Complex SAC (Site Code: 001926); Corofin Wetlands SPA (Site Code:004220); Inagh River Estuary SAC (Site Code: 000036); and Moneen Mountain SAC (Site Code 000054) in view of the conservation objectives of a number of qualifying features of these sites. It is therefore determined that Appropriate Assessment (Stage 2) [under Section 177V of the Planning and Development Act, 2000] of the proposed development is required.

7.7. **Stage 2 – Appropriate Assessment**

- 7.7.1. Following screening for the need for Appropriate Assessment it was determined that the proposed development could result in significant effects on East Burren Complex SAC (Site Code: 001926); Corofin Wetlands SPA (Site Code:004220); Inagh River Estuary SAC (Site Code: 000036); and Moneen Mountain SAC (Site Code 000054) in view of the conservation objectives of those sites, and Appropriate Assessment was deemed to be required. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects on site integrity are examined and evaluated for effectiveness.

Possible in-combination effects are also considered. A full description of the proposed development, including construction methodology, is set out on page 10 of the NIS submitted by the applicant and the potential impacts from the construction and operational phases are set out on pages 41 - 43 of the NIS.

7.7.2. Following an examination, analysis and evaluation of the NIS, as set out within Appendix 3 of this report, and all associated material submitted, I consider that in light of the mitigation measures proposed, that adverse effects on the integrity of East Burren Complex SAC (Site Code: 001926); Corofin Wetlands SPA (Site Code:004220); Inagh River Estuary SAC (Site Code: 000036); and Moneen Mountain SAC (Site Code 000054) can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects. My conclusion is based on the following:

- Detailed assessment of construction and operational impacts.
- Effectiveness of mitigation measures proposed.
- Application of planning conditions to ensure application of these measures.

8.0 Recommendation

8.1. Having regard to the above it is recommended that permission is granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to:

- (a) The nature, scale and extent of the proposed development,
- (b) The conclusion of the Site Specific Flood Risk Assessment,
- (c) The conclusion of the Ecological Impact Assessment,
- (d) The provisions of the Clare County Development Plan 2023-2029,

(e) The conclusion of the Appropriate Assessment,

it is considered that subject to compliance with the conditions set out below, the proposed development would not result in flooding, adverse impacts on water quality, and would not have a significant impact on ecology or on European Sites in the vicinity, and, would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, received by the Planning Authority on the 16th day of January 2025. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The mitigation measures contained in the Natura Impact Statement (NIS) submitted to the Planning Authority on the 16th day of January 2025 shall be implemented and shall be supervised by a suitably qualified ecologist.</p> <p>Reason: To protect the integrity of European Sites.</p>
3.	<p>The mitigation measures contained in the Ecological Impact Assessment (EclA) submitted to the Planning Authority on the 16th day of January 2025 shall be implemented and shall be supervised by a suitably qualified ecologist.</p> <p>Reason: In the interest of environmental protection and nature conservation.</p>
4.	<p>The controls and measures contained in the Construction, Environmental Management Plan (CEMP) submitted to the Planning Authority on the 16th day of January 2025 shall be implemented in full.</p>

	Reason: In the interest of environmental protection and nature conservation.
5.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the detailed requirements of the Planning Authority for such works and services.</p> <p>Reason: In the interest of public health.</p>

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

Ian Campbell
Senior Planning Inspector

25th June 2025

Appendix 1 - Form 1- EIA Pre-Screening

An Bord Pleanála	ABP-322234-25		
Case Reference			
Proposed Development Summary	<p>The proposed development will service and consists of alterations to the Kilfenora Wastewater Treatment Plant and Percolation Area development, approved by An Bord Pleanála under reference ABP-305756-19, and consists of:</p> <p>1 – Disconnection and capping of existing gravity effluent pipe (pipework to retained in situ).</p> <p>2 – Installation of new gravity pipe and connection to pumping station.</p> <p>3 - All ancillary site development and excavation works above and below ground necessary to facilitate the development.</p>		
Development Address	Ballybreen (Townland), Kilfenora, Co. Clare		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	X		No further action required. No Screening Required.
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			

Yes			
No		Proposed development is not of a Class.	No Screening Required.
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
No		Proposed development is not of a Class.	No Screening Required.

Inspector: Ian Campbell

Date: 25th June 2025

Appendix 2 - Appropriate Assessment Screening Determination

Screening for Appropriate Assessment

Test for likely significant effects

Step 1: Description of the project and local site characteristics

Case file: ABP-322234-25

Brief description of project	Alterations to the Kilfenora Wastewater Treatment Plant and Percolation Area development approved by An Bord Pleanála under reference ABP-305756-19. Detail set out in section 2.0 of the Inspector's report. See also page 10 of the NIS for details of construction methodology.
Brief description of development site characteristics and potential impact mechanisms	<p>A detailed description of the development site is provided in Section 1.0 of the Inspector's report and detailed specifications of the proposal are provided in the Appropriate Assessment Screening Report, the NIS and other planning documents provided by the applicant.</p> <p>The area is located within the Burren Limestone aquifer system which contains karst features comprising caves, collapsed features, limestone pavement, springs, swallow holes and turloughs. Ground and surface</p>

	<p>waters are closely interlinked with many rivers and streams sinking underground and flowing via both conduit and diffuse pathways before rising to the surface again, and larger open conduits which can transport groundwaters over significant distances. Beyond dilution and dispersion there is little potential for any dissolved or suspended contaminants to be attenuated in the groundwater system. The Ballybreen swallow hole is located at the Percolation Area Site. In addition, a small fluvial watercourse enters the Percolation Area site from the southeast under the R481 road in a culvert. This stream flows north and disappear down a swallow-hole located within the Percolation Area site.</p> <p>The site is located in proximity to a number of European Sites. Impact mechanisms include the release of polluted run-off (inc. silt, hydrocarbons etc.) to surface and ground water during the construction phase of the proposed development and disturbance to commuting bats, and the release of hydrocarbons to surface and ground water at operational phase.</p>	
Screening report	Yes (prepared by Thorne Ecology)	
Natura Impact Statement	Yes (prepared by Thorne Ecology)	
Relevant submissions	<p><u>Environment Assessment Officer</u> – report notes that;</p> <ul style="list-style-type: none"> - the NIS does not include development permitted under PA. Ref. 19/31 under cumulative effects, and is not in keeping with the requirements of Appropriate Assessment legislation; 	

	<ul style="list-style-type: none"> - as water quality results downstream are not evidencing any deterioration in water quality at present there is no risk of adverse effects on the Conservation Objectives of associated European Sites. <p><u>Appellant</u> – submission raises numerous issues with regard to impacts on designated sites/the applicant’s NIS, including that;</p> <ul style="list-style-type: none"> - wider connectivity to European sites cannot be ruled out; - sampling of downstream private wells has not been undertaken in the NIS; - the NIS does not address how unauthorised development may already have impacted protected sites; - the NIS fails to consider unauthorised development on the site; - substitute consent is required for unauthorised development undertaken at the site; - it is unclear if the site was flooded during the ecological walkovers carried out on the site. 	
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Step 2. Identification of relevant European sites using the Source-pathway-receptor model

4 no. European sites were identified as being located within a potential zone of influence of the proposed development as detailed in Table 1 below. I note that the applicant included a greater number of European sites in their initial screening consideration with sites within 15km of the development site considered. There is no ecological justification for such a wide consideration of sites, and I have only included those sites with any possible ecological connection or pathway in this screening determination.

European Site (code)	Qualifying interests (summary) Link to conservation objectives (NPWS, date)	Distance from proposed development	Ecological connections	Consider further in screening Y/N
East Burren Complex SAC (Site Code: 001926)	Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140] Turloughs [3180] Water courses of plain to montane levels with the Ranunculus fluitans and	c. 6.7 km east of appeal site	Hydrological pathway – the River Fergus, which is understood to receive groundwater from the Kilfenora swallow holes via inputting springs, enters Lough Inchiquin (part of the SAC) c. 9.6 km east, and therefore	Y

	<p>Callitricho-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>		hydrological connectivity exists.	
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<p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [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 <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Euphydryas aurinia</i> (Marsh Fritillary) [1065]</p>			
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	<p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p> <p>Lutra lutra (Otter) [1355]</p> <p>https://www.npws.ie/protected-sites/sac/001926 – 18th January 2022.</p>			
<p>Corofin Wetlands SPA (Site Code: 004220)</p>	<p>Little Grebe (Tachybaptus ruficollis) [A004]</p> <p>Whooper Swan (Cygnus cygnus) [A038]</p> <p>Teal (Anas crecca) [A052]</p> <p>Black-tailed Godwit (Limosa limosa) [A156]</p>	<p>c. 9.2 km south-east of appeal site</p>	<p>Hydrological pathway – the River Fergus, which is understood to receive groundwater from the Kilfenora swallow holes via inputting springs, enters Lough Inchiquin (part of the SPA) c. 9km east, and therefore hydrological connectivity exists.</p>	<p>Y</p>

	<p>Wigeon (<i>Mareca penelope</i>) [A855]</p> <p>Wetland and Waterbirds [A999]</p> <p>https://www.npws.ie/protected-sites/spa/004220 – 31st January 2025.</p>			
<p>Inagh River Estuary SAC (Site Code: 000036)</p>	<p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p>	<p>c. 8 km south-west of appeal site</p>	<p>Tributaries of the Deelagh River may receive some input from the Kilfenora swallow holes during periods of high flow. The Deelagh flows south to join the Inagh River within this SAC, and therefore hydrological connectivity exists.</p>	<p>Y</p>

	Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] https://www.npws.ie/protected-sites/sac/000036 – 27 th January 2017.			
Moneen Mountain SAC (Site Code: 000054)	Turloughs [3180] Alpine and Boreal heaths [4060] Juniperus communis formations on heaths or calcareous grasslands [5130] Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]	c. 3.7 km east of appeal site	Aquatic habitats within this SAC would not be within the hydrological zone of influence of any pollutant inputs to the Kilfenora swallow holes, however a pathway could be established to ex-situ bats foraging in the vicinity of the site.	Y

	<p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Limestone pavements [8240]</p> <p>Euphydryas aurinia (Marsh Fritillary) [1065]</p> <p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p> <p>https://www.npws.ie/protected-sites/sac/000054 – 20th December 2021.</p>			
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Ecological walkover surveys of the site were carried out on the 12th of September 2022 and the 30th of April 2024. Habitats were classified in accordance with The Heritage Council's 'A Guide to Habitats in Ireland' (Fossitt, 2000)¹ and the Annex I Interpretation Manual. Both site visits were undertaken outside of the wintering bird season. Habitats on the site are described at pages 18 – 21 of the NIS. The record of otter is c. 2.5 km from Kilfenora. The Percolation Area Site is described as offering limited suitable habitat for birds and mammals, with the exception of hedgerows which may supports badger, foxes and hare.

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

The proposed development could result in indirect effects on the above 3 no. SACs and 1 no. SPA.

Sources of impact and likely significant effects are detailed in the Table below.

Screening matrix

Site name	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
East Burren Complex SAC (Site Code: 001926)	Indirect pathway to SAC. Water pollution arising from uncontrolled release of pollutants, to ground water and surface water (e.g. run-off, silt, fuel, oils, concrete etc.).	Subsequent impacts on water quality sensitive species/habitats.
	Likelihood of significant effects from proposed development (alone): Yes	

	Impacts	Effects
Corofin Wetlands SPA (Site Code: 004220)	<p>Indirect pathway to SPA:</p> <p>Water pollution arising from uncontrolled release of pollutants, to ground water and surface water (e.g. run-off, silt, fuel, oils, concrete etc.).</p>	<p>Subsequent impacts on water quality sensitive species/habitats.</p>
	Likelihood of significant effects from proposed development (alone): Yes	
	Impacts	Effects
Inagh River Estuary SAC (Site Code: 000036)	<p>Indirect pathway to SAC:</p> <p>Water pollution arising from uncontrolled release of pollutants, to ground water and surface water (e.g.</p>	<p>Subsequent impacts on water quality sensitive species/habitats.</p>

	run-off, silt, fuel, oils, concrete etc.).	
	Likelihood of significant effects from proposed development (alone): Yes	
	Impacts	Effects
Moneen Mountain SAC (Site Code: 000054)	Indirect pathway to SAC: Increased activity at site during construction phase, including from lighting.	Disturbance impacts to commuting/foraging Lesser Horseshoe Bat.
	Likelihood of significant effects from proposed development (alone): Yes	

Step 4 Conclude if the proposed development could result in likely significant effects on a European Site

Based on the information provided in the screening report, site visit, review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result significant effects on the following European Sites;

- East Burren Complex SAC (Site Code: 001926);
- Corofin Wetlands SPA (Site Code: 004220);
- Inagh River Estuary SAC (Site Code: 000036);
- Moneen Mountain SAC (Site Code 000054).

I concur with the applicants' findings that such impacts could be significant in terms of the stated conservation objectives of the SACs and SPA when considered on their own in relation to pollution related pressures and disturbance on qualifying interest habitats and species.

The Appropriate Assessment Screening report submitted by the applicant notes that the spread of Japanese Knotweed (which is located within a private property to the east of the Percolation Area Site) to European Sites, while unlikely, cannot be excluded and that protective measures are required to address same. Given the absence of a pathway to any European Site, and the location of the Japanese Knotweed outside the site within third party lands, I do not consider that there is potential for Japanese Knotweed to reach any European Site and therefore no likelihood of significant effects arises as a result of the spread of invasive species (i.e. Japanese Knotweed).

The Appropriate Assessment Screening report submitted by the applicant also identifies a pathway for ex-situ birds associated with Corofin Wetlands SPA on the basis of the development site being used as ex-situ roosting or foraging grounds. Having regard to the distance of the development site to Corofin Wetlands SPA, the developed nature of the site, the nature of the proposed development, and the availability of suitable alternative lands in the vicinity, I do not consider that there is a potential likelihood of significant effects on bird species associated with Corofin Wetlands SPA in the context of ex-situ effects. A potential exists for significant effects on bird species associated with Corofin Wetlands SPA as a result of impacts to water quality. This is addressed below in the Stage 2/Appropriate Assessment.

Screening Determination

Finding of likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on East Burren Complex SAC (Site Code: 001926); Corofin Wetlands SPA (Site Code:004220); Inagh River Estuary SAC (Site Code: 000036); and Moneen Mountain SAC (Site Code 000054) in view of the conservation objectives of a number of qualifying interest features of those sites.

It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] of the proposed development **is required**.

Appendix 3 - Appropriate Assessment – AA Determination

Appropriate Assessment

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V [or S 177AE] of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceding screening determination at Appendix 2 of the Inspector's report (above), the following is an Appropriate Assessment of the implications of the proposed development in view of the relevant conservation objectives of East Burren Complex SAC (Site Code: 001926); Corofin Wetlands SPA (Site Code:004220); Inagh River Estuary SAC (Site Code: 000036); and Moneen Mountain SAC (Site Code 000054) based on the scientific information provided by the applicant.

The information relied upon includes the following:

- Appropriate Assessment Screening Report, prepared Thorne Ecology
- Natura Impact Statement, prepared Thorne Ecology
- Kilfenora WWTP Upgrade & Percolation Site Gravity Effluent Pipe Technical Note
- Ecological Impact Assessment (EclA)
- Environmental Impact Assessment Screening

- Hydrogeological Assessment
- Construction Environmental Management Plan (CEMP)
- Site Specific Flood Risk Assessment (SSFRA)
- Drawings

I am satisfied that the information provided is adequate to allow for Appropriate Assessment. I am satisfied that all aspects of the project which could result in significant effects are considered and assessed in the NIS and mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness.

Submissions/observations

Environment Assessment Officer (Clare County Council) - submission notes;

- NIS does not include development permitted under PA. Ref. 19/31 under cumulative effects, and is not in keeping with the requirements of Appropriate Assessment legislation.
- Water quality results downstream are not evidencing any deterioration in water quality at present and there is no risk of adverse effects on the Conservation Objectives of associated European Sites.

Appellant – appeal submission notes;

- wider connectivity to European sites cannot be ruled out.
- Sampling of downstream private wells has not been undertaken in the NIS.
- NIS does not address how unauthorised development may already have impacted protected sites.

- NIS fails to consider unauthorised development on the site.
- Substitute consent is required for unauthorised development undertaken at the site.
- It is unclear if the site was flooded during the ecological walkovers carried out on the site.

East Burren Complex SAC (Site Code 001926)

Summary of Key issues that could give rise to adverse effects (from screening stage):

(i) Water quality degradation (construction and operation)

Qualifying Interest features likely to be affected	Conservation Objectives	Potential adverse effects	Mitigation measures (summary)	
			NIS Page 49 – 51 (see summary below)	
Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140]	To restore the favourable conservation condition of Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. in East Burren Complex SAC.	Release of sediment laden waters, wastes, or other pollutants during construction and operational phases of the proposed development	<u>Construction Phase:</u> <ul style="list-style-type: none"> - Standard and Best Practice Construction Procedures. - Careful storage of turves of vegetation to avoid compaction. - Concrete management. - No storage of fuels and no refuelling at Percolation Site. - Regular maintenance of machinery. - Toolbox talks. 	

		impacting ground - water quality, resulting in water quality degradation and/or alteration of habitat quality would undermine conservation objectives.	<ul style="list-style-type: none"> - Use of dewatering pumps. - Monitoring of weather. - Direction of site lighting away from boundary hedgerow. <p><u>Operational Phase:</u></p> <ul style="list-style-type: none"> - Maintenance of vehicles. - Spill kits. 	
Turloughs [3180]	To restore the favourable conservation condition of Turloughs in East Burren Complex SAC.	As above		
Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachium vegetation [3260]	To maintain the favourable conservation condition of Vegetation in flowing waters Water courses of plain to montane levels with the	As above	As above	

	Ranunculion fluitantis and Callitricho-Batrachion vegetation in East Burren Complex SAC.			
Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]	To maintain the favourable conservation condition of Calcareous fens with Cladium mariscus and species of the Caricion davallianae* in East Burren Complex SAC.	As above.	As above.	
Petrifying springs with tufa formation (Cratoneurion) [7220]	To maintain the favourable conservation condition of Petrifying springs with tufa formation (Cratoneurion)* in East Burren Complex SAC.	As above.	As above.	

Alkaline fens [7230]	To maintain the favourable conservation condition of Alkaline fens in East Burren Complex SAC.	As above	As above.	
Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0]	To maintain the favourable conservation condition of Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i> , <i>Salicion albae</i>)* in East Burren Complex SAC.	As above.	As above.	
<i>Lutra lutra</i> (Otter) [1355]	To maintain the favourable conservation condition of Otter (<i>Lutra lutra</i>) in East Burren Complex SAC.	As above.	As above.	

<p>The above table is based on the documentation and information provided on the file, and publicly available at https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO001926.pdf and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.</p>	
<p>Assessment of issues that could give rise to adverse effects view of conservation objectives</p> <p>(i) Water quality degradation</p> <p>Deterioration of water quality and substrates in the designated site, resulting in adverse impacts to qualifying interests that the SAC has been designated for.</p> <p>Changes to ground or surface water quality does not represent a threat to habitats which are terrestrial in nature. The development site(s) are outside the zone of influence for Marsh Fritillary and Lesser Horseshoe Bat.</p> <p>Mitigation measures and conditions</p> <ul style="list-style-type: none"> • Standard and Best Practice Construction Procedures and specific mitigation measures set-out at pages 49 – 51 of NIS. <p>I am satisfied that the preventative measures which are aimed at interrupting the source-pathway-receptor are targeted at the key threats to the qualifying interests of the SAC by arresting these pathways or reducing possible effects to a non-significant level, adverse effects can be prevented.</p>	
<p>In-combination effects</p> <p>I am satisfied that in-combination effects have been assessed adequately in the NIS. The proposed development was considered in-combination with other plans and projects in the area that could result in cumulative impacts on designated sites. I note that</p>	

<p>the Appropriate Assessment Screening report included consideration of the existing, permitted WWTP in the context of the baseline environment. No other plans and projects could combine to generate significant effects when mitigation measures are considered. I am satisfied that the applicant has demonstrated that no significant residual effects will remain post the application of mitigation measures.</p>	
<p>Findings and conclusions</p> <p>The applicant determined that following the implementation of mitigation measures the construction and operation of the proposed development alone, or in combination with other plans and projects, will not adversely affect the integrity of this European Site. Based on the information provided, I am satisfied that adverse effects arising from the proposed development can be excluded for the East Burren Complex SAC (Site Code: 001926). No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to prevent ingress of silt laden surface water and other construction related pollutants. I am satisfied that the mitigation measures proposed to prevent such effects have been assessed as effective and can be implemented and conditioned if permission is granted.</p> <p>Reasonable scientific doubt</p> <p>I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.</p> <p>Site Integrity</p> <p>The proposed development will not affect the attainment Conservation objectives of East Burren Complex SAC (Site code 001926). Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.</p>	

Corofin Wetlands SPA (Site Code 004220)				
Summary of Key issues that could give rise to adverse effects (from screening stage):				
(i) Water quality degradation (construction and operation)				
Qualifying Interest features likely to be affected	Conservation Objectives Targets and attributes (as relevant - summary)	Potential adverse Effects	Mitigation measures (summary) NIS Page 49 – 51 (see summary below)	
Little Grebe (Tachybaptus ruficollis) [A004]	To maintain the Favourable conservation condition of Little Grebe at Corofin Wetlands SPA.	Release of sediment laden waters, wastes, or other pollutants during construction and operational phases of the proposed development impacting ground - water quality, resulting in water quality degradation and/or alteration of habitat quality, and	<u>Construction Phase:</u> <ul style="list-style-type: none"> - Standard and Best Practice Construction Procedures. - Careful storage of turves of vegetation to avoid compaction. - Concrete management. - No storage of fuels and no refuelling at Percolation Site. - Regular maintenance of machinery. - Toolbox talks. - Use of dewatering pumps. - Monitoring of weather. - Direction of site lighting away from boundary hedgerow. 	

		habitats which bird species associated with the SPA are dependent on, thereby undermining the conservation objectives of same.	<u>Operational Phase:</u> <ul style="list-style-type: none"> - Maintenance of vehicles. - Spill kits. 	
Whooper Swan (Cygnus cygnus) [A038]	To maintain the Favourable conservation condition of Whooper Swan at Corofin Wetlands SPA.	As above.	As above.	
Teal (Anas crecca) [A052]	To maintain the Favourable conservation condition of Teal at Corofin Wetlands SPA.	As above.	As above.	
Black-tailed Godwit (Limosa limosa) [A156]	To maintain the Favourable conservation condition of Black-tailed Godwit at Corofin Wetlands SPA.	As above.	As above.	

Wigeon (Mareca penelope) [A855]	To maintain the Favourable conservation condition of Wigeon at Corofin Wetlands SPA.	As above.	As above.
Wetland and Waterbirds [A999]	To maintain the Favourable conservation condition of Wetland habitats in Corofin Wetlands SPA.	As above.	As above.
The above table is based on the documentation and information provided on the file, and publicly available at https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004220.pdf and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.			
Assessment of issues that could give rise to adverse effects: (i) Water quality degradation Deterioration of water quality and substrates in the designated site, resulting in adverse impacts to water dependent qualifying interests of the SPA. Mitigation measures and conditions <ul style="list-style-type: none">Standard and Best Practice Construction Procedures and specific mitigation measures set-out at pages 49 – 51 of NIS.			

<p>I am satisfied that the preventative measures which are aimed at interrupting the source-pathway-receptor are targeted at the key threats to the qualifying interests of the SPA by arresting these pathways or reducing possible effects to a non-significant level, adverse effects can be prevented.</p>	
<p>In-combination effects</p> <p>I am satisfied that in-combination effects have been assessed adequately in the NIS. The proposed development was considered in-combination with other plans and projects in the area that could result in cumulative impacts on designated sites. I note that the Appropriate Assessment Screening report included consideration of the existing, permitted WWTP in the context of the baseline environment. No other plans and projects could combine to generate significant effects when mitigation measures are considered. I am satisfied that the applicant has demonstrated that no significant residual effects will remain post the application of mitigation measures.</p>	
<p>Findings and conclusions</p> <p>The applicant determined that following the implementation of mitigation measures the construction and operation of the proposed development alone, or in combination with other plans and projects, will not adversely affect the integrity of this European Site. Based on the information provided, I am satisfied that adverse effects arising from the proposed development can be excluded for Corofin Wetlands SPA (Site Code: 004220). No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to prevent ingress of silt laden surface water and other construction related pollutants. I am satisfied that the mitigation measures proposed to prevent such effects have been assessed as effective and can be implemented and conditioned if permission is granted.</p> <p>Reasonable scientific doubt</p> <p>I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.</p>	

Site Integrity

The proposed development will not affect the attainment Conservation objectives of Corofin Wetlands SPA (Site Code: 004220). Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

Inagh River Estuary SAC (Site Code: 000036)**Summary of Key issues that could give rise to adverse effects (from screening stage):****(i) Water quality degradation (construction and operation)**

Qualifying Interest features likely to be affected	Conservation Objectives Targets and attributes (as relevant - summary)	Potential adverse effects	Mitigation measures (summary)
			NIS Page 49 – 51 (see summary below)
Salicornia and other annuals colonising mud and sand [1310]	To restore the favourable conservation condition of Salicornia and other annuals colonising mud and sand in Inagh River Estuary SAC.	Release of sediment laden waters, wastes, or other pollutants during construction and operational phases of the proposed development impacting ground -water quality, resulting in water quality degradation and/or	<u>Construction Phase:</u> <ul style="list-style-type: none">- Standard and Best Practice Construction Procedures.- Careful storage of turves of

		alteration of habitat quality would undermine conservation objectives.	<p>vegetation to avoid compaction.</p> <ul style="list-style-type: none"> - Concrete management. - No storage of fuels and no refuelling at Percolation Site. - Regular maintenance of machinery. - Toolbox talks. - Use of dewatering pumps. - Monitoring of weather. - Direction of site lighting away from boundary hedgerow. <p><u>Operational Phase:</u></p>
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			<ul style="list-style-type: none"> - Maintenance of vehicles. - Spill kits.
Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330]	To restore the favourable conservation condition of Atlantic salt meadows (Glaucopuccinellietalia maritimae) in Inagh River Estuary SAC.	As above.	As above.
Mediterranean salt meadows (Juncetalia maritimi) [1410]	To restore the favourable conservation condition of Mediterranean salt meadows (Juncetalia maritimi) in Inagh River Estuary SAC.	As above.	As above.
<p>The above table is based on the documentation and information provided on the file, and publicly available at https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000036.pdf, and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.</p>			
<p>Assessment of issues that could give rise to adverse effects:</p> <p>(i) Water quality degradation</p> <p>Deterioration of water quality and substrates in the designated site, resulting in adverse impacts to qualifying interests that the SAC has been designated for.</p>			

The NIS notes that Shifting Dunes and Fixed Coastal Dunes do not interact with the Inagh River Estuary waters and there is therefore no potential for these habitats to be affected by the proposed development on the basis of hydrological connectivity.

Mitigation measures and conditions

- Standard and Best Practice Construction Procedures and specific mitigation measures set-out at pages 49 – 51 of NIS.

I am satisfied that the preventative measures which are aimed at interrupting the source-pathway-receptor are targeted at the key threats to the qualifying interests of the SAC by arresting these pathways or reducing possible effects to a non-significant level, adverse effects can be prevented.

I am satisfied that in-combination effects have been assessed adequately in the NIS. The proposed development was considered in-combination with other plans and projects in the area that could result in cumulative impacts on designated sites. I note that the Appropriate Assessment Screening report included consideration of the existing, permitted WWTP in the context of the baseline environment. No other plans and projects could combine to generate significant effects when mitigation measures are considered. I am satisfied that the applicant has demonstrated that no significant residual effects will remain post the application of mitigation measures.

Findings and conclusions

The applicant determined that following the implementation of mitigation measures the construction and operation of the proposed development alone, or in combination with other plans and projects, will not adversely affect the integrity of this European Site. Based on the information provided, I am satisfied that adverse effects arising from the proposed development can be excluded for Inagh

River Estuary SAC (Site Code: 000036). No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to prevent ingress of silt laden surface water and other construction related pollutants. I am satisfied that the mitigation measures proposed to prevent such effects have been assessed as effective and can be implemented and conditioned if permission is granted.

Reasonable scientific doubt

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

Site Integrity

The proposed development will not affect the attainment Conservation objectives of Inagh River Estuary SAC (Site Code: 000036). Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

Moneen Mountain SAC (Site Code: 000054)

Summary of Key issues that could give rise to adverse effects (from screening stage):

(i) Disturbance to Bats.

Qualifying Interest features likely to be affected	Conservation Objectives Targets and attributes (as relevant - summary)	Potential adverse Effects	Mitigation measures (summary)
			NIS Page 49 – 51 (see summary below)

Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]	To maintain the favourable conservation condition of Lesser Horseshoe Bat (Rhinolophus hipposideros) in Moneen Mountain SAC.	Disturbance impacts to commuting Lesser Horseshoe Bat (ex-situ effects).	Direction of site lighting away from boundary hedgerow.
<p>The above table is based on the documentation and information provided on the file, and publicly available at https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000054.pdf, and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.</p>			
<p>Assessment of issues that could give rise to adverse effects view of conservation objectives</p> <p>(i) Disturbance to bats</p> <p>Site lighting during the construction phase of the proposed development, resulting in disturbance to commuting bats associated with Moneen Mountain SAC (ex-situ effects). The NIS notes that the closest recorded roost site is a cave c. 3.5 km east of Kilfenora which overlaps with the SAC.</p> <p>The NIS notes that changes to groundwater quality do not threaten habitats which are terrestrial in nature, and that Marsh Fritillary is outside the zone of influence for the proposed development.</p>			

Mitigation measures and conditions

- Specific mitigation measures set-out at pages 49 – 51 of NIS, including the direction of site lighting away from boundary hedgerow.

I am satisfied that the preventative measures which are aimed at interrupting the source-pathway-receptor are targeted at the key threats to the qualifying interests of the SAC by arresting these pathways or reducing possible effects to a non-significant level, adverse effects can be prevented.

I am satisfied that in-combination effects have been assessed adequately in the NIS. The proposed development was considered in-combination with other plans and projects in the area that could result in cumulative impacts on designated sites. I note that the Appropriate Assessment Screening report included consideration of the existing, permitted WWTP in the context of the baseline environment. No other plans and projects could combine to generate significant effects when mitigation measures are considered. I am satisfied that the applicant has demonstrated that no significant residual effects will remain post the application of mitigation measures.

Findings and conclusions

The applicant determined that following the implementation of mitigation measures the construction and operation of the proposed development alone, or in combination with other plans and projects, will not adversely affect the integrity of this European Site. Based on the information provided, I am satisfied that adverse effects arising from the proposed development can be excluded for Moneen Mountain SAC (Site Code: 000054). No direct impacts are predicted. I am satisfied that the mitigation measures proposed to prevent such effects have been assessed as effective and can be implemented and conditioned if permission is granted.

Reasonable scientific doubt

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

Site Integrity

The proposed development will not affect the attainment Conservation objectives of Moneen Mountain SAC (Site Code: 000054).

Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

Appendix 4 - Water Framework Directive (WFD) Screening Matrix

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	ABP-322234-25	Townland, address	Ballybreen Townland, Kilfenora, Co. Clare
Description of project		<p>The proposed development comprises,</p> <ul style="list-style-type: none"> 1 – Disconnection and capping of existing gravity effluent pipe (pipework to retained in situ). 2 – Installation of new gravity pipe and connection to pumping station. 3 - All ancillary site development and excavation works above and below ground necessary to facilitate the development. 	
Brief site description, relevant to WFD Screening		<p>The area is located within the Burren Limestone aquifer system which contains karst features comprising caves, collapsed features, limestone pavement, springs, swallow holes and turloughs. Local geology is described in the particulars submitted with the planning application as being characterised by a series of swallow holes along the boundary between shale bedrock to the west</p>	

	<p>and limestone to the east, ground and surface waters which are closely interlinked with many rivers and streams sinking underground and flowing via both conduit and diffuse pathways before rising to the surface again, and larger open conduits which can transport groundwaters over significant distances. Beyond dilution and dispersion there is little potential for any dissolved or suspended contaminants to be attenuated in the groundwater system. The Ballybreen swallow hole is located at the Percolation Area site. In addition, a small fluvial watercourse enters the Percolation Area site from the southeast under the R481 road in a culvert. This stream flows north and disappear down a swallow-hole located within the Percolation Area site.</p>
Proposed surface water details	N/A
Proposed water supply source & available capacity	N/A.
Proposed wastewater treatment system & available capacity, other issues	N/A.

Others?			N/A.			
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River	c. 0.6 km	Clooneen (Clare)_010 IE_SH_27C030300	Poor	At Risk	- Agriculture - Forestry	Run-off to surface and ground water
	c. 3.7 km	Fergus_010 IE_SH_27F010100	Good	Not At Risk	N/A	Run-off to surface and ground water
	c. 1.2 km	Dealagh_010 IE_SH_28Do10350	Good	Review	N/A	Run-off to surface and ground water

Transitional	c.7.4 km	Inagh Estuary IE_SH_100_0100	Moderate	Review	N/A	Run-off to surface and ground water
Coastal	N/A	N/A	N/A	N/A	N/A	N/A
Groundwater	0	Burren IE_SH_G_047	Good	Not At Risk	N/A	Infiltration to groundwater
	0	Water Discharge Facility IW_SH_G_169	Good	Not At Risk	N/A	Infiltration to groundwater
	0	Craggaunboy	Good	Not At Risk	N/A	Infiltration to groundwater

		IW_SH_G_- 069				
	0	Miltown Malbay IE_SH_G_04 7	Good	Not At Risk	N/A	Infiltration to groundwater
	0	Miltown Malbay IE_SH_G_04 7	Good	Not At Risk	N/A	Infiltration to groundwater
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.						
CONSTRUCTION PHASE						Component

No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measures	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	River	Clooneen (Clare)_010 IE_SH_27C030300	Ballybreen swallow hole and small fluvial watercourse on Percolation Area Site.	Siltation, pH (concrete), hydrocarbon spillages.	Standard construction practice, submission of a CEMP.	No.	Screened out.
		Fergus_010 IE_SH_27F010100	Ballybreen swallow hole and small fluvial watercourse on Percolation Area Site.	Siltation, pH (concrete), hydrocarbon spillages.	Standard construction practice, submission of a CEMP.	No.	Screened out.

		Dealagh_010 IE_SH_28Do 10350	Ballybreen swallow hole and small fluvial watercourse on Percolation Area Site.	Siltation, pH (concrete), hydrocarbon spillages.	Standard constructi on practice, submissi on of a CEMP.	No.	Screened out.
2.	Transitional	Innagh Estuary IE_SH_100_ 0100	Ballybreen swallow hole and small fluvial watercourse on Percolation Area Site.	Siltation, pH (concrete), hydrocarbon spillages.	Standard constructi on practice, submissi on of a CEMP.	No.	Screened out.
3.	Coastal	N/A	N/A	N/A	N/A	N/A	N/A
4.	Groundwater	Burren IE_SH_G_04 7	Pathway exists.	Hydrocarbon spillages.	Standard constructi on practice, submissi	No.	Screened out.

					on of a CEMP.		
		Water Discharge Facility IW_SH_G_16 9	Pathway exists.	Hydrocarbon spillages.	Standard constructi on practice, submissi on of a CEMP.	No.	Screened out.
		Craggaunboy IW_SH_G_- 069	Pathway exists.	Hydrocarbon spillages.	Standard constructi on practice, submissi on of a CEMP.	No.	Screened out.
		Miltown Malbay IE_SH_G_04 7	Pathway exists.	Hydrocarbon spillages.	Standard constructi on practice, submissi	No.	Screened out.

					on of a CEMP.		
OPERATIONAL PHASE							
1.	River	Clooneen (Clare)_010 IE_SH_27C0 30300	Ballybreen swallow hole and small fluvial watercourse on Percolation Area Site.	None envisaged.	N/A	No.	Screened out.
		Fergus_010 IE_SH_27F0 10100	Ballybreen swallow hole and small fluvial watercourse on Percolation Area Site.	None envisaged.	N/A	No.	Screened out.
		Dealagh_010	Ballybreen swallow hole	None envisaged.	N/A	No.	Screened out.

		IE_SH_28Do 10350	and small fluvial watercourse on Percolation Area Site.				
2.	Transitional	Innagh Estuary IE_SH_100_ 0100	Ballybreen swallow hole and small fluvial watercourse on Percolation Area Site.	None envisaged.	N/A	No.	Screened out.
3.	Coastal	N/A	N/A	N/A	N/A	N/A	N/A
4.	Groundwater	Burren IE_SH_G_04 7	Pathway exists.	None envisaged.	N/A	No.	Screened out.
		Water Discharge Facility IW_SH_G_16 9	Pathway exists.	None envisaged.	N/A	No.	Screened out.

		Craggaunboy IW_SH_G_- 069	Pathway exists.	None envisaged.	N/A	No.	Screened out.
		Miltown Malbay IE_SH_G_04 7	Pathway exists.	None envisaged.	N/A	No.	Screened out.
DECOMMISSIONING PHASE							
1.	N/A	N/A	N/A	N/A	N/A	N/A	N/A