



An
Coimisiún
Pleanála

Inspector's Report ACP-323064-25

Development	Retention of existing portacabin office accommodation (previously granted under Ref. No. 16/446) and permission for 2 waste separation buildings, office building, extension of existing waste facility yard and all associated site development works.
Location	Kincorragh, Smithborough, Monaghan, H18 E338
Planning Authority	Monaghan County Council
Planning Authority Reg. Ref.	2460417
Applicant(s)	Blue Dolphin Environmental Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party vs. Grant
Appellant(s)	Declan McCullagh
Observer(s)	None
Date of Site Inspection	28 th October 2025
Inspector	Stephen Ward

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1.0 Site Location and Description

- 1.1. The site is located within the rural area of Kincorragh, approximately 2km northwest of Smithborough, County Monaghan. The surrounding area is predominantly characterised by an undulating rural landscape with a dispersed pattern of agricultural uses/buildings and one-off rural housing.
- 1.2. The appeal site has a stated area of 2.32 hectares. The site levels fall significantly from the northwest to southeast direction, including a fall from c. 70.43m OD close to the northern boundary to 58.45m OD at the southern boundary. The northwestern portion of the site is already developed and comprises 2 waste buildings used for the holding of waste prior to its transfer to the relevant waste facilities; a weighbridge and portacabin; and an existing yard and car parking area where staff cars and company vehicles are parked. The existing buildings have a total floor area of 1,370m².
- 1.3. There is an adjoining workshop at the northern end which does not form part of the appeal site. The remaining eastern and southern portions of the site are undeveloped and in agricultural use. The site is bounded to the west by a local public road and drainage ditch. The site entrance is at the northwestern corner. The River Maghery forms much of the southern site boundary.

2.0 Proposed Development

- 2.1. In summary, permission is sought for the following:
 - Retention of position on site of existing single portacabin office accommodation (30m²) (previously granted under Planning Ref. No. 16/446),
 - Construction of 2 no. single storey waste separation buildings (Total area 3075m²),
 - Construction of two storey office building (135m²),
 - Extension of existing waste facility yard to facilitate the proposed development, and
 - All associated site development works.

2.2. Water supply will be provided by an existing Group Water Scheme connection. The development will be served by an existing on-site wastewater treatment system. Surface water associated with existing development connects to an existing drain along the roadside boundary to the west. It is proposed that surface water from the proposed development will be diverted via an attenuation tank, silt traps, and petrol interceptor to the River Maghery to the south of the site.

3.0 **Planning Authority Decision**

3.1. **Decision**

By Order dated 20th June 2025, Monaghan County Council (MCC) made a decision to grant permission subject to 9 no. conditions.

3.2. **Planning Authority Reports**

3.2.1. Further Information

Following the initial consideration of the application, the planning authority issued a Further Information request. The issues raised can be summarised as follows:

1. Information including a 3D topographical survey to clarify the full nature and extent of existing/permitted/proposed infilling and reprofiling of the site.
2. Revised Flood Risk Assessment to address impacts associated with existing/permitted/proposed infilling/reprofiling.
3. Invitation to respond to the issues raised in the third-party submission.

3.2.2. Planning Reports

The assessment is outlined in two planning reports. The initial assessment requested further information and then a second assessment considered the further information submitted. The assessment can be cumulatively summarised as follows:

- Principle – Acceptable as a result of previous applications. The further information response has provided a justification for the increase in floor area.
- Residential Amenity - No issues. The closest dwelling is located circa 150 metres to the south-west.

- Visual Impact – Landscaping proposals will screen the development to avoid any significant visual impact.
- Traffic & Parking – Impacts have been considered acceptable as part of a previous application (P.A. Reg. Ref. 22/443) and the subsequent An Bord Pleanála decision. No concerns arise.
- Effluent Treatment – A report submitted with the application confirmed that an upgrade to the existing system was not necessary.
- Flood Risk – The development is close to the Maghery River, and the planning authority notes the flood risk concerns raised in the An Bord Pleanála decision to refuse permission (ABP Ref: 316951-23) and the third-party submission. Although the applicant's Site-Specific Flood Risk Assessment (SSFRA) concludes that the development is appropriate, further information (including a revised SSFRA) was requested in relation to impacts as a result of existing/permitted/proposed infilling and re-profiling of the lands.

The further information response adequately clarifies the nature and extent of infilling/reprofiling. The revised proposals and accompanying flood risk statement clarify that no works will be carried out within the fluvial flood extents and the planning authority is satisfied in this regard.

- Appropriate Assessment - Having regard to cumulative effects of both the proposed development and any other plan or project, it is the opinion of the Planning Authority that the development is not of a nature or scale to have any significant effects on the integrity of any Natura 2000 sites and therefore a Stage 2 Appropriate Assessment is not required in respect of this project.
- The landscaping proposals will satisfactorily address concerns about site/embankment stability.
- Prior to commencement of development, updated site layout, landscaping, and site section drawings should be agreed to reflect the amended embankment layout.
- The applicant's further information response to the third-party submission is noted.

- Conclusion – The report concludes that the development complies with all relevant provisions of the Monaghan County Development Plan 2019-2025 and the proper planning and sustainable development of the area. A Grant of Permission is recommended, and this forms the basis of the MCC decision.

3.2.3. Other Technical Reports

- Environment – The initial report recommended further information in relation to the nature and extent of existing/permitted/proposed infilling and reprofiling of the site, including the nature and volumes of waste. The subsequent report notes that excavated soil and stone (c. 4000m³) will be reused on site and that any excess material will be sent off site utilizing Article 27 process and/or waste facility permit/certificate of registration. The report confirms that there are no objections subject to conditions.
- Environmental Health Officer – No objections subject to noise-related conditions.
- Chief Fire Officer – No objections subject to conditions.
- Municipal District Engineer - No objections.

3.2.4. Conditions

Notable conditions attached to the decision can be summarised as follows:

1. Requires a Development Contribution of €24,320.
2. Requires a landscaping bond of €20,000.
3. Requires clarification of site layout plan, site sections, landscaping plan, and foul/storm sewer layouts.
5. Within 1 month of permission, the entrance shall be surfaced and drained. Visibility splays of 50 metres shall be maintained.
6. Outlines noise limits for site activities.
7. Outlines a range of environmental requirements for the protection of water, drainage, and waste management.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

The planning authority received submissions on behalf of the appellant during the initial 5-week period and after further information was submitted. The main issues raised are covered in the grounds of appeal (see section 6 of this report).

4.0 Planning History

ABP Ref. 316951-23 (P.A. Reg. Ref. 22/443): On the 17th of July 2024 the Board made a decision to refuse permission for a development of similar nature and description as the current appeal case. The reason for refusal was as follows:

Having regard to the proximity of the site to the flood extents of the River Maghera to the south and south-east of the site, and having regard to the extent of reprofiling of the site proposed in close proximity to said flood extents, the Board is not satisfied that flood risks associated with the proposed development have been adequately addressed within the application documentation, and is of the view that a Flood Risk Assessment is required. The Board considered that the proposed development would be contrary to 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009)', and to Policy FMP 2 (Flood Risk Management Policies) of the Monaghan County Development Plan 2019- 2015 and would, therefore, be contrary to the proper planning and sustainable development of the area.

P.A. Reg. Ref. 18/376: Permission granted (24th June 2019) for new concrete yard to existing recycling facility and all other associated site works.

P.A. Reg. Ref. 16/446: Permission granted (11th April 2017) for retention of relocation of previously approved lorry weighbridge, retention of existing portacabin office, provision of 205 cubic metre (3m high) water tank, provision of additional hard surfaced area to south of existing site and associated alterations to site boundary to include all associated site development works.

P.A. Reg. Ref. 12/376: Permission granted (18th October 2013) for extension to the south-eastern elevation of existing waste facility commercial unit, to include relocation of existing south-eastern site boundary and all associated site development works.

P.A. Reg. Ref. 11/146: Permission granted (19th August 2011) for change of use of existing commercial unit to waste segregation & compaction facility & provision of a lorry weigh bridge at the existing site entrance to include all associated site development works.

P.A. Reg. Ref. 10/481: Permission granted (12th April 2011) for one number self-contained waste transfer station and associated waste collection vehicle parking and bin storage areas to include change of use of previously approved hardstanding area (Pertaining to previously granted planning reference P143/04) to facilitate proposed development and all associated site development works.

P.A. Reg. Ref. 04/143: Permission granted (25th August 2004) for 2 no. workshop unit for the following purposes (a) unit no. 1: manufacture of prefabricated timber roof trusses (b) unit no. 2: storage of all ancillary timbers and completed trusses prior to despatch, develop existing entrance, provide hardened area and all associated site works.

5.0 Policy Context

5.1. National and Regional Policy/Guidance

The Climate Action Plan 2025 builds upon and should be read in conjunction with the Climate Action Plan 2024. It refines and updates the measures and actions required to deliver carbon budgets and sectoral emissions ceilings and provides a roadmap for taking decisive action to halve Ireland's emissions by 2030 and achieve climate neutrality by no later than 2050. The Commission is required to perform its functions in a manner consistent with the Climate & Low Carbon Development Act.

The National Biodiversity Action Plan 2023-2030 includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss. Section 59B(1) of the Wildlife (Amendment) Act 2000 (as amended) requires the Commission to have regard to the objectives and targets of the NBAP in the performance of its functions, to the extent that they may affect or relate to the functions of the Commission. The impact of development on biodiversity, including species and habitats, can be assessed at a European, National and Local Level and is taken into account in our decision-making having

regard to the Habitats and Birds Directives, EIA Directive, Water Framework Directive and Marine Strategy Framework Directive, and other relevant legislation, strategy and policy where applicable. Biodiversity is addressed in sections 9 and 10 of this report.

The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) outline comprehensive mechanisms for the incorporation of flood risk identification, assessment and management into the planning process, including the preparation and assessment of planning applications/appeals.

The National Waste Management Plan for a Circular Economy (2024-2030) seeks to influence sustainable consumption and prevent the generation of waste, improve the capture of materials to optimise circularity and enable compliance with policy and legislation. It sets out policy for future improvement and development of waste management as well as the means to implement and monitor progress.

5.2. **Monaghan County Development Plan 2025-2031**

Although the MCC decision (20th June 2025) was made under the CDP 2019-2025, the CDP 2025-2031 is the operative plan for the area since 7th July 2025. Relevant provisions are outlined under the headings below.

Waste

Section 8.3 deals with 'Waste Management and the Circular Economy'. Relevant policies/objectives can be summarised as follows:

WMO 3 - Apply the 'Polluter Pays', 'proximity', and 'precautionary' principles in respect of all waste management activities.

WMO 9 - To ensure that all new waste management infrastructure is sited in accordance with the provisions of the Waste Management Infrastructure Guidance for Siting Waste Management Facilities included within the National Waste Management Plan for a Circular Economy 2024-2030.

Infill

Policy ILP 1 and section 15.32 outline that proposals for the infilling of lands shall demonstrate that there will be no adverse impact upon surface and groundwaters, or upon areas which are at risk of flooding.

Water

Section 8.1.2, Policy WPP 1 and section 15.22.6 outline provisions for the protection of water quality, including references to the requirements of the Water Framework Directive.

WPO 8 - Protects waterbodies and watercourses from inappropriate development.

Flooding & Drainage

Section 8.7 deals with 'Flood Risk Management' and outlines the work carried out by the OPW and others in respect of flood mapping, management and guidelines (i.e. the 2009 Flood Risk Guidelines). Relevant policies/objectives can be summarised as follows:

FRMO 1 - To fully implement and support, in conjunction with the Office of Public Works, the provisions of the EU Flood Risk Directive, The Flood Risk Regulations, The Planning System and Flood Risk Management - Guidelines for Planning Authorities (2009) and any new or updated/subsequent versions.

FRMO 2 - To seek to obtain the required funding for the implementation of the measures set out in the Flood Risk Management Plans for Monaghan Town, Ballybay and Inniskeen.

FRMO 3 - To have regard to the Strategic Flood Risk Assessment for County Monaghan and any new or updated/subsequent versions.

FRMO 4 - To protect rivers, streams, riparian corridors, flood plains and wetlands from inappropriate development which will contribute to increased flood risk.

FRMO 5 - Supports the development of long and short-term flood remediation works and flood relief schemes throughout the County.

FRMP 1 - Applications for development, as required on previously developed lands within Flood Zones A or B, shall be subject to site specific flood risk assessment and shall provide details of structural and non-structural flood risk management measures, such as those relating to floor levels, internal layout, flood-resistant construction, flood-resilient construction, emergency response planning and access and egress during flood events.

FRMP 2 - Where a Justification Test applies, it must be demonstrated to the satisfaction of the planning authority that the flood risk can be adequately managed, and that the use and the development of the lands will not cause unacceptable impacts elsewhere.

FRMP 3 - Extensions of existing uses or minor development within flood risk areas will be supported, provided they do not: obstruct important flow paths; introduce a number of people into flood risk areas; entail the storage of hazardous substances; have adverse impacts or impede access to a watercourse, floodplain or flood protection and management facilities; or increase the risk of flooding elsewhere.

FRMP 4 - Where only a small proportion of a site is at risk of flooding, the sequential approach shall be applied in site planning, in order to seek to ensure that no encroachment onto or loss of the flood plain occurs and/or that only water compatible development such as Open Space would be permitted for the lands which are identified as being at risk of flooding within that site.

Policy FRP 1 and section 15.22.8 outlines further guidance and requirements for development within flood risk areas.

Section 8.8 deals with 'Surface Water Drainage' and relevant objectives can be summarised as:

SWDO 1 - To require the use of Sustainable Drainage Systems and Green-Blue Infrastructure in new developments including the public realm and retrofitted in existing developed areas, in line with National Policy Objective 57 of the National Planning Framework.

SWDO 2 - All development proposals, as required shall carry out a surface water and drainage assessment and shall be compliant with the following:

- (DHLGH) 'Nature based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas – Water Sensitive Urban Design' (March 2022)
- CIRIA SuDS Manual C753 (2015).

Residential Amenity

Policy RAP 1 and section 15.22.2 outline that all developments must have regard to their potential impact upon the residential amenity of existing and permitted residential land uses in the vicinity of the development.

5.3. Natural Heritage Designations

The nearest Natura 2000 site is within Northern Ireland, namely the Magheraveely Marl Loughs SAC (c. 2.5km to the northwest). In Ireland, the closest sites are the Slieve Beagh SPA (c. 7.5km to the north) and the Kilrosky Lough Cluster SAC (c. 8km to the southwest). Further downstream, sites include the Lough Oughter and Associated Loughs SAC (c. 19km to the southwest (in Ireland)), while sites in Northern Ireland include the Upper Lough Erne SPA (c. 14km to southwest) and the Upper Lough Erne SAC (c. 19km to southwest).

6.0 The Appeal

6.1. Grounds of Appeal

The MCC decision to grant permission has been appealed by Declan McCulagh of Drummuck, Stranoodan, Co. Monaghan. The appellant is stated to be the owner of the adjoining workshop to the north of the site. The grounds of the appeal can be summarised under the headings below.

Overdevelopment & Principle of development

- The relocation of the toe of the embankment has significant implications for the layout, servicing, and site size of the development, which results in residual flooding and environmental concerns as follows:
 - The proposed surface water attenuation (which is inadequate in size) would consequently be located within the embankment area, which is untenable.
 - Traffic parking and logistics have not been amended but would consequently be inadequate to serve the scale of the development.
- The basis for a c. three-fold increase in floor area and scale is not justified in an un-zoned greenfield rural area.
- There are no details of the tonnage of waste to be handled per annum and how this differs from the current permitted tonnage.
- The scale of the encroachment of the existing waste facility onto a greenfield site was never considered by the planning authority.

- The development would undermine the objectives of the regional waste management plan.

Excavation and Fill

- There is over 10m difference in levels on the site and the implications or the extent of earth movement and excavations and import of fill material were never considered by the planning authority.
- The application has inadequate detail of waste infill, and the 3D topographical plans are inadequate to understand the site.
- The nature and extent of fill material used to date has not been clarified and the resulting risk of leachate runoff to ground/surface water has not been addressed.
- The excavation (4000m³) has significant implications with regard to soil erosion, flood risk, contamination of the nearby stream and visual impact.
- The extent of fill will create a massive building form/platform which is alien to the landscape. The landscaping proposals are unclear and do not appear to be feasible in the context of the reduced site area.
- A further risk in the event of a large storm is that the toe of the embankment will become eroded causing instability of the embankment and removing support to the yard above. This could result in pollution of the stream as a result of waste, soil and sediment.

Flood Risk

- The applicant has relocated the toe of the embankment out of the flood zone as a means of avoiding undertaking flood risk assessment. In so doing the applicant is reliant on unreliable catchment data for a much-reduced catchment of 7km² compared to the correct catchment of 20km² (as verified from 1:2500 mapping and walking the catchment). Inevitably, assessing the flood risk using the correct catchment area produces a greatly increased flood zone area further encroaching on the site.
- Recent ordinary flooding events in the area demonstrate a fluctuating and extended flood risk zone, which challenges the line of the flood risk area indicated.

- Downstream flooding impacts have not been assessed.
- The development is not in Zone C as claimed as the embankment would be located within the floodplain displacing water and disrupting flows contrary to the flood risk guidelines.
- The proposal materially contravenes the CDP 2025-2031 (Objectives FRMO 1-5 and Policies FRMP 1-4) as the proposed development does not comply with the sequential approach, and the applicant has failed to undertake a Justification Test in accordance with 'The Planning System and Flood Risk Management — Guidelines for Planning Authorities (2009)'.

Traffic & Access

- The existing traffic scenario is untenable.
- Access and egress of vehicles is unsafe and there has been no adequate assessment of traffic safety or the road network (capacity, width, alignment, junction visibility, and surface/structural condition) in light of the significant intensification of use.
- The reduced site area is not sufficient to allow for safe turning movements of vehicles on site, and no turning analysis or vehicular access assessment has been undertaken.
- The site is remote from the catchment of the majority of householders. It is accessed by an inadequate road network and the traffic generated by large waste trucks gives rise to a traffic hazard.
- The retention of the portacabin impedes reasonable access to Workshop No. 1, which is contrary to proper planning and sustainable development. This would seriously injure the amenities and value of property in the vicinity.

Water Quality

- There is no Water Framework Directive Assessment to support the proposed development, and the River Maghery is at risk as a result of run-off grit, sediment, and oil from the car park; erosion and leaching of waste material from the embankment; failure of the bank and resultant soil erosion and slippage.

- The proposed development would fail to comply with the objectives of the Water Framework Directive to achieve good status for all waters by 2027 and not to allow for any dis-improvement and consequently the proposed development would materially contravene the development plan policy to improve the water quality (CDP sections 8.8 and 8.1.2 are referenced).

Appropriate Assessment

- The subject stream is a tributary of the Maghera River, which is a tributary of the Lough Erne SAC/SPA. The proposed development poses a significant flood risk and risk of adverse impact (water pollution) on a European site contrary to the objectives of the Habitats Directive.

Procedural

- The MCC decision unsuccessfully attempts to redesign the development by condition and is *ultra vires*.
- There is no certainty or clear plans of the development approved by MCC.
- The appellant has no opportunity to comment on any new information/plans that might have been submitted in relation to condition no. 3. This is contrary to the principles of planning legislation and the Aarhus Convention.

6.2. Applicant Response

The applicant has responded to the grounds of appeal. It is accompanied by drawings and reports which aim to clarify how proposals would align with the revised site layout as per the MCC decision (i.e. Condition no. 3). The points raised can be summarised under the headings below.

Flooding

The response references a supporting report from IE Consulting and outlines that:

- The identification of the catchment in the Site-Specific Flood Risk Assessment (SSFRA) was based on the catchment established by the OPW, which is the statutory body tasked with the development and implementation of hydrological techniques and methodologies applicable to Irish catchments.

- It is however noted that the SSFRA refers to a catchment of 1.69km² for the Maghery stream. This is a 'typo' and should read 16.9km², resulting in a combined catchment with the Aghagaw Stream (5.592km²) of 22.852km². This is based on the watercourse catchment analysis module of the OPW Flood Studies Update (FSU) hydrological resource package, which uses standard and recognised hydrological techniques and methodology specific to watercourse catchment delineation.
- The Appellant's catchment delineation refers to a combined catchment of 19.3km². However, it does not use standard techniques, indicates a lack of hydrological understanding, and is without any credible basis.
- The SSFRA was prepared in accordance with the 'Flood Risk Guidelines' and the CDP; has been accepted by MCC; and fully resolves the issues raised in the previous Board decision.
- The catchment area of the watercourses is in fact irrelevant in the context of the Stage 1/2 SSFRA prepared. The SSFRA is informed by adequate flood risk data and does not rely on, or require, specific catchment area delineations. Such information would only be required in a Stage 3 analysis, which is not required in this case.
- The SSFRA utilises the OPW NIFM fluvial flood extent maps, which are based on the results of a more detailed and higher resolution hydraulic modelling exercise in comparison to the OPW PFRA indicative flood maps, and therefore provide a reasonably accurate delineation of extreme indicative fluvial flood zones associated with the Maghery Stream and Aghagaw Stream watercourses. The OPW flood extents have not been underestimated on the basis of catchment areas as previously outlined, and the appellant has not provided any technical hydrological assessment or hydraulic analysis to prove otherwise.
- The SSFRA and the addendum information prepared in response to the Request for Further Information have specifically demonstrated that no development works (including the embankment toe) would encroach within or impact on the delineated extreme OPW NIFM 0. 1% AEP + CC (1 in 1000 year + climate change) fluvial flood zone extents. Consequently, all works will be within Flood

Zone 'C', and the proposal will not transfer risk elsewhere nor contravene the CDP or the Flood Risk Guidelines.

- The imagery included in the appeal of a flood event on the 8th December 2024 does not accord with the OPW NIFM present day scenario 1% AEP (1 in 100 year) fluvial flood extents and the contention that it does (and that OPW flood extents are underestimated) is absolutely invalid.

Conditions

- The appeal exaggerates the requirements of Condition No. 3 which is not an attempt to redesign the development. It simply requires minor changes to the yard area be aligned with the sections, landscaping, & foul/storm sewer layouts. Drawings are attached to the appeal to enable the *de novo* determination of the Commission.
- The proposals in respect of condition no. 3 do not constitute a material alteration that would in any way interfere with third-party rights.
- The applicant is happy to accept any condition that the Commission deems necessary.

Scale

- It is not a 'greenfield' site as it is an extension to an existing waste facility and is therefore 'brownfield'.
- The principle was acceptable as per the previous Inspector's Report.
- The development involves an improvement in waste separation and processing through a more streamlined process for different waste streams.
- Waste management policy prioritises the circular economy and waste recycling targets and the proposed improvements to the facility would facilitate this.
- It is not proposed to increase the volume/tonnage of waste, which is governed by the Waste Permit procedure operated by MCC. The previous Inspector was satisfied with the management of same through this process.
- The quantity of infill material was confirmed in the further information response, and this has been updated to reflect the reduced yard area in the accompanying letter from Traynor Environmental Ltd (3,500m³).

Site levels and proximity to the river

- Concerns about impacts on water quality are unsubstantiated. The applicant continues to monitor water quality and there has been no reduction in same arising from site activities.
- The development would not pose any risk of adverse pollution of a European Site and this view was upheld in the planning authority's decision.
- Third-party concerns about levels, site size, and proximity of the embankment to the river have been acknowledged.
- Drawings & documentation included with the appeal show proposals for:
 - Greater separation distance from the river to avoid the need for a retaining feature to protect from soil erosion.
 - Relocation of the attenuation area into the reduced yard area.
 - Surface water proposals taking account of reduced yard area.

Traffic / Access

- Drawings submitted with the appeal show that there is adequate yard space to facilitate the turning movements of trucks.
- There will be no increase in traffic arising from the proposed development.
- The further information response included an independent traffic assessment which concluded that the existing access was acceptable. The development would not give rise to a traffic hazard.
- The previous Inspector's report was satisfied with traffic impacts.
- The previous Inspector's report was satisfied that there would be no unacceptable access or operational impacts on the adjoining workshop. This remains to be an accurate conclusion.

Visual Impact

- Both the planning authority and the previous Inspector were satisfied with the visual impact of the development.

- The development is well sited relative to existing buildings and would not have a significant visual impact.
- The applicant is happy to accept any conditions in respect of landscaping.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

6.5. **Further Responses**

The appellant has submitted a response to the applicant's appeal response. The submission reiterates a lot of the grounds of appeal. Any additional points raised can be summarised under the following headings.

Revised Plans

- The applicant has submitted significant and substantial new plans and documents, which is an acknowledgement of the deficiencies in the application.
- The revised plans and particulars have not been submitted or advertised in accordance with Section 106 of the Planning and Development Act 2024.
- The scale and print of the plans are illegible and inadequate.
- A new retaining gabion wall is proposed but there is a lack of clarity as to its height, level, location and length, including confusion between the site layout plan and the engineer's plans.
- There is inadequate detailing of the landscaping/mounding, which is within the flood extent and could affect the PH levels of the river.
- The proposed landscaping would be ineffective given the level of the proposed yard, retaining wall, and buildings.
- The plans do not refer to the reduced yard area, which has inadequate area for parking, queuing, turning, or fire safety and emergency.

Planning History

- The planning history demonstrates a significant history of non-compliance with previous permissions, which has prejudiced access to and operation of workshop no. 1, which is contrary to proper planning.
- The security access barriers have no permission.
- The current application to retain the office incorrectly refers to Planning Ref. No. 161446 (*sic*), whereas Planning Ref. No. 161446 (*sic*) sought the retention and relocation of the weighbridge and portacabin.
- The location of the treatment plant is referenced in relation to unauthorised development, as is car parking, landscaping, drainage, and access.
- A refusal would be warranted on the basis of past failures to comply with permissions.

National Waste Management Plan for a Circular Economy (NWMPCE) and Monaghan CDP

- There is no evidence that the existing facility or proposed development has been properly considered in the context of any regional/national waste strategy.
- There is a lack of clarity on the type and quantity of waste handled, its purpose/function, its final destination, or how it relates to local and national waste policy.
- The AA Screening Report outlines that the facility accommodates septic tank cleaning, which is a new use that involves disposal of sludge and more traffic.
- The planning authority failed to investigate the above matters and associated environmental concerns.
- There is no evidence to support the contention that waste will not increase.
- The need to comply with the Waste Management Directive and Water Framework Directive necessitates re-evaluation of the development.
- Under the Waste Management Act 1996, as amended in 2022, all local authorities must prepare a waste management plan for non-hazardous waste. The relationship of the existing/proposed development to the waste management

plan and Waste Directive is unclear and it would appear that there is a failure to comply.

- The CDP (WMO 9) outlines that such facilities should be sited in accordance with guidance outlined in the NWMPCE, which outlines that facilities should be located '*within suitably zoned lands*' and that, in the absence of zoning, facilities should be subject to the good neighbour principle. The proposal fails the good neighbour principle as it detrimentally affects workshop no. 1. The land is not zoned, and the scale of expansion is not justified.
- The proposal fails to comply with NWMPCE guidance for the location of such facilities in proximity to a strategic transport route; preferably within an industrial zoning; traffic considerations; and fire safety.
- The CDP (WMP 4) outlines that infilling with Construction and Demolition waste will only be acceptable where there is no adverse impact on surface and groundwaters. Proposals for infill with waste material and disposal of septic tank sludge has potential to affect the adjoining stream.
- The proposal would materially contravene CDP provisions WMP4 and WMO9.

Excessive Scale

- The appellant is informed that other household waste collection companies use the facility (as per waste permit NWCPO-11-06032-03), which has implications for the potential scale of development and associated traffic and environmental concerns.
- The applicant has relied on stating that the volume of waste permitted under the waste permit (18,876 tonnes) will not be exceeded but has not specified the increase associated with the proposed development in order to enable an assessment of associated impacts.
- The traffic report submitted is not a traffic impact assessment and does not appropriately demonstrate adequate parking; sightlines at the entrance; or traffic impact from waste trucks, other waste disposal companies, or transfer of waste to the incinerator facility at Ringsend, Dublin.

Flood Risk

- It is noted that the applicant has clarified the error in respect of the calculation of the catchment area, but the 'sequential approach' and 'justification test' have not been addressed in accordance with the CDP and the Flood Risk Guidelines.

Water Quality

- A Water Framework Directive Assessment is required on the basis that:
 - Site is within an area of high and medium ground water vulnerability within the Maghery River catchment.
 - Site is located on a locally important aquifer.
 - The River Maghery has a 'poor' WFD status.
 - Site is located within the 'Maghery area for Action'.
- The development would materially contravene CDP policies on Flood Risk and the WFD.

7.0 Assessment

7.1. Introduction

7.1.1. I have examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal and the reports of the local authority, and I have inspected the site and had regard to the relevant local/regional/national policies and guidance. I consider that the substantive issues to be considered in this appeal are as follows:

- Procedural Issues
- The Principle and Scale of Development
- Site Excavation and Filling
- Flood Risk
- Water
- Traffic and Access
- Visual Amenity
- Impacts on Natura 2000 Sites (See section 9 of this report).

7.2. Procedural Issues

MCC Decision and conditions

- 7.2.1. The appeal raises concerns that the MCC decision lacks clarity as to what would be permitted and contends that the conditions attached to the decision (i.e. condition no. 3 requiring revised details) would inappropriately facilitate a redesign of the development. Similarly, the appellant highlights that the applicant has submitted substantial new plans and documents as part of the appeal process and contends that they are inadequate and unclear.
- 7.2.2. In the first instance, I would highlight that condition no. 9 of the MCC decision outlines that the development shall be carried out in accordance with the plans and documentation submitted to the planning authority on 19/11/2024, as amended by the additional information submitted on 26/05/2025 except as may be otherwise required by any of the foregoing conditions.
- 7.2.3. Of particular relevance in this case is the site layout submitted on 26/05/2025 (Drawing No. 4.0_P100.00 refers). The MCC Planner's report of 18/06/2025 was satisfied with the revised site layout plan submitted 26/05/2025 but noted that the submitted site section drawings did not correspond with the site layout. Accordingly, the report recommended that the site sections should be revised and clarified by condition (i.e. condition no. 3) to correspond with the site layout. Similarly, condition no. 3 requires clarification of the yard area and associated boundary treatment; landscaping proposals; and foul and storm sewer layouts; all to correspond with the revised site layout plan submitted on 26/05/2025.
- 7.2.4. Accordingly, it would appear that the MCC decision to grant permission was primarily based on the site layout as submitted on 26/05/2025. However, I acknowledge that condition no. 3 requires further agreement of significant details as outlined above. These matters will be addressed in the following sections of this report.
- 7.2.5. I acknowledge that the applicant's response to the appeal includes revised drawings relating to condition no. 3 of the MCC decision. However, given that the MCC decision is not in force, these proposals cannot be considered as any formal response to comply with condition no. 3. Nonetheless, I am satisfied that the proposals can be considered by the Commission in the context of the applicant's

attempts to address the outstanding details raised by MCC (i.e. site sections, yard area, boundary treatment, landscaping, and sewer layouts).

- 7.2.6. I note that the appellant has raised concerns about the adequacy, clarity, and legibility of the applicant's proposals submitted in response to the appeal, and I would acknowledge that some details on the drawings are difficult to read due to the small size of the print etc. (depending on print size). These matters will be addressed in the following sections of this report.

Public Consultation

- 7.2.7. The appeal contends that the conditions of the MCC decision and the applicant's response to the appeal facilitate significant changes to the development without allowing the opportunity for further public consultation. As previously outlined, I would acknowledge that the conditions of the MCC decision require the clarification and agreement of significant details. However, I am satisfied that the appeal response can be considered by the Commission and that the appellant has not been prevented from making representations on these matters and participating in the appeal process. Accordingly, I am satisfied that this appeal case can be determined on the basis of the assessment outlined in this report.
- 7.2.8. Regarding the appeal's contention that the revised plans and particulars in the applicant's appeal response have not been submitted or advertised in accordance with Section 106 of the Planning and Development Act 2024, I would highlight that this part of the Act has not yet been commenced.
- 7.2.9. Related to public consultation, the appeal also contends that the application to retain the office incorrectly refers to Planning Ref. No. 161446 (*sic*), whereas Planning Ref. No. 161446 (*sic*) sought the retention and relocation of the weighbridge and portacabin. I note that the development description includes to '*retain position on site of existing single portacabin office accommodation (previously granted under Planning Ref. No. 16/446)*'. I have reviewed P.A. Reg. Ref. No. 16/446, and I note that it granted retention permission for a '*portacabin office*'. I have also inspected the site and noted that the existing '*portacabin office*' is consistent with that granted under P.A. Reg. Ref. No. 16/446, apart from the revised position which is to be retained. Accordingly, I am satisfied that the description of this element of the development is acceptable in this case.

Unauthorised Development

- 7.2.10. The appeal alleges that there are several unauthorised developments on site, including non-compliance with previous permissions. The alleged unauthorised developments relate to the location of the treatment plant, erection of a security access barrier, car parking, landscaping, drainage, and access. It contends that refusal would be warranted on the basis of past failures to comply with permissions.
- 7.2.11. I would highlight that Part VIII of the Act of 2000 gives the Planning Authority enforcement powers in relation to unauthorised development, including non-compliance with the conditions of any permission. Ultimately, I am of the view that any question of unauthorised development is not a matter for the Commission to determine or enforce in the context of this case. These matters are primarily the responsibility of the Planning Authority and the Courts, and I am not aware that the site has been deemed part of an unauthorised development. Similarly, I do not consider that a refusal of permission based on past failures to comply would be warranted in accordance with section 35 of the Act.

7.3. The Principle and Scale of Development

- 7.3.1. The appeal raises concerns about the location of the development in an un-zoned greenfield rural area and contends that the scale of the proposed extension is excessive, unjustified, and unacceptable. It also submits that the development has not clearly demonstrated the nature and extent of the waste in question or consistency with local and regional/national waste policy.
- 7.3.2. At the outset I would submit that the principle of a waste separation facility and associated facilities has already been established on the site. As outlined in section 4 of this report, permission was originally granted under P.A. Reg. Ref. 10/481 in an application for a waste transfer station and associated waste collection vehicle parking and bin storage areas, although I acknowledge that condition no. 2 omitted the waste transfer station. Condition no. 4 also outlined that there shall be no sorting or processing of waste within the site area and that the use of the site area shall be limited to the parking/storage of waste collection vehicles and the storage of skips. These conditions appear to be based on concerns about the processing of waste in an outdoor environment and consequent litter/pollution risks.

- 7.3.3. Permission was then granted under P.A. Reg. Ref. 11/146 for the change of use of existing commercial unit to waste segregation & compaction facility. The application confirmed that the facility was for domestic waste collection. Condition no. 3 of the permission confirmed that waste storage and sorting activities were permitted as long as they were contained fully within the building. Condition No. 4 outlined that there shall be no hazardous or liquid waste accepted on site. Permission was granted for an extension to this building under P.A. Reg. Ref. 12/376. This application confirmed that a total of 18,876 tonnes of waste would be processed per annum (no increase from the previous permission) and condition no. 2 of the permission limits the tonnage accordingly.
- 7.3.4. In addition to the above, I note that other permissions were granted for associated facilities including a lorry weigh bridge, portacabin office, water tank, extended hard surface area, and concrete yard.
- 7.3.5. The application does not propose to change the nature of waste processed and I am satisfied that this will be suitably controlled by the Waste Permit. The appeal highlights that the applicant's AA Screening Report refers to 'septic tank cleaning' and contends that this would be a new use involving the disposal of sludge and additional traffic. However, I would submit that the reference in the AA Screening Report is made in the context of only general background information on the applicant and the services the company provides, i.e., rather than a description of the proposed development itself. Having reviewed the relevant Waste Permit for the site (WFP-MN-11-0009-09) through the Local Authority Waste Facility Register¹, I can confirm that 'septic tank sludge' (i.e. European Waste Catalogue 20 03 04) is not included as a permitted waste category for this facility. Accordingly, I am satisfied that 'septic tank sludge' will be suitably prohibited through the Waste Permit.
- 7.3.6. The application/appeal response has outlined that it is not proposed to increase the volume/tonnage of waste processed as controlled by the existing Waste Permit issued by Monaghan County Council. Although the Ger Fahy Planning report submitted with the application indicates that details of the Waste Permit are attached, this would not appear to be the case and there would not appear to be details of the Waste Permit elsewhere within the application/appeal documentation.

¹ <https://facilityregister.nwcpo.ie/details.aspx?recordId=43841> - Accessed 23rd of January 2026

Again, I have reviewed the Waste Facility Permit for the site (WFP-MN-11-0009-09) through the Local Authority Waste Facility Register, and I note that the maximum annual permitted tonnage, per calendar year, shall not exceed 24,000 tonnes. Accordingly, I conclude that the application proposes the same maximum of 24,000 tonnes per annum.

- 7.3.7. While this would be consistent with the tonnage permitted by the Waste Permit, it would significantly increase the limit currently imposed by the conditions of planning permission (i.e. 18,876 tonnes as per condition no. 2 of P.A. Reg. Ref. 12/376). It would also appear to dramatically increase the recent levels of activity given that details submitted on behalf of the applicant under ABP Ref. 316951-23 (received 30th May 2023) indicated that the site was handling approximately 7,500 tonnes per annum. More patently, the proposed development involves a dramatic increase in floor area to more than three times the existing (i.e. from c. 1,400m² to c. 4,610m²). Having regard to the foregoing, it is difficult to reconcile the premise that the application will not result in an intensification of use. Ultimately however, the impacts of the proposed scale (including traffic, flooding, water quality, visual, and environmental) should be objectively considered on their merits, as will be outlined in the following sections of this report.
- 7.3.8. With regard to local, regional, and national waste management policy, I consider that the proposed development would provide an extension to an existing waste facility, resulting in improved capacity for the segregation and recycling of waste. I am satisfied that this would be in accordance with the provisions of the 'National Waste Management Plan for a Circular Economy' (NWMPCE), which replaces any requirement for local or regional waste management plans in accordance with the Waste Management Act.
- 7.3.9. I note that Appendix 9 of the NWMPCE comprises 'Guidance for Siting Waste Management Facilities', and objective WMO 9 of the CDP is to ensure that all new waste management infrastructure is sited in accordance with the provisions of this guidance. However, I would highlight that objective WMO 9 relates to new waste management infrastructure as opposed to the current proposal to extend an existing facility. Accordingly, I do not consider that WMO 9 applies to this case, or that there would be a material contravention of same as suggested in the appeal.

- 7.3.10. Nonetheless, I acknowledge that the NWMPCE Guidance is relevant to the proposal. I note that section 2.3 and 2.5 of the Guidance recommends that waste management facilities should be located within suitably zoned lands, while s. 2.5 outlines that in the absence of zoning, facilities should be subject to the good neighbour principle in which a person should take reasonable care to avoid acts or omissions that could be foreseen as likely to impact their neighbour. Having regard to the established nature of this facility and its rural location, I consider that the absence of suitable zoning is acceptable in this case. Furthermore, I consider that the 'good neighbour principle' as supported in the Guidance will be appropriately considered throughout this assessment.
- 7.3.11. The appeal also contends that the proposal fails to comply with the transport and fire safety requirements of the NWMPCE Guidance. The traffic and transport implications of the proposed development will be considered in section 7.7 of this report. I would also highlight that the NWMPCE Guidance refers to fire safety requirements only in respect of 'pre-treatment facilities' (s. 3.3) and 'permanent storage facilities' (s. 3.6), neither of which apply to this case. Fire safety standards are outlined in the Building Regulations 2006 (Technical Guidance Document B). Therefore, compliance with TGD B will be assessed under a separate legal code. The developer will be required to apply for a Fire Safety Certificate, and I am satisfied that this process will afford the opportunity to address compliance with TGD B in accordance with legislative provisions.
- 7.3.12. In conclusion, I am satisfied that the principle of the development is established at this rural location and that the nature of the proposed extension would be acceptable and consistent with this established use and relevant planning policy. I acknowledge that the proposed development involves a significant increase in scale and potential intensification of use. This will be assessed in the following sections of my report. However, subject to such impacts being acceptably addressed, I am satisfied that there should be no fundamental objection to the principle of extending and improving this existing facility.

7.4. Site Excavation and Filling

- 7.4.1. The appeal has raised concerns that there is inadequate detail of the nature and extent of existing/proposed excavation and filling associated with the site groundworks and associated concerns about site stability.
- 7.4.2. This matter was raised in the further information request from the planning authority. The applicant's response included site survey drawings indicating the levels and extent of existing fill to date. This demonstrates that the full extent of fill previously permitted under P.A. Reg. Ref. 18/376 has not been exceeded. The response also outlines that approximately 2,000 tonnes of material has been filled to date and includes a detailed breakdown of the waste categories used, which consists of stone, concrete, bricks, tiles and ceramics, and other mixed construction and demolition wastes. Having reviewed the Waste Permit for the site (WFP-MN-11-0009-09), I am satisfied that this is in accordance with 'Table A.2:1 – Waste Categories permitted for use as infill'.
- 7.4.3. With regard to additional excavation and filling, the further information response outlined that, based on the cut required for the new development, approximately 4000m³ of soil and stones would be excavated and reused on site. It stated that any excess material will be sent off site utilising the Article 27 process² for greenfield soil and stone and/or by removing material to a facility with a Waste Facility Permit or Certificate of Registration for acceptance of soil and stone.
- 7.4.4. As previously outlined, the conditions of the MCC decision outlined the need to clarify the relationship between the proposed site layout and the site sections. The applicant's response to the appeal has addressed this matter. As a result of the reduced yard area, it has been stated that a reduced quantity of fill would be required (c. 3,500m³). The appeal response also includes a revised site layout plan and site section drawings showing that the site would be graded upwards from southeast (toe of the embankment) to the northwest (edge of hard surface yard area), with the toe of the embankment being outside the predicted flood extents associated with the Maghery River.

² Article 27 of the 2011 Waste Directive Regulations (as amended) sets out the requirements and conditions for a material to be regarded as a by-product and not as a waste.

7.4.5. However, the site section drawings indicate that there would be significant excavation (c. 3+m) at the toe of the embankment, and indeed further significant excavation appears to be indicated on the river side (southeast) of the 'toe'. This would appear to involve significant excavation within/adjoining the floodplain (in the case of Section B-B) and outside the site boundaries (in the case of Section C-C). I do not consider that this extent of excavation is acceptable, particularly within the floodplain. It would significantly alter the hydrological regime at this location and would lead to significant river pollution concerns associated with soil, silt and sediments. I do not consider it appropriate to address this fundamental matter by condition and the applicant's response to the appeal would only appear to confirm concerns about the extent of excavation works and associated water regime/pollution impacts adjoining the Maghery River. These matters are considered further in sections 7.5 and 7.6 of this report.

7.5. Flood Risk

7.5.1. The appeal raised concerns that the applicant's Site-Specific Flood Risk Assessment (SSFRA) was based on an unreliable and much-reduced catchment of 7km² compared to the correct catchment of 20km² (as estimated by the appellant's agent based on 1:2500 mapping and walking the catchment). The applicant's appeal response acknowledges that there was a typographical error in the SSFRA. It referred to a catchment of 1.69km² for the Maghery stream, rather than 16.9km². The applicant confirms that this results in a combined catchment with the Aghagaw Stream (5.592km²) of 22.852km². This is based on the watercourse catchment analysis module of the OPW Flood Studies Update (FSU) hydrological resource package, which uses standard and recognised hydrological techniques and methodology specific to watercourse catchment delineation. The appellant now notes the clarification of this error but still contends that the 'sequential approach' and 'justification test' have not been addressed in accordance with the CDP and the Flood Risk Guidelines.

7.5.2. The SSFRA submitted with the application outlined that the primary potential flood risk to the proposed development can be attributed to an extreme fluvial flood event in the Maghery Stream located adjacent to the southern boundary of the site. The SSFRA considers an appropriate range of flooding data/sources including the OPW

Flood Maps website, OSI maps, and GSI maps for records of historical flooding events/indications. Only the GSI subsoil mapping included a limited area of alluvium deposits along the southern site boundary.

- 7.5.3. The OPW National Indicative Fluvial Mapping (NIFM) for the present-day scenario 1% AEP (1 in 100 year) and 0.1% AEP (1 in 1000 year) fluvial flood events, as well as the mid-range future climate change scenario 1% AEP+CC (1 in 100 year + climate change) and 0.1% AEP+CC (1 in 1000 year + climate change) fluvial flood events, were acknowledged to adjoin the southern site boundary, although were not deemed to significantly encroach. The SSFRA contended that the site and extent of the proposed development do not fall within any flood zones and that an appropriately designed stormwater management system will limit surface water to greenfield rates. It concluded that the development was not expected to result in an adverse impact to the existing hydrological regime of the area or increase flood risk elsewhere and was therefore considered to be appropriate from a flood risk perspective.
- 7.5.4. With regard to the 'Planning System and Flood Risk Management Guidelines, DOEHLG, 2009', the SSFRA concluded that the development falls within 'Flood Zone C', where development is appropriate from a flood risk perspective. Accordingly, it concluded that a 'Justification Test' was not required.
- 7.5.5. The MCC further information request sought to clarify whether the SSFRA had fully taken account of existing and proposed infilling/reprofiling of the site. The applicant's response acknowledged that the proposed infilling/reprofiling may potentially encroach within the delineated 1% AEP+CC (1 in 100 year + climate change) and 0.1% AEP+CC (1 in 1000 year + climate change) fluvial flood zone extents and may potentially adversely impact on the existing hydrological and flood regime of the area. Accordingly, the layout was amended to ensure that no proposed works, including any infilling, re-profiling and ground level raising embankment works encroached on the above fluvial flood zone extents. On this basis the applicant's response concluded that development would only be undertaken within 'Flood Zone C' and would be acceptable from a flood risk perspective.
- 7.5.6. The planning authority accepted the applicant's conclusion on the basis of the amended toe of the embankment being outside any flood risk zone. However, it

identified that the site section drawings did not correspond with the proposals included in the IE Consulting report and the site layout plan submitted as further information. Accordingly, condition no. 3 was attached to the MCC decision to require clarification and agreement on the site sections and other consequential matters including the yard area, boundary treatment, landscaping, and drainage.

7.5.7. I have previously addressed the matters of site levels and excavation/infill in section 7.4 of this report. I have outlined that the site section drawings submitted with the appeal response indicate proposals for significant excavation at and beyond the toe of the embankment, which would be within the flood zone. This conflicts with the recommendations of the SSFRA and associated reports and would significantly impact on the flood regime within the site and further downstream. I do not consider that this significant matter should be addressed by a condition of permission.

Therefore, in the absence of clarity I consider that the precautionary principle should apply and the proposed development should be refused on grounds of flood risk.

7.5.8. I note that the appeal submits that the OPW flood mapping extents are underestimated based on the contention that recent 'ordinary' flood events in November/December 2024 were consistent with the OPW NIFM 100-year flood extents. I have reviewed the drone-recorded images of the stated flood events of 2024 as submitted with the appeal, and I have compared them to the OPW NIFM 100-year flood extents. Due to the rising levels of the subject lands away from the Maghery River, it would be expected that the flood extent would naturally be limited notwithstanding any potential increase in river levels. In any case however, I am satisfied that there are significant differences between the 'ordinary' flood events suggested by the appellant and the OPW NIFM 100-year flood extents. Ultimately, the OPW flood mapping is appropriate for use by the Commission, and I would have no objection in respect of this methodology.

7.5.9. The appeal also contends that the proposed development would materially contravene a number of policies and objectives of the MCDP 2025-2031 in respect of flood risk. The relevant provisions are outlined and discussed below.

FRMO 1 - To fully implement and support, in conjunction with the Office of Public Works, the provisions of the EU Flood Risk Directive, The Flood Risk Regulations, The Planning System and Flood Risk Management - Guidelines for Planning

Authorities (2009) and any new or updated/subsequent versions issued during this plan period.

I have outlined outstanding flood risk concerns in this case. However, having regard to the generality of this objective, I do not consider that a material contravention arises.

FRMO 2 - To seek to obtain the required funding for the implementation of the measures set out in the Flood Risk Management Plans for Monaghan Town, Ballybay and Inniskeen.

This is not relevant to the appeal case. Accordingly, no material contravention arises.

FRMO 3 - To have regard to the Strategic Flood Risk Assessment for County Monaghan and any new or updated/subsequent versions during the lifetime of this plan.

I have outlined outstanding flood risk concerns in this case. However, having regard to the generality of this objective, I do not consider that a material contravention arises.

FRMO 4 - To protect rivers, streams, riparian corridors, flood plains and wetlands from inappropriate development which will contribute to increased flood risk.

Based on the site section drawings submitted, I consider that the proposed excavation within the flood zone would be inappropriate; would fail to protect the Maghery River, its riparian corridor and flood plains; and would contribute to increased flood risk. However, I would accept that this is contrary to the recommendations of the applicant's SSFRA (including addenda) and my concerns are based on conflicting information and lack of clarity rather than a material contravention of this objective.

FRMO 5 - To support the development of long and short-term flood remediation works and flood relief schemes throughout the County subject to environmental considerations, ensuring that development proposals support and do not impede or prevent the progression of these schemes.

I am not aware of any such relevant flood remediation works or flood relief schemes. Accordingly, no material contravention arises.

FRMP 1 - Applications for development, as required on previously developed lands within Flood Zones A or B, shall be subject to site specific flood risk assessment and shall provide details of structural and non-structural flood risk management measures, such as those relating to floor levels, internal layout, flood-resistant construction, flood-resilient construction, emergency response planning and access and egress during flood events.

The proposal does not include previously developed lands within Flood Zones A or B. Accordingly, no material contravention arises.

FRMP 2 - Where a Justification Test applies, it must be demonstrated to the satisfaction of the planning authority that the flood risk can be adequately managed, and that the use and the development of the lands will not cause unacceptable impacts elsewhere.

A Justification Test has not been applied in this case. Accordingly, no material contravention arises.

FRMP 3 - Extensions of existing uses or minor development within flood risk areas will be supported, provided they do not: obstruct important flow paths; introduce a number of people into flood risk areas; entail the storage of hazardous substances; have adverse impacts or impede access to a watercourse, floodplain or flood protection and management facilities; or increase the risk of flooding elsewhere.

Based on the site section drawings submitted, I consider that the proposed excavation within the flood zone would have adverse impacts on a watercourse/floodplain and would increase the risk of flooding elsewhere. However, I would accept that this is contrary to the recommendations of the applicant's SSFRA (including addenda) and my concerns are based on conflicting information and lack of clarity rather than a material contravention of this objective.

FRMP 4 - Where only a small proportion of a site is at risk of flooding, the sequential approach shall be applied in site planning, in order to seek to ensure that no encroachment onto or loss of the flood plain occurs and/or that only water compatible development such as Open Space would be permitted for the lands which are identified as being at risk of flooding within that site.

Based on the site section drawings submitted, I consider that encroachment onto and loss of the flood plain would occur. However, I would accept that this is contrary to the recommendations of the applicant's SSFRA (including addenda) and my concerns are based on conflicting information and lack of clarity rather than a material contravention of this objective.

7.5.10. In conclusion and having regard to the proposed extent of excavation within the flood zone, I am not satisfied that the proposed development would not result in increased flood risk for the site and lands further downstream. Accordingly, the proposed development would not be acceptable from a flood risk perspective having regard to the provisions of the CDP and the Flood Risk Guidelines.

7.6. **Water**

7.6.1. In addition to the above flood-related issues, the appeal raises other water-related concerns. It contends that the surface water proposals are untenable and that there would be water pollution risks associated with leachate run-off from infill materials and the erosion of the embankment.

7.6.2. The concerns about surface water mainly relate to the realignment of the toe of the embankment and the consequent reduction in the site development area. The appeal submits that the surface water attenuation area would consequently be located within the embankment slope and that this is untenable.

7.6.3. The applicant's response to the appeal has addressed this matter in the form of an Engineering Services Report and drawings from Alan Traynor Consulting Engineers. This acknowledges that it is necessary to revise the storm water network layout due to the decreased yard area. The overall design concept remains the same with a silt trap and petrol interceptor being used to ensure that the water quality discharge is acceptable. Significant changes related to the decreased yard area would include the reduced size of the attenuation tank (554.76m³ to 320m³) and the reduced limit of the greenfield outflow rate of the hydrobrake (23 l/s to 19.6 l/s). It is confirmed that the attenuation tank has been sized to cater for a 1 in 100-year storm event with additional capacity for climate change.

7.6.4. Having regard to the foregoing, I am satisfied that surface water can be suitably collected and attenuated within the reduced site development area. The quantum of

outflow from the site will be maintained in accordance with greenfield rates and the quality of the discharge will be suitably protected through the use of a silt trap and petrol interceptor. These surface water proposals should be finalised and agreed with the planning authority as a condition in the event of a grant of permission.

- 7.6.5. Regarding the concerns about leachate run-off from the infill material, I am satisfied that the nature and extent of any such site infill works will be controlled by the Waste Permit as previously discussed. No hazardous material will be permitted, and I am satisfied that this will not result in any significant water pollution risk.
- 7.6.6. Regarding concerns about the erosion of the embankment and potential soil/sediment pollution, I would refer to my previous concerns about the apparent extent of excavation proposed within the flood plain. On this basis, I would concur with the appeal concerns that excavated soil/sediment would lead to pollution of the adjoining River Maghery. Similar to my outstanding flooding concerns, I consider that permission should be refused on this basis.
- 7.6.7. I note the appellant's contentions that the impacts on water quality would materially contravene the CDP. In this regard, the appeal generally references sections 8.8 'Surface Water Drainage' and 8.1.2 'Surface Water Quality' of the CDP. More specifically, the appeal contends that the proposal would materially contravene CDP policy WMP 4 – *'Development proposals for the infilling of lands with Construction and Demolition Waste will only be acceptable where it is demonstrated that there will be no adverse impact upon surface and groundwaters. These proposals shall include measures for the prevention and mitigation of any perceived impacts which satisfy the targets of any Waterbody and Catchment Management Plans as developed by Monaghan County Council, LAWPRO and Uisce Éireann and also any Source Protection Plans developed by Group Water Schemes'*.
- 7.6.8. Having regard to the generality of the above CDP provisions, I do not propose to raise the issue of material contravention. However, as previously outlined I would concur that the proposed development should be refused on grounds of *inter alia* water quality impacts.

7.7. Traffic & Access

- 7.7.1. The appeal raises concerns about the levels of traffic associated with the existing development in this rural area and submits that the road network is inadequate to safely and efficiently cater for the additional traffic volumes and turning movements associated with the proposed development.
- 7.7.2. The application included a Traffic Report prepared by TPS M Moran & Associates Traffic and Transportation Planning Consultants. This report was originally prepared in response to the MCC Further Information request under the previous application (P.A. Reg. Ref. 22/443) but was resubmitted on the premise that the information was still relevant. The report primarily addresses car-parking requirements associated with the development based on the number of employees (12 at the time). It uses the TRICS database to determine the levels of traffic associated with the development and to identify the extent of trip generation associated with this land use for a typical day during the critical AM and PM peak traffic periods. The TRICS analysis indicates that there would be a total of just 3 trips in both the AM and PM peak hour periods. On this basis, the report concludes that a reduction in Development Plan parking standards can be permitted and that the parking provision within this site (12 spaces) is more than sufficient to serve the existing and proposed land use development.
- 7.7.3. An accountant's letter submitted with the application indicates that the facility now has 14 employees. However, the application and the response to the appeal outlines that there will be no increased traffic movements associated with the development on the basis that the application simply seeks additional storage space and improved circulation. Reports submitted on behalf of the applicant also highlight that the previous Inspector's report (ABP 316951-23) was satisfied that there would be no significant traffic/parking impacts on the basis that the previously permitted capacity at the facility (18,876 tonnes as per condition 2 of P.A. Reg. Ref. 12/376) would not be exceeded.
- 7.7.4. However, contrary to the previous appeal case (ABP 316951-23), section 7.3 of this report outlines that the proposed development involves a significant increase on the previously permitted 18,876 tonnes per annum to 24,000 tonnes per annum. Furthermore, this would dramatically increase recent levels of activity (7,500 per

annum), which is reflected by the sheer scale of the proposed extension to more than three times the existing floor area.

- 7.7.5. I have acknowledged that the applicant's traffic report has concentrated on traffic movements associated with the TRICS category 'industrial unit' with 12 employees. It would appear that the application does not envisage the requirement for additional employees, which is difficult to reconcile with the scale of the proposed extension. Moreover, I would have serious concerns there has been no assessment of the specific nature of the waste collection vehicle traffic as opposed to an 'industrial unit'. There has been no indication of the number of waste vehicle movements associated with the development, nor has there been any assessment of the capacity of the adjoining road and junctions to safely and efficiently accommodate the additional turning movements. This is an important omission given the nature and scale of the proposed development, its rural location, and the substandard nature of the adjoining road which is inadequate to accommodate two-way traffic and is poorly surfaced at the interface with the site entrance. In the absence of a more detailed and site-specific assessment of traffic generation, capacity, and safety associated with the proposed development, I am not satisfied that this substantial development would not significantly impact on the safety and free flow of traffic at this location. I consider that permission should be refused on this basis.
- 7.7.6. Regarding impacts within the site itself, the appeal also contends that the site is inadequate in size to accommodate requirements relating to parking and circulation.
- 7.7.7. It is proposed to provide 12 no. parking spaces near the entrance at the northwest corner of the site. Section 15.24 of the CDP deals with Car Parking Standards which are outlined for various land uses in Table 15.5. However, Table 15.5 does not specifically cover the type of development proposed and s. 15.24 states that the requirement shall be calculated relative to the most appropriate standard/similar type development.
- 7.7.8. In this case, I consider that the most similar type of development would be 'Industry' (1 per 50m²) or 'Storage/Distribution/Warehouse/Cash and Carry' (1 per 200m²), which would require c. 92 or 23 spaces respectively. CDP section 15.24 further states that disputes about parking requirements shall be determined using a recognised database such as TRICS, which has been previously outlined in the

applicant's Traffic Report. However, having regard to the considerable scale of the proposed extension, I am not satisfied that the application has demonstrated how the development would not generate additional employee and parking requirements. For example, even the proposal for additional office space (135m²) would in itself indicate an intensification of use and would require 5 additional spaces as per Table 15.5 of the CDP.

- 7.7.9. The applicant's response to the appeal also addresses vehicle circulation and turning movements within the reduced yard area. It includes drawings which purport to show that there is adequate yard space to facilitate the turning movements of trucks. Again however, this is based on the premise that there will be no increase in the volume of waste or traffic, and I have outstanding concerns in this regard as previously outlined. On the day of my site inspection, I also noted a significant number of operational vehicles and other plant/machinery parked/stored on site and the site layout plan has not clarified how this will be appropriately accommodated.
- 7.7.10. Finally, I acknowledge the appellant's concerns about the proposal to retain the existing portacabin office on the basis that it hinders access to the appellant's workshop to the north of the site. I have examined the drawings submitted and visited the site. I acknowledge the position of the portacabin in relation to the workshop, but I do not consider that it hinders access in any substantial way. I do not consider that this has any significant impacts for the proper planning and sustainable development of the area and it would appear to be a matter for resolution between the relevant parties.
- 7.7.11. Having regard to the foregoing and particularly the significant scale of the proposed extension, I am not satisfied that the application has appropriately assessed the extent of traffic likely to be generated from employee and operational traffic, or the parking and circulation requirements associated with same. Accordingly, I am not satisfied that the proposed development would not significantly impact on the safety and free flow of traffic at this location. I consider that permission should be refused on this basis.

7.8. Visual Amenity

- 7.8.1. The appeal outlines concerns that the scale of the proposed development on a large building platform will significantly detract from the landscape and that the proposed landscaping measures will be inadequate.
- 7.8.2. I note that the site is within the 'Drumlin Farmland' Landscape Character Type as per the CDP. This is based on the Landscape Character Assessment of the County (2008), which describes this landscape 'type' as flat to undulating landscape featuring low drumlin hills throughout. In terms of built elements, this landscape is noted to contain a proliferation of individual and small clusters of rural housing, generally on a small scale and relatively simple in terms of design detail.
- 7.8.3. I note that this is generally consistent with the landscape surrounding the appeal site. However, it must be acknowledged that the appeal site has an established commercial character consisting of large buildings. Such buildings associated with rural enterprises are not uncommon in the area, particularly those related to agriculture.
- 7.8.4. I have previously outlined that the proposed extension is of significant scale compared to the existing development. However, I would acknowledge that the largest of the proposed new buildings (Shed D) will be located to the rear of the site where it will be significantly distanced and/or screened from public view. And having regard to the undulating nature of the surrounding landscape and the winding alignment of public vantage points along the surrounding roads, I do not consider that the proposal would be excessively prominent in the landscape. I am satisfied that the nature and scale of the proposed development will integrate with the existing character of the site. There will certainly be additional visual impacts, but I am satisfied that these could be satisfactorily mitigated through appropriate landscaping. Accordingly, I do not consider that a refusal of permission would be warranted on the basis of visual amenity or landscape character.

8.0 Water Framework Directive Screening

- 8.1. The impact of the proposed development in terms of the WFD is set out in Appendix 3 of this report. The River Maghery (EPA Name Maghery_020) forms much of the southern site boundary. The Maghery flows southwards to join with the River Finn (EPA Name Finn (Monaghan)_020) at a point c. 2.5km south of the appeal site. The Finn flows generally southwest towards Upper Lough Erne (EPA Name Erne Upper) c. 19km southwest of the appeal site. The site is underlain by the Magheraveely groundwater body, while the adjoining River Maghery flows into the Clones groundwater body.
- 8.2. A Site-Specific Flood Risk has been submitted with the application. An Appropriate Assessment Screening Report has also been submitted. The River Maghery is linked to Upper Lough Erne, which forms part of the Lough Oughter and Associated Loughs SAC, and in Northern Ireland the Upper Lough Erne SPA and the Upper Lough Erne SAC.
- 8.3. As per Appendix 3, I have outlined the potential pathways between the site and the relevant waterbodies and potential impacts at construction and operational stages. 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 & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.
- 8.4. Having considered the nature, scale and location of the project and associated mitigation measures, I am not satisfied that the proposed development would not result in a risk of deterioration of waterbodies or that it would not jeopardise these waterbodies in reaching their WFD objectives.
- 8.5. Therefore, in accordance with Appendix 3 of this report, I conclude on the basis of objective information that the proposed development would not comply with WFD Objectives. The reasons for this conclusion are as follows:
- The nature and scale of the proposed development.
 - The proximity of the proposed development to waterbodies and the hydrological connections to same.

- The potential to impact on the water quality and hydrological regime of the waterbodies as a result of the extent of proposed excavation within the flood plains of the River Maghery and associated risks of pollution and flooding.
- Inadequate detail regarding the capacity of the existing wastewater treatment system to accommodate the scale of the proposed development.

8.6. On the basis of objective information, it cannot be concluded 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. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area and permission should be refused on this basis.

9.0 **Appropriate Assessment Screening**

9.1. **Introduction**

The requirements of Article 6(3) of the Habitats Directive as related to appropriate assessment of a project under part XAB, sections 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for appropriate assessment.

9.2. **Compliance with Article 6(3) of the EU Habitats Directive**

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal

will not adversely affect the integrity of the European site before consent can be given.

The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

9.3. **Screening the need for Appropriate Assessment**

An AA Screening exercise has been completed (see Appendix 2 of this report for further details). In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Upper Lough Erne SPA, Upper Lough Erne SAC, or the Lough Oughter and Associated Loughs SAC, in view of the conservation objectives for the sites, which are therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The nature and scale of the proposed works and the standard operational practice measures that would be implemented regardless of proximity to a European Site.
- The limited connectivity between the application site and the nearest European Sites as a result of significant distance, dispersal and dilution factors.

The possibility of significant effects on any other European sites has been excluded on the basis of objective information.

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

10.0 Environmental Impact Assessment Screening

10.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendix 1 of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

11.0 Recommendation

I recommend that permission be REFUSED for the reasons and considerations below.

12.0 Reasons and Considerations

1. Having regard to the location of the site partially within the flood extents of the River Maghery, and to the significant extent of excavation and reprofiling of the site proposed within and adjoining said flood extents, the Commission is not satisfied that flood risks associated with the proposed development have been adequately addressed within the application and appeal documentation. Furthermore, having regard to the extent of such construction works within said flood extents and the absence of adequate evidence to demonstrate that the existing on-site wastewater treatment system can accommodate the scale of the proposed development, the Commission is not satisfied that the proposed development would not result in pollution and a significant deterioration in the water quality of the River Maghery. Having regard to the foregoing, it is considered that the proposed development would be contrary to the provisions of 'The Planning System and Flood Risk Management, Guidelines for Planning Authorities' (2009), the requirements of the Water Framework Directive, and the provisions of the Monaghan County Development Plan 2025-2031 including Section 15.32 and Policy ILP 1 (Infilling of Lands), Policy WMP 4 (Waste Management), Objective WPO 8

(Water Protection), Objective FRMO 4 (Flood Risk Management), and Policies FRMP 3 & FRMP 4 (Flood Risk Management). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development would be located in a rural area which is served by a local road of substandard width and surface quality. Having regard to the scale of the proposed development and the absence of a detailed and site-specific assessment of employee and operational traffic, including traffic volumes, road capacity and safety, and internal site requirements for vehicle storage/parking and circulation, the Commission is not satisfied that the proposed development would not interfere with the safety and free flow of traffic on the surrounding road network by reason of traffic hazard. The proposed development would pose an unacceptable risk of endangering public safety by reason of a traffic hazard and would, therefore, be contrary to the proper planning and sustainable development of the area.

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

Stephen Ward
Senior Planning Inspector

26th of January 2026

Appendix 1

Form 1 - EIA Pre-Screening

Case Reference	ACP-323064-25
Proposed Development Summary	Retention of existing portacabin office accommodation (previously granted under Ref. No. 16/446) and permission for 2 waste separation buildings, office building, extension of existing waste facility yard and all associated site development works.
Development Address	Kincorragh, Smithborough, Monaghan, H18 E338
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>10 (b)(iv) - Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere³.</p> <p>I note that 11(b) relates to 'Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule'. However, I do not consider that this category applies given that the development involves a waste transfer facility rather than a waste disposal facility.</p>

<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input type="checkbox"/></p>	
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____ Date: _____

³ The development is of an urban nature, despite its rural location.

Appendix 1

Form 2 - EIA Preliminary Examination

Case Reference	ACP-323064-25
Proposed Development Summary	Retention of existing portacabin office accommodation (previously granted under Ref. No. 16/446) and permission for 2 waste separation buildings, office building, extension of existing waste facility yard and all associated site development works.
Development Address	Kincorragh, Smithborough, Monaghan, H18 E338
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<p>The proposed development involves a development of >3,000m², which is significant in comparison to the scale of existing development (1,370m²). However, the overall size of the site (2.32ha) is insignificant compared to the relevant threshold of 20 hectares.</p> <p>It is a standalone development with no significant cumulative developments. The proposed extension of development would be consistent with the established nature of development on site. It would also be similar to the scale and character of some surrounding rural enterprises.</p> <p>The development does not involve significant demolition works. The use of natural resources (water) and the potential production of waste, pollution, and nuisance would be typical of such development. The main emissions are surface water and wastewater which will be discharged to the Maghery River and an existing wastewater treatment system.</p> <p>The project characteristics pose no significant risks to human health. The proposed development, by virtue of its type, does not pose a risk of major accident and/or disaster. Vulnerability to climate change is limited to flood-related issues.</p>
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved	The site is located within the rural area of Kincorragh, approximately 2km northwest of Smithborough, County Monaghan. The surrounding area is predominantly characterised by an undulating rural landscape with a dispersed pattern of agricultural uses/buildings and

<p>land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>one-off rural housing. The site is partially developed and partially in agricultural use.</p> <p>The site and the immediate surrounding area are not of designated importance for biodiversity or nature conservation. The nearest European Site is in Northern Ireland (Magheraveely Marl Loughs SAC, c. 2.5km to the northwest). The nearest other nature designation is Mullaglassan Lough pNHA (c. 1km to the north).</p> <p>The site and immediate surrounding area are not of significant built or archaeological heritage value. It is located within the 'Drumlin Farmland' Landscape Character Type as per the CDP, which is common in the county.</p> <p>The southern boundary of the site adjoins the River Maghera and the OPW has mapped predicted flood extents on part of the site.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>The main resource requirements (water) and emissions (surface water & wastewater) have been addressed in sections 7 and 8 of this report. I have outlined concerns that there is inadequate detail to demonstrate that the existing wastewater system has the capacity to accommodate the scale of the development. I have also highlighted concerns about the extent of excavation proposed adjoining the River Maghera and associated potential for flooding and pollution impacts.</p> <p>Related to water impacts, I have also considered the potential for hydrological impacts on Natura 2000 sites. And as outlined in section 9 of this report, I do not consider that there is potential for likely significant effects on any Natura 2000 sites.</p> <p>I consider that the proposed development will generate additional traffic volumes and movements in the area. Although section 7.7 of this report raises concerns about traffic safety and congestion, I do not consider that this has the potential for significant environmental effects.</p> <p>Although the proposed development is of significant scale, I am satisfied that it can be accommodated on the site without detracting from the quality or character of the landscape, protected views, or heritage value.</p> <p>This is a standalone development that is not mandatorily linked to any other development. Nonetheless, the</p>

	<p>potential for significant cumulative and/or in-combination effects with other plans and projects must be considered. Having considered other existing/permited developments together with how the CDP was subject to Strategic Environmental Assessment, I do not consider that there would be significant cumulative / in-combination effects on the environment.</p> <p>Although I have outlined outstanding concerns relating to flooding, water quality, and traffic, I consider that the impacts would be localised and could be addressed as part of a normal planning assessment without the need for Environmental Impact Assessment.</p>
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ Date: _____

Appendix 2

AA Screening Determination

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Brief description of project	Retention of existing portacabin office accommodation (previously granted under Ref. No. 16/446) and permission for 2 waste separation buildings, office building, extension of existing waste facility yard and all associated site development works.
Brief description of development site characteristics and potential impact mechanisms	<p>The site is located in a rural area, and the surrounding area is mainly characterised by agricultural use. The site is partially developed, comprising 2 waste transfer buildings; a weighbridge and portacabin; and an existing yard and car parking area where staff cars and company vehicles are parked. Site levels fall significantly from northwest to southeast.</p> <p>There is a drainage ditch along the western site boundary and the River Maghera (EPA Name Maghera_020) forms much of the southern site boundary. Surface water from the proposed development will be diverted via an attenuation tank, silt traps, and petrol interceptor to the River Maghera</p> <p>Water supply will be provided by an existing Group Water Scheme connection.</p> <p>The development will be served by an existing on-site wastewater treatment system.</p>
Screening report	Submitted with the application.
Natura Impact Statement	Not submitted.
Relevant submissions	<p>The MCC Planner's Report concludes that the development is not of a nature or scale to have any significant effects on the integrity of Natura 2000 sites and that, therefore, a Stage 2 Appropriate Assessment is not required.</p> <p>The appeal highlights that the hydrological connection between the site and Lough Erne SAC/SPA. It contends that the proposed development poses a significant flood risk and risk of adverse impact (water pollution) on European</p>

	sites contrary to the objectives of the Habitats Directive.			
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
European Site (code)	Qualifying interests Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections	Consider further in screening Y/N
Slieve Beagh SPA (004167)	Site Synopsis, QIs and Conservation Objectives are listed at the following link: https://www.npws.ie/protected-sites/spa/004167	7.5km to north	None	No
Kilroosky Lough Cluster SAC (001786)	Site Synopsis, QIs and Conservation Objectives are listed at the following link: https://www.npws.ie/protected-sites/sac/001786	8km to southwest	None	No
Lough Oughter and Associated Loughs SAC (000007)	Site Synopsis, QIs and Conservation Objectives are listed at the following link: https://www.npws.ie/protected-sites/sac/000007	19km to southwest	There is a hydrological link via the Maghery and Finn rivers	Yes
Lough Oughter Complex SPA (004049)	Site Synopsis, QIs and Conservation Objectives are listed at the following link: https://www.npws.ie/protected-sites/spa/004049	27km to southwest	No link via the Maghery / Finn rivers and is located upstream of the Lough Oughter and Associated Loughs SAC	No
Slieve Beagh SAC (UK0016622)	Reasons for Designation and Conservation Objectives are listed at the following link: https://www.daera-ni.gov.uk/publications/slieve-beagh-sac	11km to north	None	No
Magheraveely Marl Loughs SAC (UK0016621)	Reasons for Designation and Conservation Objectives are listed at the following link: https://www.daera-ni.gov.uk/publications/magheraveely-marl-loughs-sac	2.5km to northwest	None	No
Upper Lough Erne SAC (UK0016614)	Reasons for Designation and Conservation Objectives are listed at the following link: https://www.daera-ni.gov.uk/publications/upper-lough-erne-sac	19km to southwest	There is a hydrological link via the Maghery and Finn rivers	Yes
Slieve Beagh-Mullaghfad-Lisnaskea	Citation Document and Conservation Objectives are listed at the following link:	9.5km to northwest	None	No

SPA (UK9020302)	https://www.daera-ni.gov.uk/publications/slieve-beagh-mullaghfad-lisnaskea-special-protection-area			
Upper Lough Erne SPA (UK9020071)	Citation Document and Conservation Objectives are listed at the following link: https://www.daera-ni.gov.uk/publications/upper-lough-erne-special-protection-area	14km to southwest	There is a hydrological link via the Maghery and Finn rivers	Yes

Having considered the nature and scale of the proposed development and the Source-pathway-receptor model as outlined above, I consider that sites within the zone of influence of the development are limited to the Upper Lough Erne SPA, Upper Lough Erne SAC, and the Lough Oughter and Associated Loughs SAC. I do not consider any other sites to be within the zone of influence due to lack of connectivity and/or significant distance/dilution factors.

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

Construction Phase

During the Construction Phase, surface / ground water run-off containing silt/sediments or other pollutants could inadvertently flow into the River Maghery via overland flows or the existing drainage ditch along the western site boundary. The River Maghery flows into the River Finn and ultimately into the European sites associated with Upper Lough Erne / Lough Oughter. I have outlined concerns about the extent of excavation proposed and associated flood risk and pollution concerns in relation to the River Maghery. I consider that there is potential for localised impacts. However, having regard to the nature and scale of the proposed works; the significant separation distance between the appeal site and the European sites (>14km); and the considerable dilution factors along the ultimate hydrological route between the appeal site and the European Sites (> 20km), the potential for significant effects on the European Sites can be excluded.

I note that Appendix B of the Traynor Environmental report submitted with the application outlines mitigation measures for the construction stage to protect groundwater and surface water. Although it is not abundantly clear, these would appear to be 'mitigation measures' in a more general sense, i.e., not for the purposes of AA Screening. The 'AA Screening Assessment' is a separate document (Appendix A) and does not appear to rely on these measures as 'mitigation'.

Operational Phase

Surface water will be diverted to the River Maghery after being treated and controlled to greenfield rates in accordance with standard surface water management practices. The River Maghery flows into the River Finn and ultimately into the European sites associated with Upper Lough Erne / Lough Oughter. The proposed stormwater measures are considered to be acceptable in accordance with standard practice. Having regard to the nature and scale of the proposed works; the separation distance between the appeal site and the European sites (>14km); and the considerable dilution factors along the ultimate hydrological route between the appeal site and the European Sites (> 20km), the potential for significant effects on the European Sites can be excluded.

Wastewater will be diverted to the existing on-site wastewater treatment system. Given the proximity and up-gradient location of the system in relation to the River Maghery, there is potential for wastewater pollution run-off. I have outlined concerns that there is inadequate detail of the existing system and its capacity to accommodate the scale of the proposed development.

However, having regard to the separation distance between the appeal site and the European sites (>14km); and the considerable dilution factors along the ultimate hydrological route between the appeal site and the European Sites (> 20km), the potential for significant effects on the European Sites can be excluded.

I note that Appendix B of the Traynor Environmental report submitted with the application outlines mitigation measures for the operational stage to protect groundwater and surface water. Although it is not abundantly clear, these would appear to be 'mitigation measures' in a more general sense, i.e., not for the purposes of AA Screening. The 'AA Screening Assessment' is a separate document (Appendix A) and does not appear to rely on these measures as 'mitigation'.

Other Effects

Although the construction and operational stages will lead to some increased disturbance, I do not consider that any Natura 2000 sites are within the disturbance Zone of Influence.

Having regard to the nature and size of the appeal site and its significant separation distance from Natura 2000 sites, I do not consider that there is potential for significant ex-situ effects for any of the SCI species / qualifying interests.

I consider that the proposed development is a standalone development that is not mandatorily linked to any other development. Nonetheless, the potential for significant cumulative and/or in-combination effects with other plans and projects must be considered. The applicant's AA Screening Report considers the potential for cumulative and/or in-combination effects. I have also considered the potential effects of other existing and permitted developments, particularly in relation to the effects relating to construction, surface water, and wastewater as discussed throughout this screening exercise. I have also considered how the CDP was subject to Appropriate Assessment to protect the integrity of Natura 2000 sites. Having regard to the foregoing, I consider that there is capacity to accommodate the cumulative / in-combination effects while excluding the potential for likely significant effects on Natura 2000 sites.

AA Screening Matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Lough Oughter and Associated Loughs SAC (000007) <u>QI list</u> Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150] Bog woodland [91D0] Lutra lutra (Otter) [1355]	<u>Direct:</u> None <u>Indirect:</u> Negative impacts (temporary) on surface/ground water quality due to construction related emissions including increased sedimentation and construction related pollution. Negative impacts (long-term) on surface / ground water quality due to operational run-off.	Significant construction effects as a result of surface water quality impacts are not likely having regard to the scale of the development and its significant separation from the European Sites. Significant operational effects relating to surface water and wastewater are not
Upper Lough Erne SAC (UK0016614) <u>QI list</u>		

<p>Natural eutrophic lakes with Magnopotamion or Hydrocharition-type vegetation. Old sessile oak woods with Ilex and Blechnum in the British Isles. Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion alvae). Otter Lutra lutra.</p>	<p>Negative impacts (long-term) on water quality at operational stage due to wastewater discharge.</p>	<p>likely having regard to the scale of the development; the application of standard operational practice measures that would be implemented regardless of proximity to a European Site; and the significant distance, dispersal and dilution factors between the appeal site and the European Sites.</p>
<p>Upper Lough Erne SPA (UK9020071)</p> <p><u>QI list</u> Whooper Swan</p>		
	<p>Likelihood of significant effects from proposed development (alone): No</p>	
	<p>If No, is there likelihood of significant effects occurring in combination with other plans or projects? No</p>	
<p>Step 4 Conclude if the proposed development could result in likely significant effects on a European site</p>		
<p>I conclude that the proposed development (alone) would not result in likely significant effects on any European Sites. The proposed development would have no likely significant effect in combination with other plans and projects on any European sites. No further assessment is required for the project. No mitigation measures are required to come to these conclusions.</p>		

Screening Determination
Finding of no likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Upper Lough Erne SPA, Upper Lough Erne SAC, or the Lough Oughter and Associated Loughs SAC, in view of the conservation objectives for the sites, which are therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The nature and scale of the proposed works and the standard operational practice measures that would be implemented regardless of proximity to a European Site.
- The limited connectivity between the application site and the nearest European Sites as a result of significant distance, dispersal and dilution factors.

Appendix 3

Water Framework Directive Screening Determination

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	323064-25	Townland, address	Kincorragh, Smithborough, Monaghan, H18 E338
Description of project	Retention of existing portacabin office accommodation (previously granted under Ref. No. 16/446) and permission for 2 waste separation buildings, office building, extension of existing waste facility yard and all associated site development works.		
Brief site description, relevant to WFD Screening,	<p>The site levels fall significantly from the northwest to southeast direction, including a fall from c. 70.43m OD close to the northern boundary to 58.45m OD at the southern boundary. The northwestern portion of the site is already developed and comprises 2 waste transfer buildings; a weighbridge and portacabin; and an existing yard and car parking area where staff cars and company vehicles are parked.</p> <p>There is a drainage ditch along the western site boundary and the River Maghera (EPA Name Maghera_020) forms much of the southern site boundary. The Maghera flows southwards to join with the River Finn (EPA Name Finn (Monaghan)_020) at a point c. 2.5km south of the appeal site. The Finn flows generally southwest towards Upper Lough Erne (EPA Name Erne Upper) c. 19km southwest of the appeal site.</p> <p>The site is underlain by the Magheraveely groundwater body, while the adjoining River Maghera flows into the Clones groundwater body.</p>		

Proposed surface water details	It is proposed that surface water from the proposed development will be diverted via an attenuation tank, silt traps, and petrol interceptor to the River Maghery to the south of the site.
Proposed water supply source & available capacity	Water supply will be provided by an existing Group Water Scheme connection.
Proposed wastewater treatment system & available capacity, other issues	The development will be served by an existing on-site wastewater treatment system.
Others?	<p>A Site-Specific Flood Risk Assessment Report accompanies the application. As outlined in section 7.5 of this report, I consider that there is an unacceptable flood risk associated with the proposed development.</p> <p>As previously outlined, the River Maghery is linked to Upper Lough Erne, which forms part of the Lough Oughter and Associated Loughs SAC, and in Northern Ireland the Upper Lough Erne SPA and the Upper Lough Erne SAC.</p>

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	Adjoining southern site boundary	MAGHERY_02 0 IE_NW_36M03 1200	Poor	At Risk	Agriculture, Industry	Yes – Construction works adjoining and surface water discharge.

River	C. 2.5 km south of appeal site	FINN (MONAGHAN)_020 IE_NW_36F010 200	Moderate	At Risk	Agriculture	Yes – Via the Maghery (as above).	
Groundwater	Underlying	Magheraveely IEGBNI_NW_G 028	Good	Not at Risk	None Identified	Yes - Via the overlying soil and potential flooding.	
Groundwater	c. 40m to southeast	Clones IEGBNI_NW_G 063	Good	At Risk	Agriculture, DWTS, Unknown	Yes – Via the Maghery River	
Lake	C. 19km to southwest	Erne Upper IE_NW_36_672	Moderate	At Risk	Agriculture	Yes – Via Maghery and Finn (as above).	
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							
No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	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.	Surface	MAGHERY_020 FINN (MONAGHAN)_020 Erne Upper	Construction works adjoining the Maghery, which flows downstream to Finn and Erne Upper.	Siltation, pH (Concrete), hydrocarbon spillages, surface water outfall construction. Impact on hydrological regime due to	Construction stage mitigation measures as per Appendix B of Traynor Environmental report. Flood mitigation	Yes. As outlined in sections 7.4 – 7.6 of this report, I am not satisfied that the proposed development would not adversely	Screened in.

				site excavation and flooding.	measures as per SSFRA.	impact on water quality and the hydrological regime as a result of the extent of excavation adjoining the River Maghera.	
2.	Ground	Magheraveely Clones	Via the overlying soil and potential groundwater flooding. As above and via the Maghera River.	Siltation, pH (Concrete), hydrocarbon spillages. Impact on hydrological regime due to site excavation and flooding.	As above.	Yes - As above.	Screened in.
OPERATIONAL PHASE							
1.	Surface	MAGHERY_020 FINN (MONAGHAN)_020 Erne Upper	Storm water will be directly discharged to Maghera, which flows downstream to Finn and Erne Upper. On-site wastewater treatment.	Hydrocarbon spillage / pollution, flooding, wastewater pollution.	Storm water management and mitigation measures as per Appendix B of Traynor Environmental report. Flood mitigation measures as per SSFRA. Traynor Environmental	Yes. While the surface water management proposals would be acceptable in principle, as outlined in sections 7.4 – 7.6 of this report, I am not satisfied that the proposed development	Screened in.

					report outlines that the existing effluent treatment system and percolation area at the site has adequate capacity.	would not adversely impact on water quality and the hydrological regime as a result of the extent of excavation adjoining the River Maghery. Further detail on the effluent treatment system capacity would also be appropriate.	
2.	Ground	Magheraveely Clones	Via the overlying soil and potential groundwater flooding. As above and via the Maghery River.	Hydrocarbon spillage / pollution, flooding, wastewater pollution.	As above.	Yes - As above.	Screened in
DECOMMISSIONING PHASE							
1.	N/A	N/A	N/A	N/A	N/A	N/A	N/A

STAGE 2: ASSESSMENT

Details of Mitigation Required to Comply with WFD Objectives

Surface Water

Development/Activity e.g. culvert, bridge, other crossing, diversion, outfall, etc	Objective 1:Surface Water Prevent deterioration of the status of all bodies of surface water	Objective 2:Surface Water Protect, enhance and restore all bodies of surface water with aim of achieving good status	Objective 3:Surface Water Protect and enhance all artificial and heavily modified bodies of water with aim of achieving good ecological potential and good surface water chemical status	Objective 4: Surface Water Progressively reduce pollution from priority substances and cease or phase out emission, discharges and losses of priority substances	Does this component comply with WFD Objectives 1, 2, 3 & 4? (if answer is no, a development cannot proceed without a derogation under art. 4.7)
	Describe mitigation required to meet objective 1:	Describe mitigation required to meet objective 2:	Describe mitigation required to meet objective 3:	Describe mitigation required to meet objective 4:	
Construction Works	Site specific construction mitigation methods to prevent run-off/pollution; flood mitigation measures to protect water regime and prevent pollution.	Site specific construction mitigation methods to prevent run-off/pollution; flood mitigation measures to protect water regime and prevent pollution.	N/A	N/A	No
Stormwater / Wastewater Drainage	Surface water management to prevent pollution and control run-off quantity; Flood Mitigation Measures to protect water regime and prevent pollution; specific wastewater management measures to	Surface water management to prevent pollution and control run-off quantity; Flood Mitigation Measures to protect water regime and prevent pollution; specific wastewater management measures to demonstrate adequate capacity to prevent pollution.	N/A	N/A	No

	demonstrate adequate capacity to prevent pollution.				
Details of Mitigation Required to Comply with WFD Objectives					
Groundwater					
Development/Activity e.g. abstraction, outfall, etc.	Objective 1: Groundwater Prevent or limit the input of pollutants into groundwater and to prevent the deterioration of the status of all bodies of groundwater	Objective 2 : Groundwater Protect, enhance and restore all bodies of groundwater, ensure a balance between abstraction and recharge, with the aim of achieving good status*	Objective 3 : Groundwater Reverse any significant and sustained upward trend in the concentration of any pollutant resulting from the impact of human activity		Does this component comply with WFD Objectives 1, 2, & 3? (if answer is no, a development cannot proceed without a derogation under art. 4.7)
	Describe mitigation required to meet objective 1:	Describe mitigation required to meet objective 2:	Describe mitigation required to meet objective 3:		
Construction Works	Site specific construction mitigation methods to prevent run-off/pollution; flood mitigation measures to prevent pollution.	Site specific construction mitigation methods to prevent run-off/pollution; flood mitigation measures to protect water regime and prevent pollution.	N/A		No
Stormwater / Wastewater Drainage	Surface water management to prevent pollution; Flood Mitigation Measures to prevent pollution; specific wastewater management measures to demonstrate adequate capacity to prevent pollution.	Surface water management to prevent pollution and control run-off quantity; Flood Mitigation Measures to protect water regime and prevent pollution; specific wastewater management measures to demonstrate adequate capacity to prevent pollution	N/A		No

