



An
Coimisiún
Pleanála

Inspector's Report

ACP-323613-25

Development	Construction 6 temporary bell tents with renovations to existing shed and all associated site works.
Location	Bogay Glebe, Newtowncunningham, Lifford, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2560344
Applicant	Bogay Glamping Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	J Reed; Donna Marie Moore; Jacqueline Brady; Paddy Murphy; & Michael Sharkey
Observer(s)	None
Date of Site Inspection	10 th December 2025
Inspector	Matthew O'Connor

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Appendix 1 – Form 1: EIA Pre-Screening

Appendix 2 – Form 2 - EIA Preliminary Examination

Appendix 3 – Water Framework Directive Screening and Assessment.

1.0 Site Location and Description

- 1.1. The appeal site has an indicated area of 1.44ha and is located in the townland of Bogay Glebe some 4km to the east of Newtowncunningham in Co. Donegal. The appeal site is irregularly shaped on lands which appear to form part of the historic curtilage of Bogay House, a Protected Structure (RPS Ref. 40904709). The lands are accessible from the northern side of the L-2111 (Local Road) and feature a stone driveway/access lane. The area of proposed works essentially comprises an undeveloped grassed field sloping generally from north to south and a hard-surfaced area containing a dilapidated shed (subject to proposal) and a cabin type structure. The area around the site contains mature woodland and there is a track leading from the main access road to the core site area.
- 1.2. The topography of the area is lightly undulating with Bogay Hill forming a local presence in the local landscape. The locality is defined as being within an area of 'High Scenic Amenity'. The surrounding area is characterised by the mixed woodland/forestry on the hill (including the planted Emery Celtic Cross) with grassland and agricultural holdings in lower areas along with a dispersed pattern of one-off rural dwellings of varying styles, designs and configurations.
- 1.3. As noted, the site is proximate to Bogay House, a Protected Structure which is also listed on the National Inventory of Architectural Heritage (NIAH) as a Country House with a 'National' rating. Additionally, a nearby Outbuilding is also listed on the NIAH (Reg No. 40904713). There are National Monuments within or immediately adjoining the appeal site and the subject lands are not located within a Flood Zone.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Erection of 6 no. temporary bell tents;
 - Renovation of existing shed to cater for kitchen, communal area, toilet/showers, and storage area;
 - Connection to a proposed septic tank and percolation area.
 - All other site works

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Grant permission for the subject development, subject to 19 no. conditions. I note that a number of conditions are generally standard in nature, however, the following are considered to be of particular relevance:

- Condition 2: Units to be used as short stay holiday accommodation only.
- Condition 3: Signage.
- Condition 4: Access sightlines.
- Condition 5: Roadside boundary treatments.
- Condition 6: Overhead lines/poles set be from fence and clear of layby.
- Conditions 7, 8 & 9: Roadside and entrances drainage.
- Condition 10: Access road finishes and lighting.
- Condition 11: Vegetation retention.
- Condition 12: Planting/landscaping.
- Condition 13: Communal spaces to be completed before occupation of units.
- Condition 14: Site preparation shall conform to IFI's requirements.
- Condition 15: Lighting details.
- Condition 16: Signage requirements.
- Condition 17: Water supplied from well.
- Condition 18: Wastewater Treatment.
- Condition 19: Financial Contribution.

3.2. Planning Authority Reports

3.2.1. First Planner's Report

- The first Planner's Report had regard to the submitted documentation, locational context of the site, planning history in vicinity, policy framework of the Development Plan and any inter departmental/referral reports or referrals from prescribed bodies.
- In terms of assessment, the Planning Authority noted the proposed development is similar to a development refused under Reg. Ref. 23/50827 and a subsequent application (Reg. Ref. 24/60986) which was withdrawn as

it was recommended for refusal. The application requires assessment against the policy provisions of the Development Plan, namely Policy TOU-P-6 and Policy TOU-P-8. Further information is required to ensure full compliance with the listed criteria.

- In relation to design and siting, the Planning Authority noted the location of the proposal to Bogay House (a Protected Structure) and that the business plan seeks to restore Bogay House with assistance of the glamping operation. No visual amenity concerns are raised in respect of the renovation to the shed building and it was deemed that the bell tents would assimilate onto the site and the backdrop of mature trees.
- No concerns raised in relation to residential amenity. An appropriate visitor management plan could be conditioned in the event of a grant of permission.
- The access provision is noted via the existing entrance with a new access proposed onto the public road for egress only. Further information is recommended to afford the applicant with an opportunity to provide an appropriate solution. Vision lines from the existing entrance are deemed to be inadequate and it is noted that 3rd party consents to achieve/maintain sightlines would not be forthcoming.
- With regard to public health, the Planning Authority noted the EHO previously recommended refusal under 23/50827 as the accommodation units and toilet block would be down gravity from the proposed septic tank. The Planning Authority indicate that the subject application is of a smaller scale to the previous application and that the toilets/showers are to be located in the shed building. The Site Suitability Report and recommendations are noted.
- The Planning Authority state that the information provided in relation to surface and storm water drainage is insufficient.
- According to the Planning Authority, the Conservation Officers report from the previous application remains relevant with respect to the impact of the proposed development on the character of Bogay House (a Protected Structure and listed on the NIAH). It is noted that the Submitted Business Plan references an 'Architectural Heritage Impact Assessment for Bogay House'

but that this has not been submitted with the application. Further Information is required.

- No issues raised with respect to AA or EIA.

3.2.2. Further Information was sought in relation to 4 no. items:

- Clarify temporary nature of bell tents and intended duration of time on site.
- Submit revised Site Layout providing entrance/exit that can accommodate 2-way traffic; provision of lay-by and sightlines from vehicular entrance.
- Submit route and point of discharge of surface water and written consent from third party landowners is consent is required for piping to cross lands.
- Submit a Heritage Impact Assessment in relation to Bogay House and Outbuilding which are on the NIAH.

3.2.3. Second Planner's Report

- This report provides an analysis of the applicant's Further Information response and forms the basis for the grant of permission with conditions.
- In respect of Item No. 1, the Planning Authority note that the applicant's response states that the bell tents are of a temporary nature and the intended use will more than likely be of a seasonal nature.
- In terms of Item No. 2, a revised layout has been submitted proposing a wider entrance east of the existing established Bogay House access point. Signage can be conditioned to alert patrons of access use. The revised layout includes 2 no. lay-bys along the length of the access road permitting 2 no. vehicles to pass. In addition, visibility splays of 70m are shown at the location of the junction of the new access with the county road. According to the applicant, no third party consents are required as visibility splays do not cross third party lands. considered that the revised dwelling design (with a reduced floor area of 365.37sq.m and attached garage of 82.36sq.m) was acceptable; the traffic survey indicated that reduced sightlines could be applied; proposed piping of the stream along the roadside boundary was acceptable; details of a new attenuation basin was deemed sufficient to manage/control surface water;

and, details of storm sewerage and associated drainage would be in accordance with the EPA's Code of Practice.

- The applicant's response to Item No. 3 indicates that surface water is to be directed to an existing open drain along the length of the access road and to a piped drain at the location of the junction with public road. It is indicated that no third party consents are required as the location of the drains are within the shared control of the applicant.
- In relation to Item No. 4, an Architectural Heritage Impact Assessment has been submitted and concludes that the proposed development will have no adverse impact on the architectural heritage of Bogay House or Bogay Outbuilding.

3.2.4. Other Technical Reports

- Area Roads Engineer – No initial response received. Subsequent correspondence indicates that the new proposed layout is acceptable and that vision lines are to be maintained.
- Chief Fire Officer - No objection, subject to conditions requiring a Fire Safety Certificate and compliance with standards for access and facilities for Fire Services.
- Building Control - No response received.

3.3. **Prescribed Bodies**

- Uisce Eireann - No response received.
- An Taisce - No response received.
- The Heritage Council - No response received.
- Dept of Housing, Local Government and Heritage - No response received.

3.4. **Third Party Observations**

3.4.1. A total of 5 no. third party observation was received by the Planning Authority. The following issues raised are broadly summarised as follows:

- Rural location not suitable for commercial development

- Substandard character of accommodation which fails to achieve high quality and would set a poor precedent.
- Water volumes required will impact on local reserves.
- Impacts on drinking water for neighbouring properties.
- Impacts on protected species in the locality
- Impact on the cultural and historical significance of the area and impacts on Bogay House (Protected Structure)
- History of unauthorised development on the lands
- Visual impacts on the landscape
- Impact on property values
- Residential amenity impacts from the operation such as noise, privacy and security
- Fire hazard from development
- Development would not be commercially viable without large volumes of caravans and pods being added in the future.
- Traffic concerns from access visibility and road design/capacity.
- The access road does not cater for 2-way traffic and would be hazardous.
- Lack of detail on the management/operation of the proposal.
- Deficiency of information in relation to communal facilities such as BBQ, play areas, landscaping, refuse and boundary treatments.
- Ownership concerns
- Pollution impacts from water contamination
- Surface water run-off impacts

4.0 Planning History

4.1. The following planning history is associated with the subject site:

2460986 Application for erection of 6 no. temporary bell tents, renovation to existing shed to cater for kitchen, communal area toilet/shower facility and storage area including all ancillary works with connection to proposed septic tank and percolation area. Applicant: Bogay Glamping Limited.

This application was deemed WITHDRAWN.

2350827 Permission REFUSED for the erection of 6 no. glamping pods, 1 no. toilet/ shower facility, renovations to existing shed to cater for kitchen, communal and storage area including all ancillary works with connection to proposed septic tank and percolation area on site. Applicant: Bogay Glamping Limited.

The 4 no. refusal reasons are abridged as follows:

1. The proposed development would contravene Policy TOU-P-17 of the County Donegal Development Plan 2018-2024 (as varied) as the development would not meet the criteria of the TOU-P-16 (of the CDP) and be contrary to the proper planning and sustainable development of the area.
2. The proposal, as presented, provides for an ad hoc and unsustainable form of development in a rural location that provides for an accommodation dominant product with no sustainable or tangible connection to an existing or proposed resource related activity based tourism product.
3. The development, as proposed, would materially contravene Policy TOU-P-20 of the Plan given the proximity of the proposed to an existing residence and lack of a visitor and site management plan, the finished floor levels of the accommodation units in relation to the invert levels of the proposed on-site sewerage, and, the inadequate vision lines from access lane to the public road.
4. In the absence of an Architectural Heritage Impact Assessment, permitting the development as proposed would materially contravene the aforementioned policy BH-P-1 of the Plan which seeks to conserve and protect all structures (or parts of structures) and sites contained in the Record of Protected Structures that are of special architectural, historic, archaeological, artistic, cultural, scientific, social or technical interest.

5.0 Policy Context

5.1 Development Plan

5.1.1. The County Donegal Development Plan 2024-2030 is the relevant Development Plan for the subject site.

5.1.2. The appeal site is located in a rural area of County Donegal which is not within a designated/zoned settlement. According to Map 6.3.1: Rural Area Types of the Development Plan, the appeal site is located in an 'Area Under Strong Urban Influence'.

5.1.3. Chapter 10 relates to 'Tourism' with the following sections and associated policy provisions considered relevant to the subject proposal:

Objective TOU-O-1 To facilitate the sustainable development of Donegal's tourism product as a key economic driver of, and social catalyst for the County, whilst protecting and enhancing the County's landscape, natural heritage, built heritage, and communities from inappropriate development that would detract from the tourism product.

Policy TOU-P-6 That:

a. the principle of the acceptability or otherwise of proposals for standalone tourism related accommodation developments shall be determined in accordance with the following table; and

b. such developments shall generally only be acceptable where they can demonstrate compliance with the specific requirements identified in the last column of the table below and the detailed criteria set out in Policy TOU-P-8 and other relevant policies of the Plan.

Policy TOU-P-8 That all development proposals for the creation of new, or the extension of existing Tourist Developments (including Resource Related/Activity based Tourism Product Developments, Campervan/Motorhomes and Touring Caravan Stopover Sites, Hotels, Guest Houses, Tourism

Hostels, Holiday Resorts, Mobile Homes/Static Caravan Parks Camping Sites, and other Tourist Related Developments) shall comply with the following criteria:

a. The location, siting and design of the development (including associated infrastructure and landscaping arrangements) is of a high quality, integrates successfully with, and does not, either individually or in combination with existing and permitted developments, have an adverse impact on; the scenic quality, visual amenity, rural character, streetscape, vernacular character or built environment of the area.

b. That there are no significant impacts on designated habitats such as Natura 2000 sites and designated Nature Reserves.

c. The development does not negatively affect sensitive natural environments.

d. The development is significantly set back from, and adequately screened from, coastlines, shorelines and riverbanks.

e. The development will not detract from the visual setting of the coastline or be visually obtrusive from key points along the coastline.

f. Appropriate boundary treatment, landscaping and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;

g. The development will not significantly impact on existing residential amenities.

h. There is an adequate means of water supply.

i. There is existing capacity in the public wastewater infrastructure for developments within urban areas or

suitable on-site effluent treatment facilities to EPA standards can be provided in rural areas.

j. The development will not cause a traffic hazard, and the existing road network can safely handle any extra vehicular traffic generated by the proposed development.

k. Adequate parking provision, access and manoeuvring arrangements (including for touring coaches and motorhomes), and servicing areas are provided in accordance with road safety standards, and the technical standards and policies of this Plan.

l. The layout of the development provides for a high level of, and prioritises, pedestrian permeability and access.

m. The development does not create a noise nuisance and will not cause any significant environmental emissions.

n. The development will not have an adverse impact on the built, scenic, or natural heritage of the area including structures on the RPS/NIAH and designated habitats such as Natura 2000 sites and designated Nature Reserves.

o. The development is not located in an area at flood risk and/or will not cause or exacerbate flooding.

p. The development will not compromise the water quality of water bodies within River Basin Districts designated under the Water Framework Directive or hinder the programme of measures contained within any associated River Basin Management Plan.

5.1.4. Table 10.2 sets out the 'Summary of Tourism Accommodation Policies' and contains associated definitions.

5.1.5. Chapter 11 relates to 'Natural, Built and Archaeological Heritage' with the following sections and associated policy provisions considered relevant to the subject proposal:

BIO-P-1 To require all developments to comply with the requirements of the EU Habitats Directive and EU Bird Directive, including ensuring that development proposals: a. Do not adversely affect the integrity of any European/Natura 2000 site (i.e. Special Areas of Conservation and Special Protection Areas) including effects on ex-situ but functionally linked habitats, and species (e.g. Pearl Mussel) save where a plan must be carried out for imperative reasons of overriding public interest (IROPI). b. Provide for the protection of animal and plant species listed in Annex IV of the EU Habitats Directive and the Flora Protection Order. c. Protect and enhance features of the landscape (such as rivers, riverbanks, field boundaries, ponds and small woods) which are of major importance for wild fauna and flora and the ecological coherence of the Natura 2000 network.

5.1.10. As detailed in Map 11.1: 'Scenic Amenity' of the Development Plan, the appeal site is situated in an 'Area of High Scenic Amenity'. According to the landscape classification contained in Chapter 11, these are *'landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and form a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan'*.

5.1.11. The following policy and objective are relevant:

Objective L-O-1 To protect, manage and conserve the character, quality and value of the Donegal landscape.

Policy L-P-2 To protect areas identified as 'High Scenic Amenity' and 'Moderate Scenic Amenity' on Map 11.1 'Scenic Amenity'. Within these areas, only development of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape may be considered, subject to compliance with other relevant policies of the Plan.

- 5.1.12. Chapter 16 of the Development Plan relates to 'Technical Standards' and contains specifications for developments such as surface water and roadside drainage, entrances and visibility. It also includes the thresholds for Traffic and Transport Assessment and parking requirements for cars and bicycles. The following relevant policy:

TS-P-1 To require compliance with the following technical standards, where applicable, in addition to all other relevant policy provisions of this Plan and relevant Governmental guidance and standards.

5.3. National Guidance

EPA Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021

This document sets out a methodology for site assessment and selection and maintenance of Domestic Waste Water Treatment Systems including guidance on appropriate percolation values for different types of systems, setback distance and sizing of percolation areas.

5.4. Natural Heritage Designations

- 5.4.1. The appeal site is not located within or immediately adjoining any designated Natura 2000 sites. The nearest designated sites are the Lough Swilly Special Protection Area (Site Code: 004075) which is located approximately 3.23km to the northwest of the site; the Lough Swilly Special Area of Conservation (Site Code: 002287) which is located approximately 5.02km to the northwest of the site; and the River Finn Special Area of Conservation (Site Code: 002301) which is located approximately 5.44km to the south of the site. The Port Lough proposed Natural Heritage Area (pNHA) (Site Code: 000180) is 1.14km to the southwest of the site.

6.0 EIA Screening

- 6.1. The subject development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the subject 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 subject development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

7.0 The Appeal

7.1. Grounds of Appeal

A Third Party appeal has been received in relation to the Planning Authority's decision to grant permission. The grounds of appeal are submitted by J Reed; Donna Marie Moore; Jacqueline Brady; Paddy Murphy; and Michael Skarkey. The appeal reiterates a number of matters raised in the original planning submissions to the Planning Authority. The grounds of appeal can be summarised as follows:

Ownership, Validity & Procedural Deficiencies

- Subject property remains in probate.
- Bogay Glamping Limited has not demonstrated legal ownership or consent of the true owners.
- Validity of application called into question where legal interest has not been established.

Environmental & Ecological Impact

- Site is adjacent to an ancient woodland and Coillte forestry which is a unique and sensitive landscape (including Emery Celtic Cross woodland).
- Protected species including red squirrels, kestrels and barn owls inhabit the area.
- Bogay House is a Protected Structure and is a designated AGSM site (area of scientific/environmental interest).
- No Environmental Impact Assessment of Biodiversity Survey have been carried out despite adverse impacts.

Water Supply, Wastewater & Contamination Risks

- There is no mains water. All houses in area are on private wells.
- Proposed borehole would reduce local supply and risk well depletion.

- Septic tank and percolation area is uphill from existing wells and creates high risks of contamination.
- No survey of local wells has been conducted.
- No evidence of consultation with the Environmental Health Officer.
- Surface water is already inadequate and flooding occurs regularly. The proposal would exacerbate run-off issues.
- Proposal is contrary to public health and EPA standards. Details of wells downgradient of development have not been identified and reference is made to the percolation area being 10 metres from the dwelling served.
- In relation to surface water, the applicant has no legal title to install drainage. The proposal includes drainage to a road water run-off that runs towards a heritage spring wells contaminating it for no good reason.

Roads, Access & Traffic Safety

- Site is served by a narrow rural road heavily used by school buses, farm machinery, local commuters and traffic cutting from Derry.
- Traffic survey understates actual traffic volumes.
- There are no footpaths, street lights or safe walking routes to shops or services
- Development would result in stacking, congestion and serious traffic hazards.
- Commission has previously refused similar rural tourism schemes on traffic hazard grounds.

Fire Hazard & Public Safety

- Site is adjacent to woodland/forestry creating a major risk from BBQs, campfires and firepits.
- Proposed firefighting infrastructure is grossly inadequate.

Non-Compliance with Development Plan

- Development Plan requires tourism developments be located within settlement boundaries and within safe walking distance of local services along with demonstrating compliance with Caravan & Camping Regulations in addition to avoiding adverse visual, ecological or amenity impacts.

- Development does not fully comply with all criteria in Policy TOU-P-20. Failure to comply with the criteria means the development would create a noise nuisance, be contrary to public health, generate a traffic hazard and materially contravene this Policy.

Residential Amenity, Noise & Precedent

- Camping/Glamping inevitably results in late night gatherings, music, alcohol, BBQs all of which destroy the quiet residential/farming character of Bogay.
- The design places tents facing car spaces with no proper communal areas, landscaping, bin storage or screening.
- Approving the development would set a dangerous precedent, enabling expansion into caravans/trailer parks which would devalue neighbouring properties and the loss of residential amenity.

History of Non-Compliance

- A Warning Letter has been issued for unauthorised works at the site
- Works on the site have continued despite refusal of Reg. Ref. 23/50827
- There is evidence of tree felling and trespass onto neighbouring lands to create visibility splays which have subject to Garda reports.
- The pattern demonstrates a disregard to planning law and a 'develop first, apply later' approach.

Governance & Conflict of Interest Concerns

- The architect/surveyor is a County Councillor. While there is no suggestion of wrongdoing, the dual role raises legitimate concerns about the principle of impartiality in the planning process.
- The application requires scrutiny with maximum transparency and independence to safeguard public confidence in the planning system.

7.2. Applicant Response

- None.

7.3. Planning Authority Response

- None.

7.4. Observations

- None.

8.0 Assessment

Having examined the application details, the appeal and all other documentation on file, the reports of the Planning Authority, having conducted an inspection of the site, and having reviewed relevant planning policies and guidance, I am satisfied that the main issues to be considered are those raised in the Third Party appeal. I am satisfied that no other substantive issues arise. This appeal can be addressed under the following relevant headings:

- Principle of Development
- Impact on Residential and Visual Amenity
- Wastewater Treatment
- Site Services & Drainage
- Access & Sightlines
- Other Matters
- Appropriate Assessment (Screening)

8.1. Principle of Development

8.1.1. In assessing any development, it is my view that a key consideration is the principle of development. The grounds of appeal raise concern with non-compliance with the County Donegal Development Plan 2024-2030. It is claimed the Development Plan requires tourism developments to be located in settlement boundaries and in safe walking distance of local services. Additionally, such proposals must demonstrate compliance with Caravan & Camping Regulations along with avoiding adverse visual, ecological and amenity impacts. The appellants contend that the proposal does not fully comply with all of the criteria set out in Policy TOU-P-20 of the Development Plan and as such, failure to comply with the criteria would result in the development creating noise nuisance, be contrary to public health and generate a traffic hazard. Furthermore, the layout of the scheme is also criticised with tent claimed to be fronting onto car spaces, non-provision of proper communal areas, landscaping, bin storage or screening.

- 8.1.2. In essence, the proposed development comprises a glamping facility in a currently undeveloped field adjacent to a hardstanding area with a shed east of the established setting of Bogay House. The main elements of work include the erection of 6 no. temporary bell tents and the renovation of a dilapidated shed to provide a reception desk, kitchen, communal space along with toilets and showers. The pitches for the tents are laid out in three separate pairs, and each tent is a type of teepee structure with a 2-metre high centre pole and canvas covering. The tents have an indicated floor area of approximately 3sq.m. Other works include the installation of a septic tank and percolation area, a well, landscaping and fencing along with ancillary works/services.
- 8.1.3. I note that reference in the appeal to Policy TOU-P-20 is incorrect as no such policy exists in the current County Donegal Development Plan 2024-2030. However, I do acknowledge that Policy TOU-P-20 was contained in the former County Donegal Development Plan 2018-2024 which the previous application on the site was assessed under. To this end, I note that Chapter 10: Tourism of the current Development Plan is of particular relevance to the subject proposal. I am satisfied that the subject development is acceptable in principle with respect to Objective TOU-O-1 which seeks to facilitate the sustainable development of Donegal's tourism product as a key economic driver of, and social catalyst for the County. In addition, it is my view that the principle of standalone tourism-related accommodation development is acceptable in principle as per Policy TOU-P-6 and Table 10.2: Summary of Tourism Accommodation Policies whereby 'Touring caravans, campervans, motorhomes and camping/glamping' are acceptable in Rural Areas (excluding Areas of Especially High Scenic Amenity) where up to an aggregate maximum of 10 units/pitches are proposed. I note in this regard that the definition provided for 'glamping' in the Development Plan is *'glamorous camping in the form of small-scale units (maximum 15 sq.m.) that provide for sleeping and resting, and where wc/showering facilities are provided in on-site communal facilities only'*.
- 8.1.4. I consider Policy TOU-P-8 of the Development Plan is of particular relevance to the assessment of this proposal as it sets out 16 no. criteria which shall be complied with for the creation of new Tourist Developments. In broad terms, these criterion relate to the high-quality location, siting and design of the

development; infrastructure provision; landscaping and boundary treatments; impacts on Natura 2000 sites; visual, residential amenity and natural environment impacts; noise and nuisance emissions; adequacy of water supply and wastewater; traffic and vehicular safety; flood risk; and water quality of water bodies.

8.1.5. It is my view, having regard to the nature of the proposal and secluded location in a rural area surrounded by woodland, that the works would represent a standalone tourism-related accommodation development. It is my opinion that the general layout and design is to be expected for such a development of this nature and the renovation of the shed would result in the sustainable re-use of an existing building. I consider that the parking provision, internal circulation for pedestrians and boundary treatments are appropriate. While the full details submitted for same is scant, in my opinion these items could be reasonable conditioned in the event of a grant of permission. I also consider that the development would have the appearance of a seasonal development and would be modest in terms of overall scale. Therefore, I consider that the proposal to be acceptable in principle.

8.1.6. Notwithstanding my comments in terms of the overall acceptance of the principle of development, I consider that it is imperative that the proposal is fully assessed against all of the criteria in Policy TOU-P-8 of the Development Plan and that compliance with same is demonstrated along with any other development management parameters. Many of these matters will be considered further in the following sections and will determine whether the development is appropriate or should be refused.

8.2. Impact on Residential and Visual Amenity

8.2.1. The appellants grounds of appeal contend that the proposal will result in late night gatherings, music, alcohol and barbeques which would detrimentally impact on the residential and farming character of Bogay. In addition, it is claimed the development, if permitted, would set a precedent which would enable the expansion of the development into caravans/trailer parks which would result in a loss of residential amenity. The appeal also claims that the subject site is

adjacent to an ancient woodland and Coillte forestry which is a unique and sensitive landscape (including the Emery Celtic Cross woodland).

- 8.2.2. I note the grounds raised by the appellants regarding impacts on residential amenity and I am of the view that the introduction of a new commercial operation to a greenfield site in a rural area would result in an inevitable change to the existing noise environment and has the potential to create nuisance from noise and associated camping activities on the site. That said, I note that there are no neighbouring residences immediately adjacent to the glamping/tent units and ancillary shed building and there is considerable woodland and surrounding hedgerow between the core area of proposed development and the nearest residential properties which, in my view, would aid in screening and dulling potential noise/activity disturbance emanating from the appeal site. I have also had regard to the submitted Business Plan on the appeal file, and I note that the target market is for tourism and holistic retreats, and that hen/stag parties or youth groups would not be accepted. Given the proposed scale of the development with a total of six tents (sleeping a maximum of 12 no. persons), I am of the view that the proposal is modest in size and I consider it reasonable for the operation of such a business/enterprise to be managed as part of a plan with site rules to limit and restrict noise and disturbances. The implementation of a Site/Management Plan could be conditioned in the event of a grant of permission.
- 8.2.3. Therefore, having regard to the above, I consider that there are no particular element/activity associated with the proposed use which would give rise to excessive noise or disturbance that would have a detrimental impact on residential amenity in the area. As a further consideration, it is my opinion that there would be adequate screening/separation of the proposed development in terms of any perceived impacts from overlooking or loss of privacy. I note that no lighting has been illustrated on the submitted particulars and so I have not had consideration of same.
- 8.2.4. With respect to visual amenity, the appeal site is situated in an 'Area of High Scenic Amenity' as detailed in Map 11.1: 'Scenic Amenity' of the Development Plan. These areas are described as landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and form a

fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan. From review of the Development Plan, I note that there are no protected views in the vicinity of the appeal site.

8.2.5. The site of the proposed development is on a slightly elevated slope sitting below Bogay Hill and the forested area around the planted Emmery Celtic Cross. As previously indicated, the core area of proposed works is within a grassed field and an area of hardstanding surrounded by mature woodland to the immediate north and south with an established tree lined boundary/ditch to the east. From review of the appeal file, the illustrated siting of the tents lie roughly across the 82 and 85 contours and fall to around the 75 contours over approximately 30 metres. Given the setting, the proposed tents would be located in an area where land to the rear rise further upland which forming a wooded/forested backdrop to the local area and the lands to the front rolls gradually down to the public road with the intervening area screened by mature trees limiting exposure of the development on the wider landscape.

8.2.6. I note that no detailed information or drawings have been provided in relation to the overall extent of groundworks proposed to facilitate the pitches and whether such works would require any substantive recontouring or levelling of the land to provide for appropriate gradients for the tents. It is nevertheless my view that the tent structures are low rise (standing at 2 metres in height on account of the centre pole) and would be clustered in three pairs in relatively close proximity to each other. As such, I do not consider that the 6 no. tents and proposed works to the ancillary services building would result in any perceptible changes in existing landscape.

8.2.7. Therefore, notwithstanding the 'High Scenic Amenity' value of the area, I consider that there is capacity to absorb the proposed development on this particular site from a visual amenity context and I am satisfied the siting of the development would not detract from the character or quality of the receiving landscape.

8.3. Wastewater Treatment

- 8.3.1. In relation to wastewater treatment, the appellants state the proposed septic tank and percolation area is located uphill from existing wells and would create high risk of contamination. It is claimed the proposal is contrary to public health and EPA standards. The appeal further indicates that there is no evidence of consultation with the Environmental Health Officer and that details of water wells downgradient of the proposed development have not been identified.
- 8.3.2. In considering this element of the proposal, Policy TOU-P-8 of the Development Plan is relevant as criterion (i) requires that *'there is existing capacity in the public wastewater infrastructure for developments within urban areas or suitable on-site effluent treatment facilities to EPA standards can be provided in rural areas'*. The proposed development will be served by a new septic tank and percolation area. The application was accompanied by a Site Characterisation Form (SCF) which provides an assessment against the EPA's Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) (2021). The general details on the SCF indicates that the proposal will provide 6 no. bedrooms (2 persons per bedroom) and would cater for a maximum of 8 no. residents. In the interests of clarity, I note the EPA's Wastewater Treatment Manual for Small Communities, Business, Leisure Centres and Hotels (1999) is an appropriate guidance document for the nature of the subject development. However, given the size of the proposed system and anticipated loading, I consider it appropriate to have regard to the aforementioned 2021 Code of Practice despite it relating specifically to guidance for domestic wastewater treatment systems. Moreover, this document also sets out the most up-to-date standards and methodology for site assessment, consideration of ground conditions, types of wastewater systems and the installation/maintenance of same.
- 8.3.3. I have reviewed the submitted Site Characterisation Form (SCF) and note it relates to an assessment carried out for a previous application in 2023. I am satisfied that the report relates to a similar proposal to that currently before the Commission and I am of the view that it is unlikely that ground conditions in this area have changed significantly in the intervening period. The SCF indicates the aquifer category as being Poor (PI) and having a 'Moderate' groundwater vulnerability classification. The Groundwater Protection Response Category is

identified as 'R1' which is detailed in Table E1 (Response Matrix for DWWTSs) of the EPA Code of Practice Domestic Wastewater Treatment Systems as being *'Acceptable subject to normal good practice (i.e. system selection, construction, operation and maintenance in accordance with this CoP'*. The SCF indicates the depth of the trial hole was 2.2 metres and that the water table or bedrock was not encountered. The topsoil is stated as being brown to 0.3m and the soil/sub-soil is classified as silt which is crumb at 0.6m and indicated as being firm/compact. In respect of the percolation characteristics of the soil, the sub-surface test result is indicated as 34.86min/25mm. The comments on the results claim that the site is suitable for a septic tank system with discharge to the groundwater via a percolation area. It is further indicated that no site improvements are required. Section 6.0 (Treatment System Details) of the SCF proposes a tank with a capacity of 8m³ and the percolation area will comprise 15 no. 18-metre long trenches.

8.3.4. Notwithstanding the contents and recommendations of the SCF, I have concern with the details provided. It is my opinion that the percolation pre-soaks have been incorrectly conducted. According to Appendix D: 'Percolation Test Procedure' of the EPA's Code of Practice, both the surface and sub-surface percolation holes should be pre-soaked twice from 4 to 24 hours before the start of the percolation. The submitted Site Characterisation Report indicates that the first pre-soak commenced on 15th May 2023 with the second pre-soak commencing on 16th May 2023 and the percolation test being conducted on 17th May 2023. Therefore, testing was conducted outside of the recommended timeframe of the pre-soaks and as such, I am not satisfied that the site characteristics have been accurately determined for this site. To this end, I am of the consideration that the results attained for the sub-surface percolation cannot be relied upon to provide an accurate reflection of the ability of the subsoils at this particular site to attenuate and dispose of the effluent that would be generated from the development. Consequently, such a result has the potential to impact on both the type of treatment system recommended for the type of development at this location and the area to be provided for percolation.

8.3.5. Further to the above, from my review of the submitted particulars, the field which is subject to the site works generally slopes from north to south and drops

approximately 15 metres over a distance of roughly 100 metres. In assessing the suitability of the site for wastewater treatment, I consider it prudent to consider the slope across the location proposed for the percolation area and determine if the slope in this areas slope exceeds 1:8. Having reviewed the SCF, I note that it is indicated that the slope is shallow (1:5 – 1:20) and that the slope of the proposed infiltration/treatment area is indicated as “1/10”. Based on the details provided by the applicant, the slope on this site exceeds 1:8. I note in this regard that section 6.2 of the EPA’s Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) (2021) is resolute in stating that domestic waste water treatment systems are not permitted to be constructed on slope angles in excess of 1:8. The applicant has not submitted any technical specification with this application in terms of detailing the extent of land contouring/alterations required to facilitate the installation of the proposed septic tank and percolation area. Therefore, based on the particulars submitted and taking consideration of my own observations at the site, whereby I noted the lands to be somewhat wet underfoot and covered extensively with on-site vegetation (rushes) which are indicative of wet ground conditions and poorly drained soil(s); I am not satisfied that it has been demonstrated that the proposed wastewater treatment system is satisfactory to effectively deal with wastewater arising from proposed development. To this end, I consider the system, as proposed, would result in the inefficient treatment of wastewater with potential consequential impacts for microbial contamination of groundwater in the area.

8.3.6. In addition to the above, I have had regard to Section 6.0 (Treatment System Details) of the SCF which outlines the percolation area as having 15 no. 18 metre long trenches. The required separation between these trenches is 2 metres and therefore the width of the percolation area would be expected to be some 28 metres wide. Based on this configuration, I would estimate that the proposed percolation area would stretch across a greater area than that represented on the submitted planning drawings.

8.3.7. I draw the attention of the Commission to the site characteristics from openly available data and I note that the vulnerability across the site would be ‘Extreme’ as opposed to the submitted ‘Moderate’ provided in the SCF. Furthermore, available data informs that rock is at or near the surface upgradient of the appeal

site and that the vulnerability is 'High' below the fall of the site. The aquifer underlying the appeal site is a poorly productive aquifer and so given this in combination with the vulnerability of the site where the septic tank and percolation area is proposed, I am of the opinion that it would warrant a higher Groundwater Protection Response of R2¹ which states: *'Acceptable subject to normal good practice. Where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Chapter 6 are met and the likelihood of microbial pollution is minimised'*. On the basis of the site complexities and potential groundwater quality impacts, I consider that the proposed development must comply fully with the provisions of the Code of Practice in order to be reasonably considered and I do not consider that the information provided by the applicant accurately reflects the site conditions and its ability to appropriately treat wastewater from the proposal.

- 8.3.8. In conclusion, I consider the details provided with the submitted Site Characterisation Form have not appropriately demonstrated that the site can accommodate the wastewater treatment system as recommended, or that the proposed development can be carried out in accordance with the requirements of the EPA's Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) (2021). I am therefore not satisfied that the wastewater treatment system, as proposed, is appropriate to effectively deal with wastewater arising from proposed development. I also consider that the proposed system could result in the inefficient treatment of wastewater with potential consequential impacts for contamination of groundwater in the area which would be prejudicial to public health. Furthermore, criterion (i) of Policy TOU-P-8 of the Development Plan requires that tourism development demonstrate that suitable on-site effluent treatment facilities to EPA standards can be provided in rural areas. I am not satisfied that the accords with the EPA's Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) (2021) and therefore, the proposal would not comply fully with the provisions of the Development Plan and so planning permission should be refused.

8.4. Site Services & Drainage

8.4.1. The appellants state that surface water is already inadequate with flooding regularly occurring in the area and that same will be exacerbated as a result of the development. The appellants claim that the applicant has no legal title to install drainage. The grounds of appeal also claim that the proposed road drainage will run-off towards a spring well of heritage value and would contaminate same for no good reason.

8.4.2. I note that Q 20 of the submitted Application Form states that the proposed Surface Water Disposal is via Watercourse. The technical specification provided with the application is illustrated on the Site Layout Plan with an indicative line of a drain serving the tents and the ancillary building before running down the lane/right of way outside of the appeal site and re-entering appeal site at the proposed entrance/exit. Annotations on the drawing state that surface water is to be collected in gullies and discharged through cattle grid to existing drainage network, a roadside drain. The Planning Authority requested Further Information in relation to drainage and sought details of the exact route and final point of discharge of surface water drainage and submit written consent from third party landowners specifically consenting to the piping of surface across any adjoining land. From review of the file, I note the applicant's response included a revised Site Layout Plan illustrating an indicative drain from the vehicular entrances and crossing the public road. A revised annotation on this drawing states that surface water will be discharged through new underground pipework to existing open drain on opposite side of road. The applicant's response to the Further Information response stated that other landowners in the vicinity contribute to the existence of surface water within this location. It is also queried by the applicant as to how surface water coming down from the backlands belonging to neighbouring landowners and that created by the development is differentiated. The Planning Authority acknowledged the response and proposed drainage network whilst also noting that no third party consents are required as the location of the drains are within the shared control of the applicant.

8.4.3. In assessing surface water drainage, I am of the opinion that there is a distinct paucity of information to enable a robust assessment of the collection, treatment and disposal of surface water. No details have been

provided in terms of the piping/culverting at the roadside frontage of the site along with inlet/outlet pipes to the drain/watercourse or any capacity specifications. There are no details in respect of surface water attenuation, if any, in the area of the tents and ancillary building.

- 8.4.4. Having regard to the lack of documentation submitted, I consider that applicant has failed to adequately detail/demonstrate that surface water can be collected and discharged without adverse impacts on the surrounding lands. Whilst I note that the management of surface water drainage for such a development could, in broad terms, be treated as a standard issue and agreed with the Local Authority by way of condition in the event of a grant; given that the impacts regarding surface water drainage arising from the site is unknown, I am of the consideration that I cannot make an informed decision on the matter of surface water in accordance with best practice and guidelines and have referred to same in relation to my assessment on Water Framework Directive.

Water Supply

- 8.4.5. The appellants inform that there is no mains water supply and that all houses in area are served by private wells. It is claimed the proposed borehole to serve the development would reduce local supply and risk well depletion. The appeal also states that no survey of local wells has been conducted.
- 8.4.6. The applicant indicated on Question 20: Services of the Application Form that water supply is to be by a new private well. According to the appeal file, the well is to be located to the northeast of the proposed tents and upgradient of the percolation area to serving the development. The Site Characterisation Form states that potential at risk targets from the wastewater treatment system is the proposed bore well however, risks of pollution are unlikely due to the distance of the proposed well from the percolation area. I have already outlined my concerns in relation to the adequacy of the wastewater treatment; however, in relation to the impact on wells, I am satisfied that the siting and separation of the septic tank and percolation downgradient of the proposed well to be sufficient and in accordance with standards. It is also my opinion that the proposed well would be considerably removed from wells serving other domestic residences and whilst no survey data has been submitted with the application in terms of well water

capacity, I would also contend that the appellant claims of dewatering/depletion of neighbouring domestic wells have been unsubstantiated.

- 8.4.7. In relation to water supply to serve the proposal, I am not satisfied that the applicants have demonstrated the suitability of water supply. From my review of the appeal file, I consider that there are no details in relation to the quantity of water available for the overall commercial operation from the proposed well or details of sufficiency of supply to address any potential shortfalls in the water from the proposed well as a result of the development. Therefore, I consider that the proposed development is contrary to criterion (h) of Policy TOU-P-8 of the Development Plan and as such, I recommend that permission be refused based in terms of adequacy of the water supply.

8.5. Access & Sightlines

- 8.5.1. The grounds of appeal raise concern in relation to road and traffic safety. It is stated that the appeal site is served by a narrow rural road which is utilised heavily by school buses, farm machinery, local commuters and other traffic to and from Derry. The appellants indicate that there are no footpaths, street lights or safe walking routes to shops or services on the local road network and that the submitted traffic survey has understated actual traffic volumes. Additionally, it is contended the proposal would result in stacking, congestion and serious traffic hazards.
- 8.5.2. I note the appeal site is served by an existing entrance to Bogay House from the L-2111 which comprises a splayed residential-type entrance with piers and wing walls. The proposal initially included an entrance only/exit only arrangement whereby the existing vehicular access would be used to enter the site and a new road/lane would be constructed to the east of the existing entrance on the appeal site to facilitate exit from the site. The assessment of the Planning Authority noted that no response was received from the Roads Section in respect of the subject application but referred to comments received for a previous application which it deemed as relevant due to similarity of proposals. Further Information was requested in seeking a revised layout entrance/exit to cater for 2-way traffic, provision of a lay-by along right of way to allow vehicles to pass and detail

sightlines. The applicant's response addressed the Further Information Request and was deemed acceptable to the Planning Authority.

- 8.5.3. During my inspection of the appeal site, I observed the L-2111 to be of limited width and contains a number of bends and variation in gradients over short distances. The road, from my observations, was lightly trafficked (with my inspection being carried out at noon on a Wednesday) and predominantly serves a number of one-off dwellings and agricultural lands which in my view would be conducive to lower traffic speeds on account of the alignment and carriageway width. That said, I would acknowledge the potential scope for increased traffic movements at peak travel times given the appeal site is approximately 11.5km from Derry City and could offer an alternative route to commuters in the region.
- 8.5.4. I am satisfied that the Site Layout Plan has indicated adequate sightlines of 70 metres in both directions along the L-2111 and complies with the Technical Standards and details on entrances and sightlines as set out in Chapter 16 of the Development Plan. I consider that the proposed two-way traffic, as illustrated, can be accommodated from both the existing entrance and the new 'exit' only egress/entrance. Moreover, I consider that the two lay-bys to be provided along the existing lane/access road will also aid vehicular movement on the site for visitors. I further note from the appeal file that no Letter of Consent from third party landowners is indicated as being required to achieve and maintain visibility from the access/egress entrances. In any event, should the Commission be minded granting permission, condition(s) could be attached requiring the provision/maintenance of vision lines.
- 8.5.5. I acknowledge the concerns presented by the appellants in relation to a lack of public infrastructure such as footpaths, street lights and walking routes towards shops/services. However, I am of the view that Policy TOU-P-6 of the Development Plan supports the principle of standalone tourism-related accommodation development; and, having regard to the site-specific rural location of the proposal away from any settlements where no such infrastructure currently exists, I do not consider it reasonable to have regard to these matters in the assessment of the subject site context.

8.5.6. In conclusion, I am of the view that there would be no road safety concerns arising from development proposed. I do not consider the proposal would result in significantly increased traffic generation or vehicular movements on the local road network and I am satisfied that there is sufficient capacity on the local road network to accommodate the proposed development.

8.6 Other Matters

8.6.1. Having regard to the appeal received, I shall consider the following items under the sub-headings below:

Procedural Considerations

8.6.2. The appellants have raised a number of procedural concerns with respect to the application. It is claimed that the subject property is in probate and that the applicant, Bogay Glamping Limited, has not demonstrated legal ownership or consent of the true owners. The appellants query the validity of application given the legal interest has not been established.

8.6.3. In my consideration of the subject development, I note that Question 10 on the submitted Application Form states that the applicant's legal interest in the land/structure is as Owner. The Planning Authority were satisfied with the details provided by the applicant and deemed the application as valid. I note that issues to do with title are not matters which can be adjudicated by the Commission and the extent to which interrogating same is limited. With this in mind, I refer to Section 5.13: 'Issues relating to title to land' of the Development Management Guidelines for Planning Authorities (2007) which states that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. I also refer to Section 34(13) of the Planning and Development Act 2000 (as amended) which states that '*a person shall not be entitled solely by reason of a permission under this section to carry out any development*'. As such, it is my opinion that the Commission has no role in this matter in so far as it relates to the ownership of land at the appeal site.

History of Non-Compliance

8.6.4. The appellants' grounds of appeal refer to a Warning Letter being issued to the applicant for unauthorised works being carried out at the site and have alleged

that works on the subject site have continued despite permission being refused under Reg. Ref. 23/50827. Photographs submitted with the appeal include works around Bogay House, installation of a new septic tank, tree felling and development new roads/tracks within the wooded area to accommodate vehicles. According to the appellants, this pattern of development demonstrates a disregard to planning law and a 'develop first, apply later' approach.

8.6.5. I have carried out an inspection of the subject lands and having reviewed the contents of the appeal, I note that the majority of activities referred to by the appellants do not form part of the current application or the appeal site. I acknowledge that there is a timber cabin-type structure erected on an area of hard standing within the appeal site and that tracks from the main avenue/access lane to the area of proposed works appeared to have been subject to recent groundworks at the time of my inspection. Notwithstanding, I note that issues of apparent unauthorised development are a matter for the Planning Authority and outside of the remit of the Commission for consideration in this appeal.

8.6.6. Additionally, I would reaffirm to the Commission that this assessment represents my *de novo* consideration of all planning issues material to the proposed development for the erection of 6 no. temporary bell tents, renovations to existing shed and ancillary works at the appeal site.

Precedent

8.6.7. The appellants are concerned that a precedent will be set which will enable the expansion of the development to a caravan/trailer park which would devalue neighbouring properties and the loss of residential amenity. I have considered the subject development on its own individual merits and in the event of permission being granted, I note that any subsequent application to expand or alter the use of the lands would require the benefit of separate planning permission. Moreover, such planning applications would be assessed on their own merits and against the provisions of the Development Plan. As such, I do not consider the proposed development for 6 no. temporary bell tents to be directly comparable to a caravan/trailer park given its relatively modest scale and intended purpose.

Devaluation of Property

8.6.8. In terms of the comments raised regarding devaluation of property. No information or evidence has been provided to corroborate the appellants' claim. Having regard to my assessment, I do not consider it unreasonable for lands in a rural location to be developed for tourism purposes (as set out in the Development Plan) and I am satisfied that the subject development, if approved, would not seriously injure the amenities of the area or the properties of the appellants.

Conflict of Interest Concerns

8.6.9. The grounds of appeal note that the architect/surveyor acting on behalf of the applicant is a County Councillor and the appeal raises concerns with respect to dual role and the principle of impartiality within the planning process. I am of the view that the subject application was assessed and determined on its own merits by the Planning Authority. Moreover, in considering the appeal before the Commission, I have had regard to the proposal on its own merits and assessed same having regard to the specifics of the proposal and the contents of the appeal file.

Fire Safety

8.6.10. The appellants claim that the appeal site is adjacent to woodland/forestry and the proposal presents a major risk arising from barbeques, campfires and firepits. As a further point, it is also claimed that the proposed firefighting infrastructure is grossly inadequate.

8.6.11. I note a referral response was received from the Chief Fire Officer who indicated 'no objection' to the proposal – subject to conditions in relation to obtaining a Fire Safety Certificate for the buildings and that access and facilities for fire service to comply with technical standards/specifications. I have already outlined concerns in relation to sufficient water supply to serve the proposal and I am of the view that this would also extend to capacity for firefighting. That said, it is my opinion that matters concerning fire safety along with measures for fire risks/hazards could likely be addressed by way of condition in the event of a grant of permission.

Environmental, Ecological and Heritage Impacts

- 8.6.12. The appellants claim that protected species including red squirrels, kestrels and barn owls inhabit the area and that no Environmental Impact Assessment or Biodiversity Survey have been carried out despite adverse impacts. It is also indicated that Bogay House is a protected structure and that the area is designated as an 'Area of Scientific/Environmental Interest' (AGSM) site.
- 8.6.13. I note the matters raised in the grounds of appeal in relation to ecological and environmental considerations. With respect to the appellants' concerns regarding the assessment/consideration of environmental impacts, I refer to Form 1 and Form 2 in Appendices of this report whereby I have determined that the subject development does not trigger a requirement for Environmental Impact Assessment screening and that an Environmental Impact Assessment Report (EIAR) is not required.
- 8.6.14. In terms of ecological impacts, I acknowledge that the appeal site given its rural location extensive grassland and woodland/forestry coverage has the potential support foraging for mammals and nesting/roosting for birds along with commuting of various species. The species referenced by the appellants have respective protections under the Wildlife Acts and Annex 1 of the EU Birds Directive. In consideration of the nature and extent of the works proposed, I note that the overall appeal site is indicated as 1.44ha however the core area of proposed works is concentrated within part of a grassed field and existing hardcore area. I further note that the works do not include the removal of trees or vegetation. Therefore, I am of the view that the extent of works proposed in this particular area of the appeal site is not especially sensitive in terms of biodiversity value and as such, I do not consider that the proposed development would result in significant adverse impacts/loss to wildlife. I also do not consider that the proposed use of the lands, on account of its modest scale and likely seasonal operation would result in substantial disturbance or fragmentation of the habitat used by these species in the area surrounding the appeal site.
- 8.6.15. In terms of Architectural Heritage, the appeal site is situated on lands which I would consider forms part of the historic, or wider, curtilage of Bogay House -

which is also indicated as being in the ownership of the applicant. This building is listed on the Record of Protected Structures in the County Donegal Development Plan 2024-2030 (RPS Ref. No. 40904709) with the description of *'Detached early to mid-18th century five-bay two-storey over basement house with dormer attic and single-bay basement extension to east, with projecting porch extension to north c.1890'*. I further note that Bogay House is also listed on the National Inventory of Architectural Heritage (NIAH) and is described as a Country House with a 'National' rating. In addition, a nearby 'Outbuilding' within the former curtilage of Bogay House which is in use as a separate dwelling is also listed on the NIAH (Reg No. 40904713).

8.6.16. The Planning Authority's assessment did not made reference to the protected status of Bogay House but have acknowledged its listing on the NIAH. With this in mind however, I note that the precise curtilage of the Protected Structure does not appear to be strictly defined. As part of the Request for Further Information, the applicant was requested to submit a Heritage Impact Assessment of the proposal in relation to Bogay House and the outbuilding. The Architectural Heritage Impact Assessment submitted in response to the Request for Further Information concluded that the proposed development would have no adverse impact on the architectural heritage of Bogay House or 'Outbuilding'. These conclusions were made on the basis that the development is both physically and visually removed from the house and its primary setting, involves no alterations to the structures, setting or historic curtilage features of the Protected Structure, that no groundworks/services are proposed in the vicinity of Bogay House or 'Outbuilding' or any recorded curtilage elements, that reversible and low-impact forms appropriate to a rural context are used and that the development retains the character and integrity of the historic site.

8.6.17. I would be of the opinion that the proposed works are located in the wider curtilage of a Protected Structure and that Bogay House is evidently of architectural significance. Having considered the precise location and setting of proposed development before the Commission, I am however of the view that the extent of the proposal's connection to Bogay House is via the partial sharing of the access road/laneway. The core of the proposed is set away to the east, some 150 metres from Bogay House and approximately 115 metres from the

‘Outbuilding’. I am satisfied with the conclusions reached in the submitted Architectural Heritage Impact Assessment in terms of the proposal being visually separated from these structures and I accept that the proposed development would not result in any alterations to the structures or historic curtilage of the Bogay House, the Protected Structure, and the ‘Outbuilding’ as referred to on the NIAH. I would also concur that the proposed development is modest in terms of site works and the land could be reinstated to its current form without substantial interventions. To this end, I do not consider the subject development would impact on the integrity of Bogay House as a Protected Structure or any conflicts arise in relation to any associated policies/objectives of the Development Plan in terms of built heritage or architectural heritage. I would also reiterate that any that issues of apparent or alleged unauthorised development referred to by the appellants in the curtilage of Bogay House, and outside the red line application boundary, are a matter for the Planning Authority and beyond the remit of the Commission for consideration as part of this appeal.

9.0 Appropriate Assessment (Screening)

- 9.1. I have considered the subject development in light of the requirements S177U of the Planning and Development Act 2000 (as amended).
- 9.2. The proposed development comprises the erection of 6 no. temporary bell tents, renovations of an existing shed to provide kitchen/toilet/showers and ancillary works with connection to a proposed septic tank and percolation area. The subject development is in a rural area and is not located within or adjoining any designated Natura 2000 sites. The appeal site is approximately 3.23km from the nearest designated site which is Lough Swilly Special Protection Area (Site Code: 004075). The Lough Swilly Special Area of Conservation (Site Code: 002287) is located approximately 5.02km from the site and the River Finn Special Area of Conservation (Site Code: 002301) is located approximately 5.44km from the site.
- 9.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment as there is no conceivable risk to any European site. The reason for this conclusion is as follows:
 - The scale and nature of the development;

- The distance to the nearest European site and lack of direct connections; and,
- Taking into account the screening determination of the Planning Authority.

9.4. I conclude on the basis of objective information, that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore a retrospective Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 (as amended) is not required.

10.0 Water Framework Directive

- 10.1. The subject development comprises the erection of 6 no. temporary bell tents, the renovation of an existing shed to provide a kitchen, communal area, toilet/showers and storage area, a septic tank and percolation area and all associated site works in the rural townland of Bogay Glebe, Co. Donegal. The subject development is indicated as having a new private well for water supply with surface water outflowing to a watercourse. The appeal site is approximately 190 metres to the east of the nearest recorded watercourse, Leitrim 01, which runs southwest before entering Port Lough and subsequently outflowing as the 'Carrigans_010' which flows in a southerly direction before entering the Foyle.
- 10.2. I have assessed the subject development by way of a screening assessment (see Appendix 3) 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.
- 10.3. Having considered the project, I am of the view that, notwithstanding the modest scale of the proposed works and intended use, the applicant has failed to demonstrate that the wastewater treatment system would not result in a risk of deterioration of waterbodies or that it would not jeopardise these waterbodies in reaching their WFD objectives. I am also of the view that the applicant has failed to provide sufficient details in relation to surface water collection, treatment or disposal. Therefore, on basis of objective information, it cannot be concluded nor ruled out that the subject will not result in a risk of deterioration on any water body, specifically groundwaters and surface waters, either qualitatively or

quantitatively or on a temporary or permanent basis or otherwise jeopardise any waterbody in reaching its objectives. Accordingly, I recommend that permission be refused in relation to this issue.

11.0 Recommendation

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

12.0 Reasons and Considerations

1. Having regard to the ground conditions on the site and inconsistencies contained in the submitted Site Characterisation Form and planning drawings in relation to the tests undertaken on the site, the slope of the lands and stated sub-surface characteristics, the Commission is not satisfied that effluent from the proposed septic tank and percolation area can be satisfactorily treated and disposed of on the site in accordance with provisions of the EPA's Code of Practice for Domestic Waste water Treatment Systems (PE <10) (EPA 2021). As such, it is considered that the proposed development, if permitted, would adversely impact on ground and surface water quality and would contravene policy TOU-P-8 (i) of the County Donegal Development Plan 2024-2030 of the County Donegal Development Plan 2024-2030 and would therefore be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
2. The appeal site is located proximate to the Leitrim_01 (which subsequently outflows to the Carrigans_010 watercourses which are indicated as having a 'Poor' WFD status and stated as being 'At Risk'. It is considered that, as presented, there is a lack of detail in relation to proposals for surface water drainage and wastewater treatment system to serve the proposed development which could pose a risk to the ability of these waterbodies to achieve the required Water Framework Directive quality status. In addition, the Foyle Groundwater Body underlies the appeal site and is stated as being 'Not at Risk'. It is considered that insufficient information has been presented with the application to definitively determine whether or not the subject development will not result in a deterioration of the existing WFD quality status of these waterbodies. As such, the Commission is not satisfied that

the subject development will not impact negatively upon the ability of the aforementioned waterbodies to achieve the relevant water quality status required under the Water Framework Directive. Additionally, in such circumstances, it is considered that the proposed development does not comply with TOU-P-8 (p) of the County Donegal Development Plan 2024-2030. Therefore, the subject development, as presented, is not considered to be in accordance with the proper planning and sustainable development of the area.

3. Having regard to the lack of information submitted with the application in relation to the proposed on-stie well, it is unclear there is an adequate means of water supply to serve the tourist development. As such, the proposed development, if permitted, would thus contravene policy TOU-P-8 (h) of the County Donegal Development Plan 2024-2030 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.

Matthew O Connor
Planning Inspector

27th August 2026

Appendix 1

Form 1 - EIA Pre-Screening

Case Reference	ACP-323613-25
Proposed Development Summary	Construction 6 temporary bell tents with renovations to existing shed and all associated site works.
Development Address	Bogay Glebe, Newtowncunningham, Lifford, Co. Donegal
	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)	☒ Yes, it is a 'Project'. Proceed to Q2. ☐ 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)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
☒ 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?	
☐ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

development under Article 8 of the Roads Regulations, 1994. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
☒ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	“Tourism and Leisure”, Class 12 (c) & (d): <i>(c) Holiday villages which would consist of more than 100 holiday homes outside built-up areas; hotel complexes outside built-up areas which would have an area of 20 hectares or more or an accommodation capacity exceeding 300 bedrooms.</i> <i>(d) Permanent camp sites and caravan sites where the number of pitches would be greater than 100.</i> The proposed development is located in a rural area and has an overall site area of 1.44ha and proposes 6 no. temporary bell tents and ancillary works. As such, the proposal is deemed subthreshold.

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)?	
Yes ☐	Screening Determination required (Complete Form 3)
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____

Date: _____

Appendix 2

Form 2 - EIA Preliminary Examination

Case Reference	ACP-323613-25
Proposed Development Summary	Construction 6 temporary bell tents with renovations to existing shed and all associated site works.
Development Address	Bogay Glebe, Newtowncunningham, Lifford, Co. Donegal
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).	The proposal comprises the erection of 6 no. temporary bell tents, conversion of a shed building for kitchen/toilet/showers and provisions of a septic tank and percolation area and all ancillary site works associated with such a development in a rural area. The size of the proposed development would not be described as exceptional in the context of the existing rural area. The proposal will not produce significant waste, emissions or pollutants. By virtue of its development type, it does not pose a risk of major accident and/or disaster. The site is not located in an area at risk of flooding.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The proposed development is situated in a rural area outside of any settlement. There are no significant environmental sensitivities in the immediate vicinity – potential impacts on the Natura 2000 network is addressed under Appropriate Assessment (Screening).
Types and characteristics of potential impacts	Having regard to the nature and scale of the proposed development (i.e. erection of 6 no. temporary bell tents, conversion of a shed building

(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	for kitchen/toilet/showers and provisions of a septic tank and percolation area), there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
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: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 3 - Water Framework Directive Screening and Assessment

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Coimisiún Pleanála ref.	ACP-323613-25	Townland, address	Bogay Glebe, Newtowncunningham, Lifford, Co. Donegal
Description of project		Construction 6 temporary bell tents with renovations to existing shed and all associated site works	
Brief site description, relevant to WFD Screening		The appeal site is located in the townland of Bogay Glebe in a rural area of County Donegal. The subject site has an area of 1.44ha and within part of the historic curtilage of Bogay House, a country house listed on the National Inventory of Architectural Heritage (Reg. No. 40904709) with a National rating. The core area of works is within a grassed field bounded by woods to the north and south and accessed via a track. The surrounding area is rural and in the open countryside defined as being within an area of High Scenic Amenity. The surrounding area has an undulating topography and is characterised predominantly by grassland and agricultural holdings with a dispersed pattern of one-off rural dwellings and woodland/forestry to the more upland areas. The appeal site is not located within or immediately adjacent to any designated European Site. The bedrock aquifer category is stated as being 'Poor' and has having a 'Moderate' groundwater vulnerability. The nearest listed watercourse is the 'Leitrim 01' (EPA name) which is approximately 190 metres to the west of the appeal site. This watercourse runs southwest before entering Port Lough and outflowing as the 'Carrigans_010' which flows in a southerly direction before entering the Foyle.	
Proposed surface water details		According to Question 20 on the Application Form, proposed Surface Water Disposal is ticked as 'Watercourse'.	
Proposed water supply source & available capacity		Private Well	

Proposed wastewater treatment system & available capacity, other issues			New septic tank and percolation area			
Others?			N/A			
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River Waterbody	Approx. 190m to the west of site	LEITRIM 01 EPA Code: 01L26 (CARRIGAN S_010)	Poor	At Risk	Agriculture, Hydromorphology	Yes – potential via surface water run-off owing to proximity and topography.
Groundwater Waterbody	Under-lying site	River Foyle	Good (Overall)	Not at Risk	Catchment pressures mainly nutrient and chemical pollution, altered morphological condition, impacts for surface water, and nutrient pollution for groundwaters	Yes – Potential run-off from the wastewater treatment system.
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	Waterbody 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	LEITRIM 01 EPA Code: 01L26 (CARRIGANS_010)	Existing - surface water pathway over land (sloping site and undulating terrain). New – storm water indicated as connecting to watercourse but no technical details have been provided.	Water pollution: site works, spillages, construction of storm water drainage and wastewater treatment.	None submitted with application but standard construction practices anticipated in respect of site development works.	Yes – inadequate information provided in relation to proposed wastewater treatment and surface water drainage.	Screened in.
2.	Ground	River Foyle	Site conditions indicate poor drainage. Pathway exists to groundwater.	Transmission from inadequately treated wastewater. The proposed wastewater	As above.	As above.	Screened in.

				treatment system is not considered to be in compliance with EPA CoP.			
OPERATIONAL PHASE							
1.	Surface	LEITRIM 01 EPA Code: 01L26 (CARRIGANS_010)	Via sloping lands and potentially existing drains on and adjacent to site which outflow towards this watercourse.	Potential transmission from inadequately treated waste water. Potential inadequate collection and disposal of storm drainage features.	None submitted with application but standard construction practices anticipated in respect of site works.	Yes - Potential for effluent migration (wastewater treatment system) over land due to site conditions. Yes - Surface water drainage details are inadequate and there is potential for pollution via storm drainage.	Screened in.
2.	Ground	River Foyle	Pathway exists to ground via wastewater treatment	Reduction in groundwater quality from pollution or the failure of the treatment system. It has not been demonstrated that wastewater treatment is in compliance with EPA CoP	As above.	Yes - potential for effluent migration (existing and proposed wastewater treatment) due to site conditions and sub-surface characteristics.	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:	
Stormwater & Wastewater Drainage	Adequately designed surface water management to prevent pollution and control run-off to prevent pollution.	Adequately designed surface water management to prevent pollution and control run-off to prevent pollution.	N/A	N/A	No

	Specific wastewater management measures to demonstrate site suitability for cumulative development to prevent pollution.	Appropriate wastewater management measures to demonstrate site suitability for development 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 & 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:		

Stormwater & Wastewater Drainage	Adequately designed surface water management to prevent pollution and control run-off to prevent pollution. Specific wastewater management measures to demonstrate site suitability for cumulative development to prevent pollution.	Adequately designed surface water management to prevent pollution and control run-off to prevent pollution. Appropriate wastewater management measures to demonstrate site suitability for development to prevent pollution.	N/A	No
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