Michael J. Duffy BE.CEng. MIEI

Chartered Civil

Consulting Engineer

1 Clòs Na hEaglaise,
Kilfenora,
Co. Clare
065 7088088
086 2557258
E-mail: duffycivileng@gmail.com

Secretary
An Bord Pleanála
64 Marlborough Street,
Dublin 1.

26th July 2022

A Chara,

Please fine enclosed a referral/appeal to a declaration of Clare County Council R22_1. I include a cheque for the prescribed fee of €220.

Yours Sincerely,

Michael Duffy.

Appellant

AN BORD PLEANÁLA
LDG- 055 688-22
ABP-
27 JUL 2022
Fee: € 220 Type: Cheque
Time: By: Reg-Post.

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26th July 2022

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include a cheque for the prescribed fee of €220.

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Appellant

AN BORD PLEANÁLA
LDG- [illegible]
ABP-
27 JUL 2022
Fee: € _____ Type: _____
Time: _____ By: _____

COMHAIRLE CONTAE AN CHLÁIR | CLARE COUNTY COUNCIL

Registered Post

Michael Duffy
1 Clós na hEaglaise
Kilfenora
Co Clare

30th June, 2022

Section 5 referral Reference R22-1 – Michael Duffy

Is the replacement of the Clarecastle wastewater treatment plant by diverting wastewater arising through a new sewer to the Clareabbey wastewater treatment plant, which discharges to an SAC, considered to be development and if so, is it exempted development?

A Chara,

I refer to your application received on 7th January 2022 under Section 5 of the Planning & Development Act 2000 (as amended) in relation to the above, and the further information received by the Planning Authority on 13th June 2022

The Planning Authority has considered the matter and I attach herewith the Council's findings in this matter.

Where a declaration is issued by the Planning Authority, any person issued with a declaration, may on payment to an Bord Pleanála of the required fee, refer a declaration for review by An Bord Pleanála within 4 weeks of the date of the issuing of the declaration. Details on making such appeal are available on the Board's website at www.pleanala.ie

Mise, le meas

Josephine Connors

Josephine Connors
Staff Officer
Planning Department
Economic Development Directorate

CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL

Registered Post

Michael Duffy
1 Clós na hEaglaise
Killenora
Co Clare

30th June, 2022

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Mise, le meas

Josephine Connors
Staff Officer
Planning Department
Economic Development Directorate

DECLARATION ISSUED UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)

Reference No.: R22-1

Comhairle Contae an Chláir
Clare County Council

Section 5 referral Reference R22-1

Is the replacement of the Clarecastle wastewater treatment plant by diverting wastewater arising through a new sewer to the Clareabbey wastewater treatment plant, which discharges to an SAC, considered to be development and if so, is it exempted development?

AND WHEREAS, Michael Duffy has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

a) Sections 2, 3 and 4(1)(g) and 4(4) of the Planning and Development Act, 2000, as amended.
b) Schedule 2, Article 6, Part 1, Class 58 of the Planning and Development Regulations 2001 as amended (Development by Irish Water) and the conditions and limitations of there under.
c) Article 9 of the Planning and Development Regulations 2001 as amended- Restrictions on Exemptions
d) The details and particulars as submitted with the referral application, including the Further Information response.
e) The details, particulars and declaration as contained on a Section 5 declaration (ref R21-61) by Irish Water.
f) The conclusions by the Court of Appeal in relation to *Narconon Trust v An Board Pleanála*.

And whereas Clare County Council has concluded:

the information submitted under the subject Section 5 declaration and that as submitted under ref. no. R21-61 is substantially the same, and is in respect of the same land, and that there has been no evidence of any change in the planning facts or circumstances.

THEREFORE: The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended), hereby decides that:

The development consisting of the replacement of the Clarecastle wastewater treatment plant by diverting wastewater arising through any new sewer to the Clareabbey wastewater

DECLARATION ISSUED UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)

Reference No.: R22-1

Comhairle Contae an Clár
Clare County Council

Section 5 referral Reference R22-1

Is the replacement of the Clarecastle wastewater treatment plant by diverting wastewater arising through a new sewer to the Clareabbey wastewater treatment plant, which discharges to an SAC, considered to be development and if so, is it exempted development?

AND WHEREAS, Michael Duffy has requested a declaration from Clare County Council on the said question.

AND WHEREAS Clare County Council, in considering this referral, had regard in particular to –

a) Sections 2, 3 and 4(1)(a) and 4(4) of the Planning and Development Act, 2000, as amended

b) Schedule 2, Article 6, Part 1, Class 56 of the Planning and Development Regulations 2001 as amended (Development by Irish Water) and the conditions and limitations of there under

c) Article 9 of the Planning and Development Regulations 2001 as amended- Restrictions on Exemption

d) The details and particulars as submitted with the referral application, including the Further information response.

e) The details, particulars and declaration as contained on a Section 5 declaration (ref R21-81) by Irish Water

f) The conclusions by the Court of Appeal in relation to Narconon Trust v An Board Pleanála.

And whereas Clare County Council has concluded:

The information submitted under the subject Section 5 declaration and that as submitted under ref. R21-81 is substantially the same, and is in respect of the same land, and that there has been no evidence of any change in the planning facts or circumstances

THEREFORE, The Planning Authority in exercise of the powers conferred on it by Section 5 of the Planning and Development Act, 2000 (as amended) hereby decides that

The development consisting of the replacement of the Clarecastle wastewater treatment plant by diverting wastewater arising through any new sewer to the Clareabbey wastewater

treatment plant, which discharges to an SAC, constitutes development which is considered to be exempted development, as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

Josephine Connors

Josephine Connors
Staff Officer
Planning Department
Economic Development Directorate

30th June, 2022

Section 5 Appeal of a Declaration of **Clare County Council** in Referral R22-1

is the replacement of the Clarecastle Wastewater treatment plant by diverting wastewater arising through a new sewer to the Clareabbey wastewater treatment plant, which discharges to an SAC, considered to be development and if so, is it exempted development?

by

Michael Duffy

Appellant

Michael J. Duffy. CEng. MIEI

Consulting Chartered Civil Engineer

1 Clós Na hEaglaise,

Kilfenora,

Co. Clare.

065 7088088

086 2557258

Duffycivileng@gmail.com

26th July 2022

Section 5 Appeal of a Declaration of Clare County Council in Referral R22-1

is the replacement of the Clareccastle Wastewater treatment plant by diverting wastewater arising through a new sewer to the Clareabbey wastewater treatment plant, which discharges to an SAC, considered to be development and if so, is it exempted development?

by

Michael Duffy

Appellant

Michael J. Duffy, CEng, MIEI

Consulting Chartered Civil Engineer

1 Cloí Na hEaglais,

Killaghora,

Co. Clare.

065 7088089

086 2557258

Duffycivilengineer@gmail.com

25th July 2022

Appeal Details:

Appellant: Michael Duffy

Appellant Address: 1 Clós na hEaglaise, Kilfenora, Co.Clare.

Correspondence address: 1 Clós na hEaglaise, Kilfenora, Co. Clare.

Declaration request:

is the replacement of the Clarecastle Wastewater treatment plant by diverting wastewater arising through a new sewer to the Clareabbey wastewater treatment plant, which discharges to an SAC, considered to be development and if so, is it exempted development?

Location of Development Site:

Clarecastle to Clareabbey WWTP, Ennis, Co. Clare.

Planning Authority: Clare County Council

Planning Authority Reference: **R22-1** determined 30th June 2022

Relevant Legislation:

Planning and Development Act 2000 as amended

Planning and Development Regulations 2001 as amended

ENVIRONMENT (MISCELLANEOUS PROVISIONS) ACT 2011

Grounds of Appeal: The grounds of appeal are as set out herein.

Appeal Details:

Appellant: Michael Duffy

Appellant Address: 1 Clós na hEaglaise, Kilfenora, Co.Clare.

Correspondence address: 1 Clós na hEaglaise, Kilfenora, Co. Clare.

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ENVIRONMENT (MISCELLANEOUS PROVISIONS) ACT 2011

Grounds of Appeal: The grounds of appeal are as set out herein.

Grounds of Appeal:

- Determination documents not made available.
- Natural Justice- objective bias
- Flawed consideration of potential impacts on European Sites.
- No proper consideration of current loading on Clareabbey wwtp.
- Mandatory EIA and AA required based on current PE of Clareabbey plant.
- Material Contravention CPD.

The Appellant received a section 5 Declaration of the Planning Authority made on the 30th June 2022 (Copy attached).

1. The Planning Authority neglected to place the prescribed documents on its website within 3 working days of its determination, or at all, for inspection. This has impacted significantly on my capacity to make a fully considered appeal.
2. In the first instance the Planning Authority should have applied the principle of objective bias when considering its role in the subject matter of this and other similar referrals relating to Irish Water, to whom it acts as an agent in its capacity as a Water Service Authority. A casual observer will see the conflict of interest the Planning Authority has in this matter. It clearly should have forwarded the referral to the Board as prescribed in section 5(4).
3. It neglected to consider, or properly consider, the likely significant impacts this development will have on the adjacent SAC. There is a long and well hidden factual history to wastewater treatment in Clarecastle and Clareabbey which deals with wastewater arising on the Eastern side of Ennis town. The agglomeration of Clarecastle has no wastewater treatment and discharges raw untreated sewage to the River Fergus within an SAC under an authorisation issued by the EPA.
4. In or around 2005 the Clareabbey wwtp was recognised by the Planning Authority to be operating at or above capacity which was by then refusing planning permissions as premature on the basis that a new wwtp for the entire Ennis area, with a PE for 50,000, was planned and envisaged by 2012. This proposal went to design tender stage. A protected infrastructure zoning was defined for this proposed plant, adjacent to the existing Clareabbey plant, but it was never constructed. The current Clareabbey wwtp

Grounds of Appeal:

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- Natural Justice- objective bias
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was designed and constructed by the Local Authority in 1980/1 with a PE of 4,000. In 2020/1 it was "upgraded" without any additional infrastructural volume being added to a PE of 6,000. This was in effect a paper exercise and very questionable. Clearly the Planning Authority had concerns when it began refusing permission due to lack of capacity. In 2006 it granted permission for a private temporary wwtp with a PE of 5,000 located relatively close to the municipal plant, with complex conditions which required much of the flow then going to the Clareabbey municipal to be transferred to this temporary plant from the outset. It then commenced granting planning permissions for significant numbers of houses which were conditioned on this plant being first commissioned. In the event this private temporary plant was never constructed and later EOD applications were refused on the grounds of CDP alterations. There is at least one exception to this. A significant housing development in Clarecastle was conditioned not to commence until this temporary plant was commissioned but that was ignored and the development is since built and connected to the untreated Clarecastle works.

5. In 2008 Clare County Council, in its role as operator of the Clareabbey wwtp, made an application to the EPA for a discharge licence **D-0199-01**. It is clear from careful analysis of that application and EPA AER's since that the Clareabbey wwtp continues to operate over its design capacity. The discharge licence application includes the grant of planning permission for the private temporary wwtp in mitigation in the application. There have been many planning permissions granted since 2008 for connection to the Clareabbey plant which the Planning Authority granted and is fully aware of these additional loadings. [E.G. **18/1007** for 25 houses. Clearly this permission should never have been granted considering the flawed AA screening which does not address the connectivity and impacts on the SAC but eloquently circumvents them.] The plant never had a stormwater tank and did not have a stormwater overflow. Instead the feeder pump-station, located in Westfileds on the Clare Road, has an unmonitored stormwater overflow. There has been no record of the volume of untreated wastewater discharging to the River Fergus SAC from this pump-station. The reality of this situation is that the inlet screen is designed for a flow up to 4 l/s which equates to a PE of 1,540. Any flow above that proceeded to the aeration tank unscreened and forces itself through the plant. Similarly the capacity of the pumps at Westfields determines what is forced

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through the plant reducing both retention times in the aeration tank and settlement tank and at times forcing untreated wastewater through the plant. When the pumps at Westfields either fail or do not have the capacity for the flow the untreated wastewater simply discharges directly to the River Fergus SAC. Clearly none of these facts have been considered in this referral because if they were a stage 2 Appropriate Assessment would have been required and by default planning permission for all works involved in the connection of Clarecastle wastewater to the Clareabbey plant. For the avoidance of doubt previously claimed mitigation by the suggested improvement from the status quo by putting the Clarecastle wastewater through the Clareabbey plant cannot be taken into consideration at AAQ screening stage.

6. Current upgrade works for the Clareabbey plant granted permission under **18/1004** is to improve the inlet screening mechanism and the provision of a stormwater tank. It is stated not to be adding any additional capacity (EIAR Clarecastle Sewage Scheme). The planning permission does not address the issue of a stormwater overflow from the proposed tank and there is no permission for one. It does not address what happens when the stormwater tank reaches full capacity.
7. This referral and appeal is grounded in the fact that the Clareabbey plant is already overloaded and there is no proper assessment of the likely impacts the wastewater load arising in Clarecastle will have on the SAC and particularly the section of the river between the two current discharges. At the very least this requires proper statutory oversight in advance of any works. This Planning Authority already has all the information required but for whatever reason it neglected to consider it in determining this referral.
8. I have not been afforded an opportunity to inspect the mandatory AA screening which should have been carried out prior to a determination being made. The determination neglects to include a conclusion, or any reference, to the mandatory AIE and/or AA screening process of the outcomes. It simply states that it considers this referral substantially the same as a previous referral **R21-61**. It neglected to state that it complied with the mandatory requirement to have regard to s.5 (7) Board decisions as prescribed.

through the plant reducing both retention times in the aeration tank and settlement tank and at times forcing untreated wastewater through the plant. When the pumps at Westfields either fail or do not have the capacity for the flow the untreated wastewater simply discharges directly to the River Fergus SAC. Clearly none of these facts have been considered in this referral because if they were a stage 2 Appropriate Assessment would have been required and by default planning permission for all works involved in the connection of Clareccastle wastewater to the Clareabbey plant. For the avoidance of doubt previously claimed mitigation by the suggested improvement from the status quo by putting the Clareccastle wastewater through the Clareabbey plant cannot be taken into consideration at AAC screening stage.

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9. It clearly did not assess the likely significant effects the Clarecastle loading will impact on the section of the River Fergus SAC between the Clareabbey discharge point and the existing Clarecastle discharge point in a river currently rated to be of poor quality. The Planning Authority is fully aware of the history of this agglomeration. It has been responsible for the granting of every planning permission since 1964 including all connections to the Clarecastle wastewater works and the Clareabbey plant. As recently as the 16th December 2019 it granted planning permissions under a Part VIII self-development **19/8013** for the connection of two dwellings to this untreated works. In October 2017 it granted permission for 24 dwellings with connection to this untreated works in **17/550**. In EOD application **11/684** it extended a planning permission for 54 houses to be connected to this untreated works.
10. There have been three previous referrals regarding queries around elements of these proposed works. The first referral by Brian Barry in R19-39 did not consider the issue of the current loading on the Clarecastle wwtp and did not take cognisance of the requirements of section 5(7). The AA screening carried out is clearly flawed. Mr. Barry sought to appeal that decision to the board but the appeal was rejected on the basis that Mr. Barry's address, care of his Irish based Solicitor, was unacceptable to the Board. Mr. Barry made a second referral in the hope that the planning authority would use its discretion under s.5 (4) and refer directly to the Board for independent assessment. Instead the Planning Authority decided this second referral as exempt development. The referral could not be appealed to the Board on the basis of its previous decision regarding the first appeal.
11. In 2021 Irish Water made a similar referral R21-61 but was careful not to ask about the treatment of additional wastewater in the Clareabbey wwtp. The question posed by Irish Water is classic project splitting. Clearly the intention is that the Clarecastle wastewater is intended to be treated in Clareabbey but Irish Water did not ask that question of whether the likely impacts on the SAC would have a bearing on its exempt development status. I was not aware of this Irish Water referral until preparing this appeal.

9. It clearly did not assess the likely significant effects the Clareccastle loading will impact on the section of the River Fergus SAC between the Clareabbey discharge point and the existing Clareccastle discharge point in a river currently rated to be of poor quality. The Planning Authority is fully aware of the history of this agglomeration. It has been responsible for the granting of every planning permission since 1964 including all connections to the Clareccastle wastewater works and the Clareabbey plant. As recently as the 16th December 2013 it granted planning permissions under a Part VIII self-development 19/8013 for the connection of two dwellings to this untreated works. In October 2017 it granted permission for 24 dwellings with connection to this untreated works in 17/550. In EOD application 11/684 it extended a planning permission for 50 houses to be connected to this untreated works.

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12. In the Planner's Report in **R19-39** regarding Article 9 restrictions on exemptions on page 7 paragraph (viiB) the Planner defers to the Irish Water Screening Report and the EAO report suggesting AA can be screened out. With respect neither of these are the decision maker in this matter. In the conclusion section on page 8 it is concluded based of the conclusions from these two that AA is not required that an exemption applies. It was the duty of the decision making planner to first carry out a proper AA screening and reach a determination as to whether stage 2 AA was required. Table 2 item 5 on page 14 is clearly incorrect. It states no indirect impacts to the SAC which is clearly not the case if a proper assessment of the information in the care of the planning authority was properly assessed. Notwithstanding that the Planner was otherwise obliged to move to Table 3 assessment an incorrect answer was given to item 1.2 regarding discharges. Furthermore it was identified that part of the sewer is to be constructed within a recognised flood zone. Item 1.12 regarding in combination effects was stated as "not applicable" when clearly it is. Item 2C is stated to be not applicable where it clearly is applicable or requires further assessment. The entire table 3 questions except item 1.8 are stated to be "not applicable" when a simple **yes** or **no** answer is required. The mandatory determination refers to 3rd party conclusions and not the decision maker's determination based on all available scientific evidence.
13. The initial Planner's Report in **R19-62** seeks further information on foot of the preliminary AA screening carried out and dated 10th December 2019. It is noteworthy that Table 2 item 5 recognises that further information regarding indirect effects is required. This is a much better assessment where many of the questions are answered "no" where relevant and "further information required" where applicable. The determination correctly concludes that further information is required. The article 9(1)(a)(vii)(B) consideration concludes that it is not clear if PE will exceed 10,000 and require EIA and/or AA- further info required.

12. In the Planner's Report in R19-39 regarding Article 9 restrictions on exemptions on page 7 paragraph (viiB) the Planner defers to the Irish Water Screening Report and the EAO report suggesting AA can be screened out. With respect neither of these are the decision maker in this matter. In the conclusion section on page 8 it is concluded based of the conclusions from these two that AA is not required that an exemption applies. It was the duty of the decision making planner to first carry out a proper AA screening and reach a determination as to whether stage 2 AA was required. Table 2 item 5 on page 14 is clearly incorrect. It states no indirect impacts to the SAC which is clearly not the case if a proper assessment of the information in the care of the planning authority was properly assessed. Notwithstanding that the Planner was otherwise obliged to move to Table 3 assessment an incorrect answer was given to item 1.2 regarding discharges. Furthermore it was identified that part of the sewer is to be constructed within a recognised flood zone. Item 1.12 regarding in combination effects was stated as "not applicable" when clearly it is. Item 2C is stated to be not applicable where it clearly is applicable or requires further assessment. The entire table 3 questions except item 1.5 are stated to be "not applicable" when a simple yes or no answer is required. The mandatory determination refers to 3rd party conclusions and not the decision maker's determination based on all available scientific evidence.

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14. It is of particular note that in an internal email request for his comments following the provision of further information the Senior Engineer Water Services and Environmental Section of Clare County Council answered that he had no comments to make. The person, possibly best placed in the Local Authority to comment, chose not to do so.
15. The second Planner's Assessment, by a different Planner to the first, rules out the need for mandatory EIA on the basis that the plant is of a PE less than 10,000. There was no proper assessment of this. Current AER's, without the addition of any Clarecastle wastewater, indicate PE's up to 17,000. There was no attempt by the decision maker to inform themselves of these best scientific facts.
16. Curiously, without any prompting by the applicant in this referral, the Planner makes an attempt to address the issue of project splitting. In the test for project splitting the Planner takes a PE of 6,000 as fact without any further analysis even though PE's up to 17,000 are demonstrated in AER's and CCC itself recognised the plant to be at capacity in 2004. A proper assessment of both the current loading and the additional proposed Clarecastle loading would clearly bring the planning into mandatory EIA territory. It is also most obvious that this plant needs urgent extension or replacement. That will require Appropriate Assessment and planning permission. The additional loading proposed from Clarecastle will form part of need for this new or extended plant. The two projects are clearly interdependent and therefore this is a classic case of project splitting. Stage 2 Appropriate Assessment should have been carried out to take cognisance of all likely impacts.
17. The Planner completely misses the point regarding project splitting and the fundamental point decided in O'Grainna [2014] IEHC 632. The point is that the Clareabbey wwtp is over capacity and the Clarecastle wastewater cannot be connected to the plant. It will require a significant extension which will require EIA and AA. The pipeline on its own serves no function without connection to the overloaded plant. That is the relevance of O'Grianna to this situation.

14. It is of particular note that in an internal email request for his comments following the provision of further information the Senior Engineer Water Services and Environmental Section of Clare County Council answered that he had no comments to make. The person, possibly best placed in the Local Authority to comment, chose not to do so.

15. The second Planner's Assessment, by a different Planner to the first, rules out the need for mandatory EIA on the basis that the plant is of a PE less than 10,000. There was no proper assessment of this. Current AER's, without the addition of any Clarecastle wastewater, indicate PE's up to 12,000. There was no attempt by the decision maker to inform themselves of these best scientific facts.

16. Curiously, without any prompting by the applicant in this referral, the Planner makes an attempt to address the issue of project splitting. In the test for project splitting the Planner takes a PE of 6,000 as fact without any further analysis even though PE's up to 12,000 are demonstrated in AER's and CCC itself recognised the plant to be at capacity in 2004. A proper assessment of both the current loading and the additional proposed Clarecastle loading would clearly bring the planning into mandatory EIA territory. It is also most obvious that this plant needs urgent extension or replacement. That will require Appropriate Assessment and planning permission. The additional loading proposed from Clarecastle will form part of need for this new or extended plant. The two projects are clearly interdependent and therefore this is a classic case of project splitting. Stage 2 Appropriate Assessment should have been carried out to take cognisance of all likely impacts.

17. The Planner completely misses the point regarding project splitting and the fundamental point decided in O'Grianna [2014] IEHC 632. The point is that the Clarrabbey wwtp is over capacity and the Clarecastle wastewater cannot be connected to the plant. It will require a significant extension which will require EIA and AA. The pipeline on its own serves no function without connection to the overloaded plant. That is the relevance of O Grianna to this situation.

18. The second AA screening in this referral carried out by a different Planner mimics the table 2 & 3 answers provided the AA screening for R19-39. This determination refers to 3rd party conclusions and not the decision maker's determination based on all available scientific evidence. The referral or its determination does not address the issues or likely significant impacts on the SAC from the additional wastewater to be applied to the Clareabbey wwtp. It is telling to compare the initial and follow-up AA screening carried out by two different Planners in this referral.
19. FI received from Irish Water on the 2/1/2020 states Clareabbey was constructed 1980/1 with PE 4,000 and upgraded in 2000/1 to a PE of 6,000. It the states without any confirmation that there is capacity to take the Clarecastle wastewater. It states that the existing discharge licence is in the range 2,000-10,000 and that it is up to the EPA to review. The suggestion is that the licence covers up to a PE of 10,000 which is anything but the case. Ref to 3.2.1 and 3.2.2 of AA screening report and 2.6 page 26 EIA screening report.
20. I am at a disadvantage given that I cannot access the Planner's Report or the AA screening in this current referral **R22-1** but it is clear from the determination that once again a proper assessment of the likely significant impacts on the SAC, already rated a poor quality, was not made including an assessment of the true current PE for this plant. New section 5 referrals require changed circumstances. This referral provides evidence that the planning authority was aware that this plant was at capacity in 2004. It further provides evidence that the planning authority continued to allow additional loadings to both the Clareabbey wwtp and the Clarecastle wastewater works.
21. Further procedural duties were ignored in the aftermath of the declaration by ignoring Article 7 of **S.I. No. 296/2018 - European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018**[1].

[1] See Appendix A

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19. FI received from Irish Water on the 2/12/2020 states Clareabbey was constructed 1980/1 with PE 4,000 and upgraded in 2000/1 to a PE of 6,000. It the states without any confirmation that there is capacity to take the foreseeable wastewater. It states that the existing discharge licence is in the range 4,000-10,000 and that it is up to the EPA to review. The suggestion is that the licence covers up to a PE of 10,000 which is anything but the case. Ref to 3.2.1 and 3.2.2 of AA screening report and 2.6 page 26 EIA screening report

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Conclusions:

There is no treatment of the wastewater arising in the agglomeration of Clarecastle. There are no statistics available as to volumes arising from Clarecastle as no monitoring occurs. It currently discharges untreated to the River Fergus. Irish Water intends to cease this discharge by pumping this wastewater to the Clareabbey WWTP which is currently operating above its design capacity and in breach of its Discharge Licence.

The Clareabbey wastewater treatment plant discharges to the River Fergus which discharges to the Shannon Estuary. Both of these are European Sites which, downstream of the Clarecastle barrage, also form part of the River Shannon and River Fergus Estuaries Special Protection Area estuarine complex (Site Code 004077). Furthermore, up to Ballyallia Lake, the Fergus Estuary is included in the Lower River Shannon candidate Special Area of Conservation (SAC, Site No 002165).

Any increase in the loading on this plant could have a significant negative impact on these sites. Clearly an extension and increase in capacity of the plant is required before any additional loading can be applied. This will require planning permission which will automatically require EIA and Appropriate Assessment by the Planning Authority in the first instance.

It is worth noting that the Clareabbey WWTP does not have a storm water overflow. This is currently facilitated by a SWO from the Westfields pump station through which all wastewater entering Clareabbey is processed. This is likely to change with Clarecastle wastewater going direct to Clareabbey bye-passing the Westfields pump station. Either way this addition in volume will increase the SWO's to the European sites and must undergo appropriate assessment.

The PA did not consider information within its own possession regarding the design and loadings on Clareabbey wwtp and the loadings form the Clarecastle agglomeration to which it is the principle holder of such information.

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Project Splitting:

If the process initiated by Irish Water to pump the Clarecastle wastewater to Clareabbey is not part of a bigger plan then the situation is even worse than the Appellant fears. It is unconscionable that a body tasked with complying with the European Regulations would contemplate increasing the loading on such a plant which is discharging to an already compromised sensitive environment.

Therefore it is reasonable to assume that this proposal will form part of a bigger plan around the Clareabbey plant. This needs to be appropriately designed and assessed in accordance with proper planning and sustainable development. It is disingenuous of Irish Water to split this project to avoid proper oversight of the overall plan. If the Appellant did not highlight this issue it is possible that there would be no consideration of the increased loading and this unlicensed plant would continue at a grossly overloaded and dysfunctional capacity.

Planning exemption is a necessary and valuable aspect of a functioning planning process. It is recognised to be a privilege and therefore it is important that it is not abused, particularly by public bodies, which should be beyond repute in planning matters. In general it makes sense that Irish Water should be free to develop or replace normal sewers as the need arises where there is no likely negative impacts on protected environments. That is the purpose of the privilege of exempt development. This is not such a case.

There is ample case law which has held against project splitting in such circumstances. The Bord will be aware of the Ballycumber case, which is very similar to this appeal.

Natural Justice:

The two pillars of Natural Justice are;

A. "nemo iudex in causa sua". No Man can be a Judge in his own cause, and
B. "audi alteram partem". A right to a fair hearing or to hear the other side.

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B. "audi alteram partem". A right to a fair hearing on both the other side.

The subject declaration made by the Planning Authority refers to "*details and particulars submitted by Irish Water*". As a result of the Planning Authorities negligence to comply with requirements at Appendix A (2) the Appellant is unable to review what was submitted but in any event he had an opportunity to review a report associated with the Irish Water CPO application. This report arrived at a determination that an EIA and Appropriate Assessment were not required for the rising main. This determination was carried out by Irish Water, on its own behalf, which is not "**the decision maker**" or a competent body in carrying out EIA or Appropriate Assessments. Furthermore it conveniently did not address potential impacts on the European Sites. Project splitting facilitated this determination.

The relevant amendments to the legislation at Appendix A may well have been made with a view to the requirements of Natural Justice. In any event it is unconscionable that Irish Water can be Judge in its own cause without any public consultation or input regarding environmental implications.

Material Contravention:

This declaration by the Planning Authority is a **material** contravention of its own Development Plan. In volume 3a of the County Development Plan the objective V3(a)18 states:

a) To advocate the provision by Irish Water of adequate wastewater facilities to accommodate the target population and the employment potential of the Plan area **in accordance with statutory obligations as set out by EU and National policy**; (writers emphasis)

b) To facilitate the development of new, or upgrade of existing, wastewater treatment facilities to serve Ennis and Clarecastle and their environs **subject to protection of the environment, and in compliance with the Habitats Directive and other environmental considerations.**

The subject declaration made by the Planning Authority refers to "works and permitted" submitted by Irish Water". As a result of the Planning Authorities negligence to comply with requirements at Appendix A (2) the Appellant is unable to review what was submitted but in any event he had an opportunity to review a report associated with the Irish Water CPO application. This report arrived at a determination that an EIA and Appropriate Assessment were not required for the rising main. This determination was carried out by Irish Water, on its own behalf, which is not "the decision maker" or a competent body in carrying out EIA or Appropriate Assessments. Furthermore it conveniently did not address potential impacts on the European Sites. Project splitting facilitated this determination.

The relevant amendments to the legislation at Appendix A may well have been made with a view to the requirements of Natural Justice. In any event it is unconscionable that Irish Water can be judge in its own cause without any public consultation or input regarding environmental implications.

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b) To facilitate the development of new, or upgrade of existing, wastewater treatment facilities to serve Ennis and Clarecastle and their environs subject to protection of the environment, and in compliance with the Habitats Directive and other environmental considerations.

The Appellant respectfully requests that the Bord overturn the declaration of the Planning Authority and make its own declaration that EIA, AA and planning permission is required for this development based on proper process, proper planning and sustainable development grounded in the Development Plan, National Legislation and European Regulation.

Michael Duffy.

Appellant

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Michael Duffy

Appellant

Appendix A

{Some elements **highlighted** for emphasis by writer}

1) S.I. No. 600/2001 - Planning and Development Regulations, 2001

9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would—

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

S.I. No. 454/2011 - Planning and Development (Amendment) (No. 2) Regulations 2011.

Amendment of Article 9 of the Regulations

5. Article 9 of the Regulations is amended by the substitution of the following sub-paragraphs for sub-paragraph (1)(a)(vii):

(viiB) **comprise development in relation to which a planning authority** or An Bord Pleanála **is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.**

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2) S.I. No. 296/2018 - European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018

7. Section 5 of the Act of 2000 is amended—

(a) in subsection (2)—

(i) in paragraph (a), by the substitution of "paragraphs (b) and (ba)" for "paragraph (b)", and

(ii) by the insertion of the following paragraph after paragraph (b): and

(b) by the insertion of the following subsections after subsection (7):

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(Some elements highlighted for emphasis by writer)

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(ii) by the insertion of the following paragraph after paragraph (b): and

(b) by the insertion of the following subsections after subsection (2):

"(7A) **A planning authority** or the Board, as the case may be, **shall**, in respect of a development or proposed development specified in Part 2 of Schedule 5 to the Planning and Development Regulations 2001, **specify in its declaration or decision**, as the case may be, whether the development **or proposed development identified in the request under subsection (1)** or in the referral under subsection (3) or (4), as the case may be, **would be likely to have significant effects on the environment by virtue, at the least, of the nature, size or location of such development and require an environmental impact assessment.**

(7B)(a) **Where the planning authority issues its declaration on a request under subsection (1)** or the Board makes its decision on a referral under subsection (3) or (4), as the case may be, **the following documents shall**, within **3 working days, be placed on the planning authority's** or Board's, as the case may be, **website for inspection** and be made available for inspection and purchase by members of the public during office hours at the offices of the authority or Board, as the case may be, **for at least the minimum period referred to in paragraph (b):**

(i) **a copy of the question arising** as to what is or is not development or is or is not exempted development within the meaning of this Act and any information, particulars, evidence, written study or further information received or obtained from any of the following:

(I) the person making the request or referral, as the case may be;

(II) the owner or occupier of the land in question;

(III) any other person;

(ii) **a copy of any submissions or observations** in relation to the question arising as to what is or is not development or is or is not exempted development within the meaning of this Act;

(iii) **a copy of any report prepared by or for the authority** or the Board, as the case may be, in relation to the request or referral;

(iv) **a copy of the declaration of the authority** or the decision of the Board, as the case may be, in respect of the question identified in the request under subsection (1) or in the referral under subsection (3) or (4), as the case may be.

(b) **The minimum period for the purposes of paragraph (a) is 8 weeks** from the date of the issue of the declaration by the planning authority or the date of the decision of the Board, as the case may be.

"(7A) A planning authority or the Board, as the case may be, shall, in respect of a development or proposed development specified in Part 2 of Schedule 5 to the Planning and Development Regulations 2001, specify in its declaration or decision, as the case may be, whether the development or proposed development identified in the request under subsection (1) or in the referral under subsection (3) or (4), as the case may be, would be likely to have significant effects on the environment by virtue, at the least, of the nature, size or location of such development and require an environmental impact assessment.

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(b) The minimum period for the purposes of paragraph (a) is 8 weeks from the date of the issue of the declaration by the planning authority or the date of the decision of the Board, as the case may be.

3) Planning and Development Act 2000

4(1)(g) development consisting of the carrying out by any local authority or statutory undertaker of any works for the purpose of inspecting, repairing, renewing, altering or removing any sewers, mains, pipes, cables, overhead wires, or other apparatus, including the excavation of any street or other land for that purpose;

4(4) The Minister may, in connection with the Council Directive, prescribe development or classes of development which, notwithstanding *subsection (1)(a)*, shall not be exempted development.

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4) S.I. No. 29/2018 - Planning and Development (Amendment) Regulations 2018

Class 58

Development by Irish Water, for the purpose of the provision of water services, consisting of one or more of the following:

(*a*) the inspection, maintenance, repair, renewal or removal of pipes, cables, water mains, sewers, including associated accessories, service connections, boundary boxes, kiosks, intakes, overhead wires, meters and other apparatus, including the excavation of any street or other land for that purpose;

(*b*) the installation of either or both— (i) underground pipes, cables, water mains, sewers, including associated accessories, service connections, boundary boxes and meters, and,

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Appendix B

The following is some relevant information but by no means the extent of all information available to the Planning Authority regarding details of both Clareabbey wwtp and Clarecastle wastewater works.

I. **Extracts from application of Clare County Council to EPA for discharge licence D0199-01**

See 9.1 of non tech summary re. lack of capacity

The design flow for the temporary WWTP is 5,000 PE, with some existing flow to the Clareabbey plant to be diverted to the new plant as soon as may be. The agreement refers to diversion of 1,000PE flow from the existing Clareabbey plant to the new temporary facility. This new facility will also provide for phosphorus reduction in the discharge from the system

9.2 refers to a planned 50,000 PE plant to cater for Ennis but not due until 2012. In the interim increased capacity is required to provide capacity in the catchment. Reference is made to P06/1754, Attachment B-6 for the temporary private wwtp which was never constructed. This discharge licence application did not allow for any of the Clarecastle loading or subsequent loadings granted permission in the Clareabbey catchment. The temporary plant was never built but the planning authority continued to permit applications in the catchment and also in the Clarecastle agglomeration which was conditioned to be c0onnected to the temporary wwtp but were allowed to be constructed and increase the loading of untreated wastewater currently discharging in Clarecastle.

Drawing details, site location and design calculations are provided as an attachment to this report (Attachment G-3). The rationale behind the design and the estimation of population equivalent takes account of the existing and forthcoming developments in the catchment, to ensure the adequacy of wastewater treatment provisions for the existing and medium term period (up to 2012 as a minimum)

The upgrading of pumping stations is included in the schedule of works associated with the DBO contract for the temporary WWTP. This will include the upgrading and sealing of the Kildysert Road pumping station, and construction of a new pumping station to divert flow from the existing treatment works to the new temporary facility.

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9.2 Long term measures to address infrastructure deficiencies. The improvement in wastewater treatment infrastructure for Ennis town was included in the National Water Services Investment Programme, scheduled to commence construction in 2005, with a completion date of 2007. This project provides for the construction of a single wastewater treatment facility, to cater for 50,000 population equivalent, adjacent to the site of the Clareabbey WWTP. The project involves pumping the discharges from the Ennis town catchments to the Clareabbey location, with de-commissioning of both the Clonroadmore and Clareabbey WWTPs, as they currently exist. The project is due to be completed in 2012. As indicated in Section 9.1, Clare County Council are now actively involved with the provision of a temporary treatment facility, which will cater for some of the existing loading to the Clareabbey plant, and also for any additional loading arising in the period between now and construction of the new permanent facility. The existing discharge volumes and associated nutrient loads present a limited risk of pollution to water quality in the Fergus River. Taking account of the projected increase in the population of the entire Ennis agglomeration, the typical cost of nutrient reduction in wastewater treatment plants, and the land footprint available for expansion of the existing treatment plants, the proposal (in the National Water Services Investment Programme) is to provide a new 50,000 capacity treatment works at the site of the existing Clareabbey waste water treatment plant. The Council has already acquired the site for the proposed treatment works. A brief to facilitate the appointment of consultants proceeding to the full design stage- is currently being considered by the Department of Environment, Heritage and Local Government (DoEHLG). The DoEHLG already approved a preliminary report on the scheme. The time frame for completion of the design and approval of design criteria and performance targets is linked to the time frame for approval of this data by the DoEHLG. The final contract will be based on a design-build-operate (DBO) approach.

The Fergus River upstream of the Clarecastle barrage will not provide adequate assimilative capacity for the treated effluent from a 50,000 capacity treatment plant. Studies have been undertaken on the Upper Fergus Estuary, downstream of the Clarecastle barrage. A 2D hydrodynamic model was constructed for the Hydro Environmental Ltd study "Fergus Estuary Water Quality Model Study- Outfall Site Selection" was assembled in 2002. This predictive model was used to assess a range of options for discharge of treated wastewater from the Ennis agglomeration. The model considered a B.O.D load from 50,000 population equivalent, (@ 25mg/litre) providing 225 kgs/day to the Fergus estuary, discharged via a diffuser arrangement. This load combined with the Roche Ireland Ltd load of 200 kgs/day would be within the assimilative capacity of the estuary, which is thought to be circa 500 kgs/day. It was further considered that the Fergus estuary would be able to assimilate the total nitrogen load from the 50,000-population equivalent (circa115 kgs/day). Phosphorus loading was not considered in this exercise due to the tidal nature of the estuary.

9.2 Long term measures to address infrastructure deficiencies. The improvement in wastewater treatment infrastructure for Ennis town was included in the National Water Services Investment Programme, scheduled to commence construction in 2005, with a completion date of 2007. This project provides for the construction of a single wastewater treatment facility, to cater for 50,000 population equivalent, adjacent to the site of the Clareabbey WWTP. The project involves pumping the discharges from the Ennis town catchments to the Clareabbey location, with de-commissioning of both the Clonroadmore and Clareabbey WWTPs, as they currently exist. The project is due to be completed in 2012. As indicated in section 9.1, Clare County Council are now actively involved with the provision of a temporary treatment facility, which will cater for some of the existing loading to the Clareabbey plant, and also for any additional loading arising in the period between now and construction of the new permanent facility. The existing discharge volumes and associated nutrient loads present a limited risk of pollution to water quality in the Fergus River. Taking account of the projected increase in the population of the entire Ennis agglomeration, the typical cost of nutrient reduction in wastewater treatment plants, and the land footprint available for expansion of the existing treatment plants, the proposal (in the National Water Services Investment Programme) is to provide a new 50,000 capacity treatment works at the site of the existing Clareabbey waste water treatment plant. The Council has already acquired the site for the proposed treatment works. A brief to facilitate the appointment of consultants proceeding to the full design stage- is currently being considered by the Department of Environment, Heritage and Local Government (DoEHLG). The DoEHLG already approved a preliminary report on the scheme. The time frame for completion of the design and approval of design criteria and performance targets is linked to the time frame for approval of this data by the DoEH.G. The final contract will be based on a design-build-operate (DBO) approach.

The Fergus River upstream of the Clarecastle barrage will not provide adequate assimilative capacity for the treated effluent from a 50,000 capacity treatment plant. Studies have been undertaken on the Upper Fergus Estuary, downstream of the Clarecastle barrage. A 2D hydrodynamic model was constructed for the Hydro Environmental ltd. study "Fergus Estuary Water Quality Model Study- Outfall Site Selection" was assembled in 2002. The predictive model was used to assess a range of options for discharge of treated wastewater from the Ennis agglomeration. The model considered a B.O.D load from 50,000 population equivalent, (@ 25mg/litre) providing 225 kgs/day to the Fergus estuary, discharged via a diffuser arrangement. This load combined with the Shannon Ireland ltd. load of 200 kgs/day would be within the assimilative capacity of the estuary, which is thought to be circa 500 kg/day. It was further considered that the Fergus estuary would be able to assimilate the total nitrogen load from the 50,000-population equivalent (circa 15 kgs/day). Phosphorus loading was not considered in this exercise due to the tidal nature of the estuary.

Original 4,000 PE retention = 40hrs but reduced to 24hrs when increased to 6,000 PE.

Prior to the recent works on the inlet screen the capacity of the screen was at 4 l/sec for a PE of 1,540. Anything above that proceeded to the aeration tank unscreened.

The single pump in Westfields operating at the time of the application was capable of dealing with a PE of 12,300. The planned pumping capacity for westfields at that time was for a PE of 16,100. There is no SWO recorded for the Clareabbey plant. At this pumping capacity would result in a residence time in the aeration tank of 10 hours. Despite valiant attempts to screen the true operation PE of this plant AER's have demonstrated flows equivalent to a PE of 17,400 and that does not take account of the unmeasured SWO from Westfileds pump station.

The current project intends to add the unknown loading from Clarecastle to this dysfunctional plant without any assessment of impacts on the SAC to which it discharges.

Final settlement tank =585m^3 or 292m^2
The figures for final settlement retention times are completely incorrect.
On design 1 basis;
3 DWF is 112.5 m^3/hr not the quoted 0.38m^3/hr
And
6 DWF is 225m^3/hr not the 0.77m^3/hr quoted

On design 2 basis for 6,000 PE
3 DWF is 169 m^3/hr
And
6 DWF is 338m^3/hr

II. Details from planning permission 06/642
III. Details from planning permission 08/12
IV. Details from planning permission 08/1978
V. Details from planning permission 18/1007
VI. Details from planning permission 19/8003
VII. Clare County Council list s.5 determinations

Original 4,000 PE retention = 40hrs but reduced to 24hrs when increased to 6,000 PE

Prior to the recent works on the inlet screen the capacity of the screen was at 4 l/sec for a PE of 1,540. Anything above that proceeded to the aeration tank unscreened.

The single pump in Westfields operating at the time of the application was capable of dealing with a PE of 12,300. The planned pumping capacity for westfields at that time was for a PE of 16,100. There is no SWO recorded for the Clareabbey plant. At this pumping capacity would result in a residence time in the aeration tank of 10 hours. Despite valiant attempts to screen the true operation PE of this plant AER's have demonstrated flows equivalent to a PE of 17,400 and that does not take account of the unmeasured SWO from Westfields pump station.

The current project intends to add the unknown loading from Clarecastle to this dysfunctional plant without any assessment of impacts on the SAC to which it discharges.

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And

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On design 2 basis for 6,000 PE

3 DWF is 169 m^3/hr

And

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II. Details from planning permission 05/642

III. Details from planning permission 08/12

IV. Details from planning permission 08/1978

V. Details from planning permission 18/1007

VI. Details from planning permission 19/8003

VII. Clare County Council list s.5 determinations

COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL

Section 5 Declarations Issued

Under Section 5 of the Planning and Development Act, 2000 (as amended), a person can seek a formal declaration from the planning authority to establish if there is a requirement for planning permission for a specific proposal. A list of Section 5 declarations issued are below.

2022

- 19/07/22 R22-42 Bodyke GAA
- 19/07/22 R22-41 Bunratty Mead & Liqueur Ltd
- 11/07/22 R22-40 Gerard Hamilton
- 27/06/22 R22-37 Colin O'Callaghan
- 28/06/22 R22-36 Maree Vaughan
- 14/06/22 R22-35 Sinead Carroll
- 29/03/22 R22-17 Irish Aerial Creation Centre
- 09/06/22 R22-34 George P. Hughes
- 09/06/22 R22-20 Nicolas Rynne
- 07/06/22 R22-33 Thomas Coyne - Kilfenora NS

Section 5 Declarations Issued

Under section 5 of the Planning and Development Act, 2000 (as amended), a person can seek a formal declaration from the planning authority to establish if there is a requirement for planning permission for a specific proposal. A list of section 5 declarations issued are below:

2022

- 19/07/22 R422-22 Ballyvaughan
- 19/07/22 R22-41 Burrren/Ballyvaughan
- 14/07/22 R22-40 [illegible]
- 27/06/22 R22-36 Corofin/Corcomroe
- 28/06/22 R22-34 Burren/Ballyvaughan
- 14/06/22 R22-35 [illegible]
- 20/03/22 R22-1 [illegible]
- 09/02/22 R22-5 [illegible]
- 09/02/22 R22-6 [illegible]
- 04/02/22 R22-2 [illegible]
- 04/02/22 R22-3 [illegible]

07/06/22 R22-32 Therese McMurry Hewlett
30/05/22 R22-28 Enda O'Connor
12/05/22 R22-27 Jane Gilleran - Inland Fisheries Ireland
16/05/22 R22-26 Aidan Looney - St. Joseph's NS, Miltown Malbay
13/05/22 R22-22 Michael Nugent
11/05/22 R22-30 Joseph & Deirdre Burke
11/05/22 R22-31 Joseph Burke
09/05/22 R22-25 Ann Marie & Evan O'Keeffe
12/04/22 R22-24 Sean & Frances Earls
05/04/22 R22-23 Stephen Sheedy
29/03/22 R22-16 PJ Torpey
20/04/22 R22-13 Eircom Limited - Part 2
20/04/22 R22-13 Eircom Limited - Part 1
23/03/22 R22-19 Frank O'Grady
24/03/22 R22-18 Joe McInerney
10/03/22 R22-15 Martin Meaney
14/03/22 R22-12 John Cusack
03/03/22 R22-11 Brian MacCoitir & Carmel Breen
08/03/22 R22-10 Michael Considine
03/03/22 R22-9 Sara Carson-Smith
24/02/22 R22-8 Pat O'Donohue
21/02/22 R22-7 David O'Connor
07/02/22 R22-6 Brendan Crowley
07/02/22 R22-5 On Tower Ireland Ltd
08/02/22 R22-4 Irish Rail
31/01/22 R22-3 Grazyna Matuszak
04/02/22 R22-2 Jack O'Brien

2021

- 25/01/22 R21-74 NBI Infrastructure DAC T/A National Broadband Ireland (NBI)
- 27/01/22 R21-73 NBI Infrastructure DAC T/A National Broadband Ireland (NBI)
- 25/01/22 R21-72 Alan Cummins Ltd
- 23/12/21 R21-71 Michael Morrissy
- 23/12/21 R21-70 Michael J. Eustace
- 11/01/22 R21-69 Ben Donnelly
- 13/12/21 R21-68 John O'Brien
- 13/12/21 R21-67 John Conneely
- 19/11/21 R21-61 Irish Water Part 4
- 19/11/21 R21-61 Irish Water Part 3
- 19/11/21 R21-61 Irish Water Part 2
- 19/11/21 R21-61 Irish Water Part 1
- 07/01/21 R20-53 Michael Kelleher
- 06/12/21 R21-66 Dasos Foraos Management Ltd
- 06/12/21 R21-65 Dasos Foraos Management Ltd
- 17/11/21 R21-64 Brian Keane
- 29/11/21 R21-63 Geoffrey McMahon
- 16/11/21 R21-60 Michele Tacconi
- 15/11/21 R21-59 Gerard Madden
- 11/11/21 R21-58 Pauline Collins
- 04/10/21 R21-56 James Neylon
- 29/09/21 R21-55 Gerard Cantrell
- 28/09/21 R21-54 Eoin Neville
- 13/09/21 R21-53 Irish Rail
- 01/09/21 R21-52 Gabrielle & David O'Brien

- 06/09/21 R21-51 Gerard Madden
- 01/09/21 R21-49 Sean Eyres
- 01/09/21 R21-48 Patrick Lacey
- 26/08/21 R21-47 Therese Colleran
- 25/08/21 R21-46 Mervin Hehir
- 24/08/21 R21-45 Gerard Madden
- 09/08/21 R21-43 Frances McMackin
- 09/08/21 R21-42 Maurene Walsh
- 23/07/21 R 21-39 Beckman Coulter
- 06/08/21 R21-35 Jacques Brennan
- 19/07/21 R21-36 Met Eireann
- 22/07/21 R21-37 Gerard Madden
- 25/06/21 R21-34 Thomas & Jessica Mellett
- 18/06/21 R21-33 Patricia McKee
- 10/06/21 R21-32 John Hunt
- 03/06/21 R21-31 John O Neill
- 02/06/21 R21-30 Billy and Elizabeth Loughnane
- 20/05/21 R21-25 Michael Hehir
- 19/05/21 R21-27 Marina Levitina & Colm Hogan
- 14/05/21 R21-23 Patrick Ryan
- 20/04/21 R20-25 Pat Quinn
- 11/05/21 R21-24 Patrick Meehan
- 11/05/21 R21-22 Kilrush Maritime Ltd
- 04/05/21 R21-21 Michelle Quigley
- 04/05/21 R21-20 Odran Madden
- 23/04/21 R21-17 Brendan Keane
- 15/04/21 R21-16 John Cotter
- 13/04/21 R21-15 Ciaran Mullins

- 01/04/21 R21-14 Madge O Callaghan
- 01/04/21 R21-12 Sara Carson-Smith
- 31/03/21 R21-11 David & Martina O'Sullivan
- 01/04/21 R21-9 Siobhan Ni Ghairbhith
- 12/03/21 R21-6 David and Fiona Whelan
- 26/02/21 R20-44 Fiona MacCarthy
- 02/03/21 R21-7 Joseph Kearney
- 18/02/21 R21-1 Ayo Conneely
- 18/02/21 R21-2 Donagh Madigan
- 24/02/21 R21-3 Lonadale Ltd
- 24/02/21 R21-4 Mr John & Mrs Shelly Gavin
- 12/02/21 R21-5 Extern Ireland
- 18/02/21 R19-62 Brian Barry

Page last reviewed: 18/02/21

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CLARE COUNTY COUNCIL

Pre-Planning Inquiry

Techinal Report

File no. PP18 246

Received date 2/11/18

Applicant Irish Water

Development Location Clareabbey WWTP

Planner

Killaloe [ ] West [ ] ~~Shannon~~/Ennis [X]

Zonings

Town / Village	[ ]	Residential	[ ]	Drumcliff Inner / Outer Protection Zone	[ ]
Cluster	[ ]	Low Density Residential	[ ]	High Pressure Pipe Line	[X]
Strong Urban pressure	[ ]	Existing Residential	[ ]	Community	[ ]
Heritage Landscape	[ ]	Tourism	[ ]	High Status Water Body	[ ]
Scenic Route	[ ]	Mixed use	[ ]	Seveso Site	[ ]
Wetlands	[X]	Commercial Use	[ ]	Seveso Consultation Zone	[ ]
Working Landscape	[ ]	SAC / SPA	[X]	Flood Risk Zone (A) (B)	[X]
Road N85	[X]	NHA / pNHA	[ ]	Shellfish	[ ]
Protected Structure	[ ]	ACA	[ ]	Wind Energy Acceptable in Principle Y N	[ ]
Walkways	[ ]	Archaeology / Monuments	[ ]	Other Settlement Land	[ ]
		Utilities	[X]	Pearl Mussel Catchment Area	[ ]

History on site		*Monument number*	
		RPS number	
History Nearby	062015	Exemption cert number	
		Exemption cert referred	
PPI on site	PPI-16-261	Validated by	DR
		Validated on	6/11/18

Map Available [✓] Location discernible [✓]

Comments

Phonecall with agent 23-11-18

Informed of previous pre-planning PP16-261

→ AA Screening required → no gaps with regard to technical specifications

→ Agent informed that EIA Screening nearing completion.

→ Visually prominent site → Appropriate design, colours + screening required.

→ Qualitative improvement of treatment screening with no quantitative increase in loading proposed.

23-11-18

CLARE COUNTY COUNCIL

Pre Planning Inquiry

Technical Report

File no. PP18 241 Received date 2/11/18

Applicant Irish Water

Development Location Clarecastley WWTP

Planner

Killaloe [ ] West [ ] Shannon/Ennis [X]

Zonings

Town / Village		Residential	
Cluster		Low Density Residential	
Strong Urban pressure		Existing Residential	
Heritage Landscape		Tourism	
Scenic Route		Mixed use	
Wetlands	X	Commercial Use	
Working Landscape		SAC / SPA	
Road RPS	X	NHA / pNHA	
Protected Structure		ACA	
Walkway		Archaeology / Monuments	

Drumcliff Inner / Outer Protection Zone	
High Pressure Pipe Line	X
Community	
High Status Water Body	
Seveso Site	
Seveso Consultation zone	
Flood Risk Zone (A / B)	X
Shellfish	
Wind Energy Acceptable in Principle Y N	
Other Settlement Land	
Pearl Mussel Catchment Area	

History on site		Monument number	
		RPS number	
History Nearby	UL2015	Exemption cert number	
		Exemption cert referred	
PPI on site	PPI 16 241	Validated by	[illegible]
		Validated on	6/11/18

Map Available [X] Location discernible [X]

Comments

Phoneall with agent 23-11-18

Informed of previous pre-planning PP16-241

→ AA Screening required → no scope with regard to technical specifications

→ Agent informed that EIA Screening requires completion

→ Usually prominent → Appropriate design, coloured screening required

→ Guidelines requirement of treatment screening with no quantitative increase in loading proposed.

Siobhan Mungovan

From: Siobhan Mungovan
Sent: 02 November 2018 11:01
To: 'dolaoghaire@jbbarry.ie'
Subject: PP18-246

A Chara

I wish to acknowledge receipt of your recent pre-planning submission in respect of land at Clareabbey, Co Clare.

Please note the Area Planner will be in contact in due course

Mise le Meas

Siobhan Mungovan
Clerical Officer
Planning Department
Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2
T: 065 6846212 | E: smungovan@clarecoco.ie | W: www.clarecoco.ie

COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL

Siobhan Munnoyan

From: Siobhan Munnoyan
Sent: 02 November 2018 11:01
To: 'dolanplanning@bbarry.ie'
Subject: PP-18-240

A Chara

I wish to acknowledge receipt of your recent pre-planning submission in respect of lands at Clareabbey, Co Clare.

Please note the Area Planner will be in contact in due course.

Táise le Meas

Siobhan Munnoyan
Clerical Officer
Planning Department
Clare County Council, Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2
T: 065 6846212 E: smunnoyan@clarecoco.ie | W: www.clarecoco.ie

COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL

PP 18-246

Siobhan Mungovan

From: Siobhan Longe
Sent: 26 October 2018 16:51
To: Siobhan Mungovan
Subject: FW: Pre-Planning Meeting Request - Clareabbey WWTP inlet works upgrade
Attachments: Clareabbey Pre-Plan Consult form.pdf; 18701-JBB-00-XX-DR-C-5204_Clareabbey Proposed Site Layout_P01.01.pdf; 18701-JBB-00-XX-DR-C-5202_Clareabbey Site Location Plan_P01.01.pdf; 18701-JBB-00-XX-DR-C-5203_Clareabbey Existing Site Layout_P01.01.pdf

From: Donal O'Laoghaire [mailto:dolaoghaire@jbbarry.ie]
Sent: 26 October 2018 16:39
To: planoff
Subject: Pre-Planning Meeting Request - Clareabbey WWTP inlet works upgrade

Project: Clareabbey WWTP – Inlet Works Upgrade
Subject: Pre-Planning Meeting Request

Dear Sir/Madam,
Please see attached completed application form for a pre-planning meeting regarding the proposed upgrade works to the existing Clareabbey Waste Water Treatment plant. Please also find attached the following drawings; site location plan, existing site layout and preliminary proposed site layout. We have been asked by our client to submit planning application by Thursday 22nd November 2018. I would be grateful to schedule a pre-planning meeting at your earliest convience.

Kind Regards,

Dónal Ó Laoghaire, BEng MSc CEng MIEI
J. B. Barry and Partners Limited, Consulting Engineers

dolaoghaire@jbbarry.ie

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http://www.jbbarry.ie/privacy.html

Siobhan Mungovan

From:	Siobhan Lodge
Sent:	26 October 2018 16:59
To:	Siobhan Mungovan
Subject:	FW: Pre-Planning Meeting Request - Clareabbey WWTP inlet works upgrade
Attachments:	Clareabbey Pre-Plan Consult form.pdf, 18701-JBB-00-XX-DR-C-5204_Clareabbey Proposed Site Layout_P01.01.pdf, 18701-JBB-00-XX-DR-C-5202_Clareabbey Site Location Plan_P01.01.pdf, 18701-JBB-00-XX-DR-C-5203_Clareabbey Existing Site Layout_P01.01.pdf

From: Donal O'Laoghaire [mailto:donalolaoghaire@barry.ie]
Sent: 26 October 2018 16:59
To: planoff
Subject: Pre-Planning Meeting Request - Clareabbey WWTP inlet works upgrade

Project: Clareabbey WWTP – Inlet Works Upgrade
Subject: Pre-Planning Meeting Request

Dear Sir/Madam

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Kind Regards,

Dónal Ó Laoghaire, BEng MSc CEng MIEI
B. Barry and Partners Limited, Consulting Engineers

Clare County Council

Application for wastewater discharge licence for Clareabbey treatment plant

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Non-technical summary

In accordance with Article 5 of Waste Water Discharge (Authorisation) Regulations, S.I. 684 of 2007

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Clare County Council

Application for wastewater discharge licence for Clareabbey treatment plant

Non-technical summary

Section A: Non-technical summary

1. Introduction

Clare County Council is required to make an application to the Environmental Protection Agency (E.P.A) for a licence to discharge treated wastewater from the wastewater treatment plant (WWTP) at Clareabbey, serving the southern end of the Ennis town agglomeration, in accordance with Article 5 of the *Wastewater Discharge (Authorisation) Regulations 2007, (S.I No 684 of 2007)*, on or before 22nd September 2008. The application form and its attachments are completed, as required by the E.P.A, in accordance with guidance notes provided by the Agency. Burke Environmental Services prepared the application for Clare County Council.

2. Description of Ennis town catchments

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Ennis is the county town of Clare, located on the N18, some 24 miles north of Limerick City and 40 miles south of Galway City. The town is mainly concentrated in an area of low ground, generally below 10mOD, in the lower catchment of the River Fergus, within the tidally affected reaches of the river. Ennis town has experienced steady growth during recent years, with the level of housing development in line with national trends, and due to its proximity to Shannon, Limerick and Galway. The Claureen/Inch River is tributary of the Fergus and joins the Fergus on the Western side of the town. Upstream of this confluence, the Fergus River branches into two parts. The major branch flows through the town centre. The minor branch flows in an easterly direction, rejoining the main river just downstream of the Clonroad Bridge. The major reaches of the Fergus and Claureen rivers, in the vicinity of Ennis town is provided as Attachment A-1.

The topography of the town has shaped the development of the sewerage system into four sub-catchments, namely Tulla Road, Francis Street, Clareabbey and Clarecastle, with each sub-catchment draining to a main pumping station. (Attachment A-2). Foul flows from the Westfields pumping station are directed to the Clareabbey WWTP, via rising mains, with an estimated population loading of 6,095, generating an average loading of 21 litres/sec, and a peak load of 34 litres/sec (based on the

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Section A: Non-technical summary

1. Introduction

Clare County Council is required to make an application to the Environmental Protection Agency (E.P.A.) for a licence to discharge treated wastewater from the wastewater treatment plant (WWTP) at Clarecastle, serving the southern end of the Ennis town agglomeration. In accordance with Article 5 of the Wastewater Discharge (Authorisation) Regulations 2007, (S.I. No 684 of 2007), on or before 22nd September 2008. The application form and its attachments are completed, as required by the E.P.A. in accordance with guidance notes provided by the Agency. Burke Environmental Services prepared the application for Clare County Council.

2. Description of Ennis town catchments

Ennis is the county town of Clare, located on the N18, some 24 miles north of Limerick City and 40 miles south of Galway City. The town is mainly concentrated in an area of low ground, generally below 10mOD, in the lower catchment of the River Fergus, within the tidally affected reaches of the river. Ennis town has experienced steady growth during recent years, with the level of housing development in line with national trends, and due to its proximity to Shannon, Limerick and Galway. The Clareen/Inch River is tributary of the Fergus and joins the Fergus on the Western side of the town. Upstream of this confluence, the Fergus River branches into two parts. The major branch flows through the town centre. The minor branch flows in an easterly direction, rejoining the main river just downstream of the Clonroad Bridge. The major reaches of the Fergus and Clareen rivers, in the vicinity of Ennis town is provided as Attachment A-1.

The topography of the town has shaped the development of the sewerage system into four sub-catchments, namely Tulla Road, Francis Street, Clarecastle and Clareen, with each sub-catchment draining to a main pumping station. (Attachment A-2). Foul flows from the Westfields pumping station are directed to the Clarecastle WWTP, via rising main, with an estimated population loading of 6,095, generating an average loading of 21 litres/sec, and a peak load of 34 litres/sec based on the

August 2008 maximum pumping rate from Westfields pumping station). A map indicating the catchment served by the Clareabbey plant, the location of the Clareabbey treatment plant, and the pumping stations is provided as Attachment B-1, and an aerial view of the catchment is provided as Attachment A-3

Westfields pumping station is the main pumping station serving the southern area of Ennis and environs catchment. The Clareabbey sub-catchment stretches from St. Flannans College and Ard Aoibheann estate on the northern end to the Kildysert Cross Junction at the southern end, and from the railway line in Toberteaskan at the eastern end to College Green (St. Flannan's Drive) on the western boundary.

3. Wastewater sources

Domestic and commercial sources of wastewater are the main components of the discharge to the Clareabbey wastewater treatment plant. The commercial sector is made up of discharges from the West County Hotel, numerous Bed & Breakfast facilities and the Quin Road Industrial estate. The business activities located in the Quin Road Industrial Estates are primarily dry industries, with no trade effluent licences to discharge trade effluent to sewer (under Section 16 of the Local Government (Water Pollution) Act, 1977). The West County Hotel discharge is licensed under Section 16 of the Act, and appropriate grease removal facilities are fitted on this discharge line. A copy of this licence is provided as Attachment A-4 to this application.

The population of Ennis and Environs was calculated for each of the town's sub-catchments (Attachment A-2) for the Ennis Main Drainage and Flooding Study in 2001. The existing residential population in the Clareabbey catchment was estimated as 2,955 in this study. Significant older areas of housing development in the Clareabbey catchment (mainly Kildysert Road, Ballybeg and Tobarteascain) are not linked to the town sewer infrastructure, but operate on single house septic tank disposal units. While these houses are included in the population count, they will not be relevant in the context of existing flow volumes to the Clareabbey plant. The total industrial, commercial and institutional population in the Clareabbey catchment was calculated as 998, providing a total population of 3,953. In November 2001, (at the time of the survey) the population arising from planning applications pending

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August 2008 maximum pumping rate from Westfields pumping station). A map indicating the catchment served by the Clareabbey plant, the location of the Clareabbey treatment plant, and the pumping stations is provided as Attachment B-1, and an aerial view of the catchment is provided as Attachment A-3

Westfields pumping station is the main pumping station serving the southern area of Ennis and environs catchment. The Clareabbey sub-catchment stretches from St. Flannans College and Ard Aoibheann estate on the northern end to the Kildysert Cross Junction at the southern end, and from the railway line in Toberteaskan at the eastern end to College Green (St. Flannan's Drive) on the western boundary.

3. Wastewater sources

Domestic and commercial sources of wastewater are the main components of the discharge to the Clareabbey wastewater treatment plant. The commercial sector is made up of discharges from the West County Hotel, numerous Bed & Breakfast facilities and the Quin Road Industrial estate. The business activities located in the Quin Road Industrial Estates are primarily dry industries, with no trade effluent licences to discharge trade effluent to sewer (under Section 16 of the Local Government (Water Pollution) Act, 1977). The West County Hotel discharge is licensed under Section 16 of the Act, and appropriate grease removal facilities are fitted on this discharge line. A copy of this licence is provided as Attachment A-4 to this application.

The population of Ennis and Environs was calculated for each of the town's sub-catchments (Attachment A-2) for the Ennis Main Drainage and Flooding Study in 2001. The existing residential population in the Clareabbey catchment was estimated as 2,955 in this study. Significant older areas of housing development in the Clareabbey catchment (mainly Kildysert Road, Ballybeg and Toberteascain) are not linked to the town sewer infrastructure, but operate on single house septic tank disposal units. While these houses are included in the population count, they will not be relevant in the context of existing flow volumes to the Clareabbey plant. The total industrial, commercial and institutional population in the Clareabbey catchment was calculated as 998, providing a total population of 3,953. In November 2001, (at the time of the survey) the population arising from planning applications pending

approval in the Clareabbey catchment was 324. Between 2003 and 2008 (inclusive) permission has been granted for 1185 residential units (both houses and apartments), with associated population equivalent estimated at 2920. The detail of permissions granted in recent years is provided in Attachment A-5 to this application.

4. The Wastewater Treatment Plant (WWTP)

The Clareabbey WWTP was constructed in 1981/1982, on the west side of the Ennis-Limerick railway line, approximately 500m south of the ruins of the Augustinian Clare Abbey. The plant is now clearly visible from the Ennis by-pass, just south of the railway bridge. The access route to the plant is from the Limerick Road, near Kildysert Cross, via a lay-by, sharing the access route with the old GAA pitch and a small number of private dwellings.

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The original design data for the plant indicates that the plant was constructed to serve a population equivalent (PE) of 4,000, and an upgrade to the plant in 2001/2002 provided improved screening and aeration, to provide treatment for 6,000 P.E. The design data is summarised in Table 1 hereunder:

Table 1: Design data for Clareabbey WWTP

Parameter	Initial plant	Upgrade
Design Load	4000	6000
DWF	900 m^3/day	1350 m^3/day
BOD_5 Load	240 kg/day	360 kg/day

The above design was based on previous definitions of population equivalent and dry weather flow, with 60grms BOD and 225 litres flow per head per day. Under the Waste Water Discharge (Authorisation) Regulations, 2007, the calculation of population equivalent is based the maximum average weekly flow entering the waste water works during the year and measurement of organic biodegradable load for this

approval in the Clareabbey catchment was 324. Between 2003 and 2008 (inclusive) permission has been granted for 1185 residential units (both houses and apartments), with associated population equivalent estimated at 2920. The detail of permissions granted in recent years is provided in Attachment A-2 to this application.

4. The Wastewater Treatment Plant (WWTP)

The Clareabbey WWTP was constructed in 1981/1982, on the west side of the Ennis-Limerick railway line, approximately 500m south of the ruins of the Augustinian Clare Abbey. The plant is now clearly visible from the Ennis by-pass, just south of the railway bridge. The access route to the plant is from the Limerick Road, near Kildysert Cross, via a lay-by, sharing the access route with the old CIA A pitch and a small number of private dwellings.

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