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Johnstown Castle
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RE;

<u>P0968-01</u>	MS Patterson Limited	Drumineney, Cooladerry and, Coolaghy, Raphoe, County Donegal.
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Dear Sir/Madam

The Environmental Impact Assessment Directive 2011-92-EU states at Article 3;

*The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 12, the **direct and indirect effects** of a project on the following factors:*

And at Annex IV:

4. A description (1) of the likely significant effects of the proposed project on the environment resulting from:

(1) This description should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the project.

The Advocate General states in Case C-113/12

It is for the producer of slurry to prove his intention to use it as fertiliser and to do so with a degree of certainty sufficient to dispel all reasonable doubt as to the risk of improper use.

It is our submission that the details of the proposed disposal of the slurry generated must be included in the EIS and made open to public consultation.

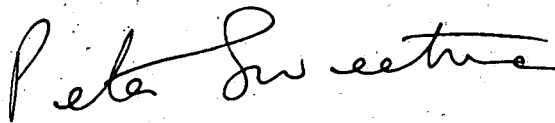
The CJEU found in Case C-258/11 that the correct interpretation of Article 6.2 is

46. I would pause here to note that, although the words 'likely to have [an] effect' used in the English-language version of the text (18) may immediately bring to mind the need to establish a degree of probability – that is to say that they may appear to require an immediate, and quite possibly detailed, determination of the impact that the plan or project in question might have on the site – the expression used in other language versions is weaker. Thus, for example, in the French version, the expression is 'susceptible d'affecter', the

German version uses the phrase 'beeinträchtigen könnte', the Dutch refers to a plan or project which 'gevolgen kan hebben', while the Spanish uses the expression 'pueda afectar'. Each of those versions suggests that the test is set at a lower level and that the question is simply whether the plan or project concerned is capable of having an effect. It is in that sense that the English 'likely to' should be understood.

Therefore the correct interpretation when screening a project for Appropriate Assessment is **"is it capable of having an effect"**.

Yours faithfully



Peter Sweetman

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