

Inspector's Report ABP-308487-20

Development Retain extensions and amendments to

existing garage, change the use of

same to office/ reception, erect a steel

shed adjacent to same to

accommodate pet incinerator for

proposed pet crematorium

Location Shanahoe, Co. Laois

Planning Authority Laois County Council

Planning Authority Reg. Ref. 20/177

Applicant(s) Garry Byrne

Type of Application Retention Permission and Permission

Planning Authority Decision Grant retention permission and

permission

Type of Appeal Third Party

Appellant(s) Jane Cosgrove

Observer(s) None

Date of Site Inspection 15th April 2021

Inspector Phillippa Joyce

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Shanahoe, approximately 0.5km to the northeast of Shanahoe village, and c.5km northwest of Abbeyleix town. The site is located on the western side of local tertiary road, L-16561, a cul de sac along which are a number of single rural dwellings and farms.
- 1.2. The site has a stated area of 0.21 ha, is rectangular in configuration, and rises in ground level from the public road to the southeast. The site accommodates a detached dwelling, and the garage structure, subject of the appeal case, is located in the northwestern corner of the site. Directly adjacent to the north of the site is another detached dwelling, while in close proximity to the south and east of the site are other detached residential properties. Otherwise, to the northwest and southwest of the site are fields in agricultural use.
- 1.3. The Barnadarrig Stream runs along the field at the rear of the subject property, c.75m from the northern site boundary. The ground level falls in a northwesterly direction from the site across the field towards the stream. The stream is a narrow, slow flowing watercourse. On the western side of the stream is an area of smallscale forestry/ tree cover, while on the eastern of the stream is a ponded area with reeds growing. The stream flows in a northerly direction, intersecting with the River Nore c.1.25km to the north of the site.

2.0 Proposed Development

- 2.1. The proposed development comprises, firstly, in respect of the existing garage structure, retention permission for extensions and amendments to the garage and permission for the change of use of the garage to an office/ reception; and secondly, permission for a new shed structure for use as a pet crematorium. The proposed office/ reception area is associated with the pet crematorium use and includes a farewell room and toilet facilities.
- 2.2. In respect of the garage structure, the plans submitted indicate retention of an extension on the northern elevation, measuring 5 sqm, incorporating a new porch and entrance area, and the first floor level. The garage is a two storey structure, the floor area of which is indicated as measuring 91 sqm. The proposed reception area

- is located at the ground floor level and office storage is indicated at first floor area. The proposed shed for the crematorium is sited 5m to the southwest of the office/reception building and is linked via a paved area.
- 2.3. In respect of the newly proposed shed, this is a single storey steel clad structure indicated as measuring 18 sqm. The shed will accommodate the incinerator machine with a flue protruding from the roof of the shed. Manufacturing details accompany the application indicating the incinerator machine (principal dimensions), general process (fuel type), capacity (eight house pets per day) and expected emissions (range of matter/ gases). The site layout plan indicates new tree planting along the site's driveway and adjacent to the shed.
- 2.4. In the supplementary form for commercial/ industrial developments with the application, the applicant indicates the hours of operation of the pet crematorium to be 9am-5pm Monday to Friday, with two employees, the applicant and his wife. Three car parking spaces are to be provided, and these are located between the shed and the rear of the dwelling. In the cover letter, the applicant indicates the facility is well located to serve Laois, Offaly, Carlow, Tipperary, Kildare and Kilkenny.
- 2.5. In the application form, the applicant indicates the water supply is from an existing private well, wastewater is an existing on-site treatment system, and surface water disposal is via a soakpit.
- 2.6. Further Information (FI) and Clarification of Further Information (CFI) were requested during the processing of the application. These items related to nature of the operation, traffic generation, noise, air emissions, and water services infrastructure. The design or scale of the structures did not change.

3.0 Planning Authority Decision

3.1. Summary of Decision

- 3.1.1. On 29th September 2020, the planning authority issued a Notification of Decision to Grant Permission subject to 13 conditions. The conditions are relatively standard and those of note include:
 - Condition 2 removal of exempted development provisions in respect to advertisements and signage;

- Condition 4 days and hours of operation are indicated as 9am-5pm Monday to Saturday, not Sundays or bank holidays;
- Condition 7 surface water permitted to be collected and disposed of in on-site soakpits, drains or adjacent watercourses, and not to the wastewater treatment plant;
- Condition 9 air emissions to not create a nuisance for adjacent properties;
- Condition 10 noise levels during operation not to exceed 55 db LAeq 1 hr at the nearest noise sensitive boundary; and
- Condition 11 a) the development to operate in accordance with Department of Agriculture, Food and the Marine regulations for the collection, storage and cremation of animals; and b) processes, plant, and/ or machinery of the development to operate without detriment to the amenity of the area by reason of noise, vibration, smell fumes, smoke or discharge.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planner's Report

The planner's reports are the basis for the planning authority decision. The key items in the initial planner's report are summarised as follows:

- Site is not located in an Archaeological Zone, Flood Zones A and/ or B, nor in or immediately adjacent to any Natura 2000 sites;
- Discrepancy in the information provided on the scale of operation and traffic generated noted;
- Absence of information on noise, odour or smoke emissions associated with the incinerator noted; and
- Requirements of Environmental Health Officer (EHO) in respect of information on water services infrastructure noted.

Further Information Response Planner's Report

The subsequent planner's report assessing the FI response notes the following key items:

- Accepts information provided in respect of traffic generation (estimation of 5-15 collections and deliveries trips per week), emissions (manufacturer specifications submitted indicating incinerator is odourless and smokeless), and water services infrastructure (correspondence stating sufficient capacity in the wastewater treatment system for extra load arising from toilet provided in the proposed development, which is stated as not being significant); and water sample stated as being in good condition from a laboratory analysis);
- Noise information not provided; and
- Discrepancy in information provided on days of operation (Monday-Friday initially indicated, while FI response indicates operating 7 days a week).

Clarification of Further Information Response Planner's Report

The final planner's report assessing the CFI response notes the following key items:

- Noise information submitted (manufacturer specifications); and
- Applicant indicates willingness to not operate on Sundays and bank holidays.
- Recommends permission be granted subject to 13 conditions.

3.2.2. Other Technical Reports

<u>Environmental Health Officer</u> – initial report highlights there should be evidence of sufficient capacity in the wastewater treatment system to serve the proposed development; evidence of potability of water supply for members of the public using the proposed development; and advises applicant should contact EPA/ Local Authority to obtain required licences from Department of Agriculture, Food and Marine. In subsequent report, notes FI response and states no further comments.

<u>Area Engineer</u> – no report received.

<u>Environment Section</u> – no initial report received. Email correspondence on foot of the CFI response. Concern expressed in respect of potential air emissions, and recommends conditions in respect of air emissions, noise levels and compliance with Department of Agriculture, Food and Marine regulations to be attached if permission granted.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

3.4.1. One third party submission was received by the planning authority stating that the pet crematorium is unsuitable to the location; would be contrary to the Development Plan (no specific policies or objectives identified); would injure the amenities of the area and be contrary to the proper planning and sustainable development of area.

4.0 Planning History

Appeal Site

PA Ref. 06/641 (parent permission for the current appeal)

Permission granted on the 25th October 2006 to the applicant for a dwelling house, garage, septic tank with effluent treatment system, mobile home, entrance and all associated site works. This permission has been implemented.

5.0 Policy Context

5.1. County Development Plan

- 5.1.1. The applicable development plan is the Laois County Development Plan 2017-2023 (CDP). The site is located outside of the Shanahoe village settlement plan, which has an associated zoning and objectives map, and is located in the adjacent rural area.
- 5.1.2. The proposed development comprises a new pet crematorium use and a change of use of the existing garage serving a rural dwelling to an office/ reception area associated with the pet crematorium use. The CDP does not identify the pet crematorium use in Chapter 8, Table 31: Land Use Zoning Matrix, nor have any specific policy or objectives for assessing same in Table 32: Development Management Standards.
- 5.1.3. As such, I consider the proposed development to constitute an industrial use in a rural area and accordingly, consider CDP policy and objectives in Chapter 2, Chapter 5, and Chapter 8 to be of relevance to the assessment of the appeal case.

5.1.4. The CDP does not include a rural zoning across the County per se. Regarding relevant CDP designations, in respect of the core strategy the site is located in Zone C lowland agricultural area. The development strategy for which is indicated in Chapter 2 as follows:

Section 2.1.6 Laois Core Strategy Map

'Zone C is made up of lowland mixed farmland and settlements with links to Strategic Transportation Corridors and key development areas. It is envisaged that there will be continued growth in the rural economy through specialist agriculture, diversification into complementary food production, rural tourism development opportunities...'

5.1.5. Chapter 5 relates to economic development and of relevance to the appeal case is Section 5.2 Industrial and Commercial Zoning and Section 5.10 Rural Economic Activities. The former section states:

'As expected, the bulk of the industrial and associated zonings are located in accordance with the settlement strategy which in turn adheres to advice from the Midland Regional Planning Guidelines as to the optimum siting of population growth and employment generation'.

The CDP identifies the key towns in the County for which significant quantum of zoned lands are available, as including Portlaoise, Portarlington, and Abbeyleix.

The latter section identifies and focuses on appropriate rural economic activities as agriculture, afforestation, peatlands, mining and aggregates.

5.1.6. Chapter 6 relates to infrastructure and of relevance to the appeal case is Section6.2.5 Water Framework Directive, and specifically:

Policy WS41

'Ensure that all industrial development is appropriately located, to seek effluent reduction and 'clean production' where feasible, and require that waste water treatment facilities are adequate, and that effluents are treated and discharged in a satisfactory manner'.

5.1.7. The proposed development is an industrial use and accordingly, I consider general policy in Chapter 8, Section 8.5 Development Management Standards to be of

relevance to the assessment of the appeal case. In particular, are DM23, DM26 and DM62 of Table 32: Development Management Standards which are as follows:

DM23: Commercial Development (other than shopping and office development), Warehouses and Industrial Uses/ Businesses Campuses

The criteria for assessment of such developments will include:

- 1) The nature/ activities/ processes of the proposed development and site location factors;
- 2) The compatibility and impact with/ on adjoining uses;
- 3) The traffic implications and alternative access, servicing and sustainable mobility plans / commuting arrangements;
- 4) The quality of building design;
- 5) The site layout including car parking arrangements;
- 6) Landscaping plans;
- 7) The energy efficiency and overall sustainability of the proposed developments;
- 8) Details in relation to surface water/ stormwater management systems.

DM26: Industrial Activities

Where proposed industrial facilities, waste disposal facilities, mineral extraction developments, or other developments that may have a significant impact on surface water quality, ground water quality, or on the water table, the developer will be required (whether as part of an EIS or an Environmental Report) to:

- 1) submit an assessment of the impact of the development on water quality and the water table; mitigatory and monitoring measures should also be included, as appropriate;
- 2) Development proposals that could cause pollution, a reduction in biological or chemical water quality or changes in the water table will not be accepted unless appropriate mitigatory measures are proposed, such as settlement ponds, oil and chemical interceptors, bunding of storage tanks and refuelling areas, capping where ground water is exposed as a result of extraction etc.

DM62: Natura 2000 Sites

The Council will ensure that any plan or project and any associated works, individually or in combination with other plans or projects, are subject to Appropriate

Assessment Screening to ensure there are no likely significant effects on the integrity (defined by the structure and function) of any Natura 2000 site(s) and that the requirements of Article 6(3) and 6(4) of the EU Habitats Directive are fully satisfied. Where this plan or project is likely to have a significant effect on a Natura 2000 site it shall be subject to Appropriate Assessment. The plan or project will proceed only after it has been ascertained that it will not adversely affect the integrity of the site or where in the absence of alternative solutions, the plan/project is deemed imperative for reasons of overriding public interest, all in accordance with the provisions of article 6(3) and 6(4) of the EU Habitats Directive.

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is not located in or immediately adjacent to a European Site, a Natural Heritage Area (NHA) or a proposed NHA (pNHA). The River Nore is located to the north and east of the site, flowing in an easterly direction, turning and continuing in a southerly direction.
- 5.2.2. The associated natural heritage designations in proximity to the site include (measured at closest proximity):
 - River Barrow and River Nore SAC (002162) is 947m to the north and 764m to the east:
 - River Nore SPA (004233) is 1,252m to the north and 798m to the east; and
 - Shanahoe Marsh pNHA (001923) is 1,252m to the north.

5.3. Environmental Impact Assessment Screening

5.3.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The following is a summary of the main issues raised in the third party grounds of appeal:

- Potential unauthorised nature of the garage (construction, use) as an independent separate dwelling and queries the description of development;
- Conflict between the residential use at the site and the newly proposed industrial use due to the shared services, car parking and no clear delineation of areas serving the uses:
- No details (plans, connections, capacity) are provided for wastewater drainage, surface water drainage, and water supply to serve the proposed development;
- Inadequate description of the proposed use and manner of operation to understand and establish the impacts on the adjacent residential and agricultural uses – refers to reliance on manufacturer details as opposed to undertaking specific noise and air emissions impact assessments;
- Refers to An Bord Pleanála decision, PL 17.243449, as being a precedent for the current proposal, whereby permission was refused for a pet crematorium in a rural location in County Meath;
- The proposed development is intended to serve as a regional facility for a number of counties and, as such, the location of a regional facility 'within a back garden of a single one off house in an un-serviced rural area' conflicts with planning policies seeking to consolidate development in urban areas;
- Concern is expressed regarding traffic generation from the proposed development which is estimated at 120 trips within a 7 day period from a regional catchment onto a substandard local tertiary road, which is too narrow to allow two vehicles to pass each other;
- Criticism of the planning authority decision due to:
 - o no consideration of the regional catchment of the facility;
 - no proper assessments of traffic, air, and noise impacts;
 - no consideration of water services infrastructure;
 - no appropriate assessment screening with respect to potential impact on River Nore SAC and the freshwater pearl mussel; and
 - o conditions attached are unenforceable due to absence of technical details;

 Proposed development is should be located on commercial/ industrial zoned lands in existing employment locations or urban areas, and materially contravenes
 Development Plan policy relating to economic development in rural areas, which is land based including agricultural, forestry, and fishing activities.

6.2. Applicant Response

- 6.2.1. The applicant has responded to the third party appeal, the main issues raised include:
 - The crematorium will mainly operate on the basis of the applicant collecting the deceased pet and returning to the premises, though a choice will be offered to customers to deliver and collect their pets by appointment;
 - Applicant's vehicle will mostly be used in the operation, use of appointments will ensure that only one vehicle will be entering/ leaving the premises so 'there will be no adverse side affects to the road structure';
 - Plenty of segregation between the residence and the shed housing the incinerator:
 - Property does not have a private well but is serviced by Ballacolla water scheme;
 - Extra water use will be from a sink which will 'provide running water for cleaning any items necessary for the crematorium';
 - Gutters will be fitted to the shed structure:
 - Customers will be able to use a toilet:
 - Applicant has researched the proposed incinerator, provided manufacturer details, and has support of local neighbours;
 - ABP case referred to has no bearing on the proposed development which is smallscale housing a single incinerator;
 - Applicant does not intend to increase the scale and if decided to 'the proposed increase would be located to an appropriate location outside of this site';
 - Will serve a number of surrounding counties as there is no such service available, but as the premise will be operated on an appointment basis, the applicant can control the level of activity;

- The estimated activity of 10-15 cremations per week is the level of activity applicant comfortable with;
- No adverse effects on the wildlife or agricultural stock as there will be no harmful fluids or chemicals disposed of on the land;
- Reference made to a telephone call with the Department of Agriculture and Marine whereby it is 'very happy to grant a licence';
- Premises is a good distance from the River Nore and if there was a risk it would have been detailed by Laois County Council; and
- Smallscale business, not practical to have it in an industrial estate, will relocate to a bigger premises if a decision is made to grow.

6.3. Planning Authority Response

No response has been received from the planning authority.

6.4. Observations

No observations have been received.

7.0 Planning Assessment

- 7.1. Having reviewed the planning application, third party appeal, and first party response to the appeal, I consider the main issues in determining this appeal are as follows:
 - Proposed Crematorium Use;
 - Residential Amenity;
 - Traffic and Access; and
 - Water Services Infrastructure, Groundwater and Surface Water.

7.2. Proposed Crematorium Use

7.2.1. For assessment purposes, I consider the proposed crematorium operation to be an industrial use in a rural location and have outlined the applicable Laois County Development Plan (CDP) policy in Section 5.0 of this report. I note that the initial planner's report considered the proposed use to be acceptable in principle, with no express reference made to any CDP policy or objective. As stated above, the CDP

- does not include a rural zoning with an associated zoning matrix which would indicate the permissibility, or otherwise, of the proposed industrial use in a rural location.
- 7.2.2. Section 2.1.6 of the CDP indicates growth in the rural economy, for locations such as the appeal site, as being associated with specialist agriculture, food production, and rural tourism. Furthermore, Section 5.2 of the CDP encourages industrial uses to be appropriately located on zoned and serviced lands in existing urban areas which are centres of population growth and employment generation. In this regard, I do not consider the proposed development, in principle, to be consistent with overriding CDP policy on preferred types of rural economic development for the area, or on sustainable locations for industrial development.

7.3. Residential Amenity

- 7.3.1. To determine the impact of the proposed development on the residential amenity of the existing property and that of adjacent properties, the scale and nature of the use needs to be considered. I have reviewed the application and appeal documentation and had regard to the implications of the conditions attached by the planning authority. The main items affecting residential amenity relate to the scale of the operation, in terms of days and hours of operation, traffic generation, and other air emissions and noise impacts.
- 7.3.2. With regard to the scale and times of operation, the applicant states there is capacity for five cremations per day (process taking 2-3 hours) with time allowed between appointments (I note that the manufacturer's details state eight cremations are possible per day). The proposed development, as granted, would be able to operate between 9am and 5pm, six days a week. In this regard, I calculate that the proposed development would have the potential to perform at least 30 cremations per week. Notwithstanding the weekly capacity of the incinerator, the applicant indicates an intention to operate on a less intense scale of 10-15 cremations per week. While I note the applicant's position, it is necessary to assess the full potential of the operation based on the stated capacity of the incinerator and operating times (i.e. the worst-case scenario), and I consider that the permitted level of activity for the proposed development to be a significant intervention at this rural location for the host property and adjacent properties.

- 7.3.3. With regard to traffic generation arising from the proposal, it is stated as being mainly a collection and return delivery service operated by the applicant, but that an appointment system will also be available for customers to bring their pets to the premises. The applicant links the traffic generation with the estimated weekly number of cremations as being 10-15 collection and delivery journeys. In assessing the worst-case scenario, there would be 30 cremations a week, all by appointment with delivery and collection by the customers resulting in a minimum of 60 trips per week (potentially 120 trips if the customers were to leave while the cremation process (2-3 hours) was being undertaken and return, as indicated in the applicant's cover letter). The site is located on a narrow local tertiary road with minimal locations for vehicles to pass each other, and I consider the level of traffic generation associated with the proposal would impact on the residential amenity of properties in the area.
- 7.3.4. With regard to air emissions and noise arising from the proposal, the applicant has submitted manufacturer specifications for the incinerator in the initial documentation, at the Further Information (FI) and Clarification of Further Information (CFI) stages. With regard to emissions, the manufacturer specifications first indicate expected matter/ gases emissions arising from the process, and in the FI response states that the process will be odourless and smokeless. With regard to noise, at the Clarification of FI stage the applicant submits general noise details of the incinerator. The planning authority accepts the information provided and in the grant of permission attaches conditions applicable to these items.
- 7.3.5. I have reviewed the information provided and considered the implications of the conditions. I note that the applicant has not determined the existing air quality and noise environment at the appeal site and that of adjacent sensitive receptors. The manufacturer specifications provided relate solely to the incinerator and the applicant has not analysed or extrapolated the relevant data from the manufacturer specifications as relevant to the proposed development and the appeal site. That being, the applicant has failed to undertake the necessary air quality and noise assessments which would demonstrate that the proposed development would not have an unacceptable impact on the receiving environment. While the FI response states that the incinerator is smokeless and odourless, the initial information does indicate that matter and gas emissions are released into the air.

- 7.3.6. The planning authority has attached general conditions relating to air emissions, noise, vibration, smell, fumes, smoke, discharge (Conditions 9, 10 and 11(b)). However, in my opinion these are not sufficiently precise or enforceable as the applicant has not established the baseline information, identified the nearest noise sensitive boundaries, analysed the impact of the proposed development and, as such, the nature and degree of any 'nuisance' (Condition 9) or 'detriment to the amenity of that area' (Condition 11(b)) is not definitive.
- 7.3.7. With regard to the residential amenity of the appeal site, I consider that the establishment of a new industrial use in two structures to the rear of the residential property will result in a reduction in the level of amenity currently enjoyed by the residence. The garage structure would no longer be available for ancillary use associated with the dwelling, and the provision of the shed structure and car parking area would result in the loss of the private rear garden space of the dwelling. The front garden area, which is relatively exposed from the public road, would instead have to serve as the main private amenity space for the property. While the applicant states in the appeal response that there is plenty of segregation between the residence and the incinerator, I consider the distance of c.15.7m to be somewhat limited. While I note that the applicant (also the owner of the property) is stated as being the operator of the facility, the planning authority has not conditioned that the occupier of the residence be the operator of the facility, nor conditioned that the facility not be sold or sublet from the residence, either such condition I consider to be necessary to protect the residential amenity of the host property.
- 7.3.8. In summary, I consider that the proposed development which has a permitted level of activity comprising 8 hour-days, six days per week of an industrial use to be a significant intervention at this rural location. Notwithstanding the applicant's estimation that the activity level will be less than could be operated, I consider the proposed use has potential to significantly injure the residential amenity of the host property and that of adjacent properties due to negative impacts associated with traffic, noise and air quality emissions. In this regard, I do not consider the proposed development to be in compliance with applicable CDP development management standards which seek to prevent negative impacts from industrial activities on adjoining uses (DM23(1), (2) and (5)).

7.4. Traffic and Access

- 7.4.1. The appeal site is located on the western side of local tertiary road L16561, which is approximately 220m north of the junction with the L1651, the main road running through Shanahoe village. The road the site accesses onto is a cul de sac serving a small number of residences and farms, and is between 4m-5m wide. I note that there is no report from the planning authority Area Engineer on the application.
- 7.4.2. While the applicant states in the appeal response that the distance between the site and main road is very short and there is an area to pull in, from my site inspection the only such area I noted is the entrance serving a residence to the southwest of the site that would allow safe and adequate passing space for vehicles. As outlined in the subsections above, the proposed development has the potential to serve numerous counties and capacity to generate a significant number of destination trips. Additionally, I note that the applicant indicates that a waste management service will be used to collect waste associated with the proposed crematorium.
- 7.4.3. On balance, I consider the existing road infrastructure serving the site to be inadequate to meet the traffic demands associated with the proposed development and, as such, the operation would adversely impact on other road users and the amenities of adjacent properties, in particular the property to the southwest. I do not consider the proposed development to be in compliance with applicable CDP development management standards which seek to prevent traffic impacts from industrial activities (DM23(3)).

7.5. Water Services Infrastructure, Groundwater and Surface Water

- 7.5.1. The applicant indicates that the proposed development will be served by the existing water services infrastructure serving the residence. For water supply, this is newly indicated in the first party appeal response as being the Ballacolla group water scheme, having been indicated as a private well during the processing of the application by the planning authority. For wastewater, there is an existing treatment plant, and for surface water drainage, a soakpit.
- 7.5.2. Water services infrastructure was subject of the FI request due to comments from the Environmental Health Officer, to which the applicant's response stated there was capacity in the treatment plant and analysis was undertaken of drinking water which indicated 'good condition'. I note there is no report from the planning authority Area Engineer on the application, nor on the new details in the appeal response.

- 7.5.3. I have reviewed the application and appeal documentation, and highlight that the applicant has not provided maps clearly indicating the location of the existing infrastructure to serve the proposed development (group water scheme piped network, soakpit(s)), nor any detailed calculation of the additional demand on water supply, extra load of wastewater, and additional surface water run-off from the shed and car parking area, nor provided any documentary evidence of the capacity in these systems to manage the additional demands arising from the proposed development.
- 7.5.4. For example, the applicant states there will be limited additional water and wastewater demands, and that these systems have capacity. The extra demand on water supply will only be from 'running water for cleaning any items necessary for the crematorium'. No further details are provided, for instance whether solvents will be disposed of or if chemicals are used. This soiled water will be discharged to the wastewater treatment plant, and it is unknown if there are any implications for the operation of the treatment plant and whether the plant has capacity. Additionally, with regard to the main purpose of the treatment plant, it is unclear whether there is capacity for 30 potential customers a week using the toilet facilities.
- 7.5.5. Similarly, for example, while the applicant states the surface water runoff will be only rainwater from the shed, I note the soakpit location(s) is not identified, and there is no reference to runoff, either quantity and quality, from the car parking area. Condition 7 allows surface water runoff to be discharged to a soakpit or disposal to a watercourse. As is detailed in Section 8.0 of this report below, the Barnadarrig Stream is a watercourse located c.75m from the rear of the site, which intersects with the River Nore, which has European Site designations. The applicant has not submitted an appropriate assessment screening report or a Natura Impact Statement for the proposed development.
- 7.5.6. In conclusion, I consider that the information provided by the applicant is insufficient with regard to identifying the location and establishing the capacity of the existing water services facilities at the site, unclear about the nature of the use with regard to water use and water/ wastewater disposal associated with the proposed development, and inconclusive for determining the impacts arising from the operation of the proposed development and potential pollution on the groundwater and surface water environments.

7.5.7. In this regard, I do not consider the proposed development to be consistent with CDP policy on managing water pollution impacts associated with industrial developments (WS41), or in compliance with applicable CDP development management standards which seek to prevent groundwater and surface water pollution from industrial activities (DM23(8) and DM26) and to protect the integrity of European Sites (DM62).

7.6. Planning Assessment Conclusion

- 7.6.1. In conclusion, I consider that the proposed development is an inappropriate industrial use at a rural location which is inadequately serviced in terms of transportation and water services infrastructure. I consider that the pet crematorium operation would be more suitably located in an urban centre on industrially zoned and serviced lands which would be an appropriate location to absorb and mitigate against the impacts that are associated with this form of development.
- 7.6.2. The pet crematorium is an industrial activity that has capacity to operate at a significant intensity, with associated noise and air quality impacts, at an otherwise rural residential and agricultural location, and has potential to serve as a destination-trip for a wide catchment of customers, generating a significant amount of traffic. On the basis of the information provided by the applicant with the planning application and appeal response, the Board cannot be satisfied that the proposed development would not be injurious to the residential amenity of the host property and of adjacent properties, and to the amenities of the area through negative impacts associated with traffic, noise, air quality, groundwater and surface water quality.

8.0 Appropriate Assessment

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

8.1.1. The requirements of Article 6(3) of the EU Habitats Directive as relate to screening the need for appropriate assessment of a project under section 177U, part XAB of the Planning and Development Act 2000, as amended, are considered fully in this section.

8.2. Background on the Application

8.2.1. The applicant has not submitted an appropriate assessment screening report or a Natura Impact Statement for the proposed development.

8.3. Screening for Appropriate Assessment

8.3.1. The first test of Article 6(3) is to establish if the project could result in likely significant effects to a European site. This is considered Stage 1 of the appropriate assessment process, that being, screening. The screening stage is intended to be a preliminary examination. If the possibility of significant effects cannot be excluded on the basis of objective information, without extensive investigation or the application of mitigation, a plan or project should be considered to have a likely significant effect and appropriate assessment carried out.

Test of Likely Significant Effects

- 8.3.2. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 8.3.3. The project is examined in relation to any possible interaction with European sites designated SACs and/ or SPAs to assess whether it may give rise to significant effects on any European Site.

8.4. Brief Description of the Development

- 8.4.1. The project at Shanahoe, County Laois, is an industrial development on lands currently used for residential purposes, adjoining Barnadarrig Stream which is located c. 75m from the northern boundary of the subject property. The stream flows in a northerly direction, intersecting with the River Nore c.1.25km to the north of the site. The River Nore is located both to the north and east of the site, as it flows in an easterly direction, then turns and continues in a southerly direction.
- 8.4.2. The proposed development comprises the following elements:
 - New shed structure to accommodate an incinerator for the cremation of house pets;
 - Operation of a pet crematorium facility for commercial purposes between 9am 5pm, Monday to Saturday, exclusive of Sundays and public holidays;

- Change of use of an existing domestic garage to an office/ reception area associated with the pet crematorium use;
- New paved area connecting the structures and new car parking area for three car parking spaces; and
- Connection to existing water services infrastructure used by the residential property to service the proposed development including water supply from a group scheme, wastewater treatment plant, and an existing soakpit.
- 8.4.3. Taking account of the characteristics of the proposed development in terms of its location and scale of works, the following are considered for examination in terms of implications for likely significant effects on European sites:
 - Construction and/ or operation related pollution of groundwater and surface water environments through wastewater and/ or surface water pollution; and
 - Construction and/ or operation related habitat disturbance and/ or species disturbance.

8.5. Submissions and Observations

8.5.1. One third party submission was received on the application, stating the development was inappropriate, and the same observer has made the third party appeal. Of relevance to this screening for appropriate assessment, the appeal highlights that the applicant has not submitted a screening report, there is no evidence of screening for appropriate assessment by the planning authority in its decision, which is a legal requirement due to the site being located in the vicinity of the Nore River SAC which contains, inter alia, the freshwater pearl mussel.

8.6. European Sites

8.6.1. The application site is not located in or immediately adjacent to a European site. There are two European Sites located in close proximity to the appeal site associated with the River Nore. The River Nore has a SAC designation, the River Barrow and River Nore SAC (002162), and a SPA designation, the River Nore SPA (004233) which overlap in parts along the river's length. As measured from the closest northern and eastern corners of the site, the River Barrow and River Nore SAC is 947m to the north and 764m to the east, and the River Nore SPA is 1,252m to the north and 798m to the east.

- 8.6.2. The River Barrow and River Nore SAC consists of the catchments of these two rivers passing through eight counties from the Slieve Bloom mountains in Offaly to the estuary at Creaden (Creadaun) Head in Waterford. In the Conservation Objectives report for the SAC, the National Parks and Wildlife Service (NPWS) identifies 22 qualifying interests, comprising 11 habitats and 11 species with varying objectives for their conservation condition. The River Nore SPA has a single qualifying interest, the kingfisher bird, the conservation objective for which is to maintain or restore its favourable conservation condition.
- 8.6.3. Of note to this screening assessment is the Barnadarrig Stream, which is located c.75m from the northern boundary of the site and flows in a northerly direction intersecting with the River Nore c.1.25km to the north. Due to the topography of the receiving environment, the ground levels, and therefore groundwater and surface water flows, fall in a northwesterly direction from the site towards the stream. As such, and in the absence of any hydrological information submitted by the applicant indicating otherwise, I consider the stream to be a potential hydrological connection from the site to the River Nore.
- 8.6.4. Additionally, from my site inspection and a review of available mapping and aerial photography information, it is apparent that the stream is lined with trees and vegetation along its length from the site to the intersection point with the River Nore. In this regard, and in the absence of any ecological information submitted by the applicant, I consider that the riparian corridor associated with the stream has potential to be habitat for species associated with the European Sites, thereby serving as a potential ecological connection from the site to the River Nore.
- 8.6.5. In my opinion, the European Sites of relevance for consideration in this screening for appropriate assessment are the two European Sites associated with the River Nore. There are no other European Sites that have been considered as being potentially within the zone of influence due to the nature and scale of the proposed development, the distance from, and absence of a connection to the appeal site.
- 8.6.6. A summary of the two European sites including their conservation objectives and qualifying interests, the nature of the connection (source-pathway-receptor), and possibility of likely significant effects arising are presented in the table below. Due to

the potential connections from the site to the River Nore being via the Barnadarrig Stream, the distance to the north is cited in the table below.

Summary of Screening Matrix:

European Site (code) Conservation Objectives and Qualifying Interests	Distance from Devt (m)/ Connection (source- pathway-receptor)	Likely Significant Effect	Screening Conclusion
River Barrow and River Nore SAC (002162) To maintain the favourable conservation condition of the following species – Desmoulin's whorl snail; White- clawed crayfish; and Killarney fern. To restore the favourable conservation condition of the following species – Sea lamprey; Brook lamprey; River lamprey; Twaite shad;	947m (at closest) A hydrological connection exists between the development site (source) via the Barnadarrig Stream (pathway) to the River Barrow and River Nore SAC (receptor). An ecological connection exists between the	Likely significant effects may arise on the water quality in Barnadarrig Stream/ River Nore from pollution during construction and/ or operation phases affecting habitats/ species in the river environment. Likely significant effects may arise on the habitat quality of	Screened in for need for AA as effects cannot be ruled out without further analysis and assessment.
Atlantic salmon; Otter; and Nore freshwater pearl mussel. Conservation objective under review for the species – Freshwater pearl mussel. To maintain the favourable conservation condition	development site (source) via the riparian corridor of the Barnadarrig Stream (pathway) to the River Barrow and River Nore SAC (receptor).	the Barnadarrig Stream riparian corridor/ riverbanks during construction and/ or operation phases affecting species in and/ or along the stream/ river environment.	

of the following habitats – Estuaries; Mudflats and sandflats not covered by sea water at low tide; Salicornia and other annuals colonizing mud and sand; Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation; European dry heaths;
Mudflats and sandflats not covered by sea water at low tide; Salicornia and other annuals colonizing mud and sand; Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation; European
not covered by sea water at low tide; Salicornia and other annuals colonizing mud and sand; Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation; European
water at low tide; Salicornia and other annuals colonizing mud and sand; Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation; European
Salicornia and other annuals colonizing mud and sand; Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation; European
annuals colonizing mud and sand; Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation; European
mud and sand; Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation; European
courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation; European
montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation; European
the Ranunculion fluitantis and Callitricho-Batrachion vegetation; European
fluitantis and Callitricho-Batrachion vegetation; European
Callitricho-Batrachion vegetation; European
vegetation; European
dry heather
dry ricatio,
Hydrophilous tall herb
fringe communities of
plains and of the
montane to alpine
levels; and Petrifying
springs with tufa
formation.
To restore the
favourable
conservation condition
of the following
habitats – Atlantic salt
meadows;
Mediterranean salt
meadows; Old sessile
oak woods with Ilex
and Blechnum in the
British Isles; and
Alluvial forests with
Alnus glutinosa and
Fraxinus excelsior
(Alno-Padion, Alnion
incanae, Salicion
albae).

River Nore SPA (004233) To maintain or restore the favourable conservation condition of the species – Kingfisher.	A hydrological connection exists between the development site (source) via the Barnadarrig Stream (pathway) to the River Nore SPA (receptor).	Likely significant effects may arise on the water quality in Barnadarrig Stream/ River Nore from pollution during construction and/ or operation phases affecting habitats/ species in the river environment.	Screened in for need for AA as effects cannot be ruled out without further analysis and assessment.
	An ecological connection exists between the development site (source) via the riparian corridor of the Barnadarrig Stream (pathway) to the River Nore SPA (receptor).	Likely significant effects may arise on the habitat quality of the Barnadarrig Stream riparian corridor/ riverbanks during construction and/ or operation phases affecting species in and/ or along the stream/ river environment.	

8.7. Identification of Likely Effects

- 8.7.1. As outlined above, the application or appeal documentation does not include a screening report for appropriate assessment, nor is there any ecological assessment provided for the site and/ or the proposed development. As such, it is not known whether the site has any habitats that are associated with species or habitats for which SAC or SPA are designated.
- 8.7.2. I consider the Barnadarrig Stream as being both a potential hydrological connection and a potential ecological connection to the European Sites. In the absence of

- definitive information indicating otherwise, and therefore necessarily applying the precautionary principle, I consider that the likely significant effects on the European Sites may arise due to construction and/ or operation related pollution of groundwater and surface water environments through wastewater and/ or surface water pollution; and related habitat disturbance and/ or species disturbance.
- 8.7.3. In respect of groundwater and surface water, as has been assessed in detail in Section 7.0 of this report, insufficient information has been provided by the applicant in relation to the location and capacity of the existing wastewater and surface water infrastructure, and the nature of the use with regard to water use and wastewater/ surface water disposal. As such, applying the precautionary principle, there exists the potential for pollution of groundwater and surface water environments at the site, thereby affecting the water quality of the Barnadarrig Stream, which in turn flows into the River Nore.
- 8.7.4. In respect of habitats and species, as outlined in the table above, there are numerous plant, fish and animal species protected in the River Barrow and River Nore SAC including otter, lamprey, Atlantic salmon and, of relevance to this upstream location of the River Nore, white clawed crayfish and the Nore freshwater pearl mussel (NPWS's Conservation Objectives report, Map 7). The River Nore SPA protects the kingfisher bird. Due to the absence of any ecological assessment of the site and receiving environment, the presence of these protected habitats and species is simply unknown, for example whether there are protected habitats or fish in the stream, or habitats, otter and kingfisher populations along the riparian corridor of stream. As such, applying the precautionary principle, there is potential for disturbance of protected habitats and/ or species of the European Sites via the hydrological and ecological connections which exist between the Barnadarrig Stream and the River Nore.
- 8.7.5. With regard to in combination effects, in similarity with the findings above, in the absence of information indicating otherwise, the potential for in combination effects between the proposed development and other projects and plans to have significant effects on the European Sites cannot be excluded.

8.8. Mitigation Measures

8.8.1. No measures designed or intended to avoid or reduce any potentially harmful effects of the project on a European Site have been relied upon in this screening.

8.9. Screening Determination

- 8.9.1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out screening for appropriate assessment of the project, it has been concluded that the project individually, or in combination with other plans or projects, could have a significant effect on European Sites, the River Barrow and River Nore SAC (002162) and the River Nore SPA (004233) in view of the sites' Conservation Objectives, and Appropriate Assessment and submission of a Natura Impact Statement is therefore required. The applicant has not submitted a Natura Impact Statement as part of the application or appeal documentation.
- 8.9.2. As such, on the basis of the information provided by the applicant with the planning application and appeal response, and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European Sites, the River Barrow and River Nore SAC (002162) and the River Nore SPA (004233) in view of the sites' Conservation Objectives. In such circumstances the Board is precluded from granting permission for the proposed development.

9.0 Recommendation

I recommend that permission be refused for the proposed development due to the reasons and considerations set out below.

10.0 Reasons and Considerations

1. The proposed development is considered to be an inappropriate form of industrial development at a rural location which is inadequately serviced in terms of transportation and water services infrastructure. The proposed development would be contrary to policy in Section 2.1.6, Section 5.2, and Section 5.10 of the Laois County Development Plan

2017-2023 relating to preferred types of rural economic development and locations for industrial development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 2. On the basis of the information submitted with the planning application and first party appeal response, the Board cannot be satisfied that the proposed development would not be injurious to the residential amenity of the host property and of adjacent properties, and to the amenities of the area through negative impacts associated with traffic, noise, air quality, groundwater and surface water quality. The proposed development would be contrary to Policy WS41 and Development Management Standards DM23, DM26 and DM62 of the Laois County Development Plan 2017-2023 and would, therefore, be contrary to the proper planning and sustainable development of the area.
- On the basis of the information submitted with the application and appeal, and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European Sites, the River Barrow and River Nore SAC (002162) and the River Nore SPA (004233) in view of the European Sites' Conservation Objectives. In such circumstances the Board is precluded from granting permission for the proposed development.

Phillippa Joyce
Senior Planning Inspector

22nd April 2021