



An
Bord
Pleanála

Inspector's Report ABP-311579-21

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| Development | Construct a storage/machinery shed to include all associated site works. Gross floor space of proposed works: 170.8 sqm |
| Location | Cloonmoylan, Ballyshrute, Portumna, Co. Galway |
| Planning Authority | Galway County Council |
| Planning Authority Reg. Ref. | 21311 |
| Applicant | Kevin Gorman |
| Type of Application | Permission |
| Planning Authority Decision | Refuse Permission |
| Type of Appeal | First Party |
| Appellant | Kevin Gorman |
| Observer | None |
| Date of Site Inspection | 10 th March 2022 |
| Inspector | Ian Campbell |

1.0 Site Location and Description

- 1.1 The appeal site is irregular in shape, has a stated area of 0.803 ha, and is located on the southern side of the L87953, east of the junction with the R352 (Power's Cross). Lough Derg is located c. 0.8 km east of the appeal site.
- 1.2 The appeal site accommodates a detached dormer style dwelling. There is a detached garage to the rear/south of the dwelling. The appeal site is elevated relative to the public road, falling from south to north. Topographical levels to the south of the appeal site are indicated as being c. 9.3 metres (OD Malin) and c. 7 metres (OD Malin) to the north of the appeal site, at the boundary with the local road. Mature hedge and trees form the western boundary of the site, with hedgerow forming the southern and eastern boundaries. There is a copse of mature trees beyond the western boundary of the appeal site. The Abbey Stream meanders around part of the western boundary of the appeal site and flows in a south-west to north-east direction, discharging into Lough Derg c. 600 metres north of the appeal site.
- 1.3 The adjoining area is rural in character and the topography of the area is generally flat. There are a number of detached dwellings of varying design in the vicinity of the appeal site. There are also a number of agricultural sheds in the vicinity of the appeal site.
- 1.4 Adjacent lands, to the north-west, east and south-west of the appeal site are indicated as being within the applicant's ownership/control, as depicted by the blue line boundary associated with the appeal site.

2.0 Proposed Development

- 2.1 The proposed development comprises;
- The construction of a pitched roof, portal frame shed with a stated floor area of c. 171 sqm. A ridge height of 6.7 metres is indicated. The proposed shed is set on a concrete slab. Material finishes to the proposed shed comprise plaster finish and cladding (unspecified colour) for the external walls and cladding for the roof. Window opes are indicated on the side/eastern elevation. A roller door is indicated on the front/northern elevation. The proposed structure set back c.

100 metres from the front/northern boundary of the site, c. 7 metres from the western site boundary and at its closest point is c. 30 metres from the existing dwelling on the appeal site.

- Based on the particulars submitted, it is proposed to use the structure for the repair of agricultural machinery and for the applicant's hobby, which is stated as being automotive related.
- Whilst not referred to in the development description contained in the public notices, the proposal also includes the provision of a driveway, constructed from crushed gravel.
- Surface water run-off from the proposed shed is to discharge to a soakpit located to the south of the proposed shed. The particulars submitted with the planning application also refer to the provision of rainwater harvesting.
- The planting of native trees and hedging is indicated to the north of the proposed shed.

2.2 The planning application was accompanied by the following information which is considered of pertinence;

- The proposed shed will be used for the repair of farm machinery owned by the applicant's family. The applicant currently conducts repairs in the open or in sheds which are not suitable for this purpose. The proposal will allow for repairs to be undertaken in a safe and comfortable environment.
- The applicant states that the proposed shed will also be used for his automotive hobbies and that he would store and work on these items in the proposed shed. The applicant also intends to store trailers and his personal belongings in the proposed shed.
- Locating the proposed shed next to the applicant's residence would provide security for the shed and would also allow the applicant to be close to his wife, who has health issues.
- The appeal site is located 1.7 km (by road) from the family farm.

- The family farm holding is fragmented. Folio's GY17848 and GY51603 relate to the family farm and the applicant's parents' home. The registered owner of Folio GY51603 is stated as John Gorman (i.e. the applicant's father).
- Folio GY99369F and GY121606F relate to the applicant's home, and lands to the immediate east and south (where the shed is proposed).
- The planning application was also accompanied by a Site Specific Flood Risk Assessment (SSFRA).

3.0 Planning Authority Decision

3.1 Request for Further Information

Prior to the decision of the Planning Authority to REFUSE permission for the proposed development, the Planning Authority requested Further Information.

3.1.1 Further Information was requested as follows:

- Submit detail of;
 - the applicant's occupation, the extent of ownership of the agricultural holding, and details which substantiate direct agricultural involvement/practice on the indicated farmlands.
 - the existing farmyard serving the agricultural holding (indicated as location of parent's home) and the number and types of structures within the farmyard complex capable of accommodating the storage and maintenance of machinery.
 - the number and type of agricultural machinery to be stored and a justification statement for the space requirement.
- Appropriate Assessment Screening Report, and if necessary a Natura Impact Statement for the proposed development.
- Site Specific Flood Risk Assessment.
- Surface water collection and disposal.

3.1.2 Further Information submitted on 19/08/2021:

- The applicant's father runs the family farm.
 - The applicant is employed as a Mechanical Engineer for a company in Galway. The applicant also works on the family farm on a part time basis, servicing and repairing tractors and farm machinery associated with the family farm.
 - Correspondence from the applicant's parents attesting to the applicant's role in maintaining farm machinery on the family farm and stating that upon the applicant's father's retirement that the applicant will take over the family farm.
 - Photographic survey of existing shed structures on the parents' farm. The existing farm buildings on the farm are not suitable due to considerations relating to size, height and lighting.
 - The size of the proposed shed is required to in order to accommodate 2 no. tractors and 2 no. implements, and to allow for the removal of tractor wheels and axels and to accommodate lifting equipment. The height of the proposed shed is required to facilitate the removal of a tractor cab.
- Appropriate Assessment Screening Report.
 - Flood Risk Assessment.
 - Confirmation that soakpits will be used to cater for surface water run-off and that the gravel driveway will allow for water to permeate naturally.

3.1.3 The Planning Authority issued a Notification of Decision to Refuse Permission on the 13th September 2021 for 2 no. reasons which can be summarised as follows;

1. The proposed shed is unattached to an agricultural holding, is within a Class 3 landscape rural setting and does not constitute a curtilage structure incidental to the residential enjoyment of the dwelling. Having regard to the proximity of the subject site to the indicated farmyard serving the family farm, it is considered that the justification for a storage shed of this nature and scale is not substantiated. The scale and massing of the structure proposed is not considered to be domestic in its overall form or specification, does not assimilate appropriately or integrate effectively into this rural residential site. To permit development of this type would set an undesirable precedent for similar

type developments, would militate against the preservation of the rural environment and would contravene materially Objective LCM1 and Objective LCM 2 contained in the Galway County Development Plan.

2. The subject site is directly linked to a number of designated European sites (Lough Derg (Shannon) SPA, Lough Derg North-East Shore SAC and the Barroughter Bog SAC). The Abbey Stream which runs along a section of the subject site flows into the above designated European sites. The Planning Authority is not satisfied, based on the information available, the information included with the planning application, and the application of the precautionary principle, that significant negative effects on the integrity and conservation objectives of the European sites can be ruled out, particularly in respect of potential impacts of the proposed development during construction phase. Therefore, if permitted as proposed, the development has the potential to adversely affect the qualifying interests and conservation objectives of protected European sites for flora and fauna and would materially contravene Objective NHB1, NHB2 and DM Standard 40 (a) & (b) of the Galway County Development Plan 2015-2021.

I note that the Notification of Decision to Refuse Permission makes reference to **material contravention** of the County Development Plan and as such the provisions of s.37(2)(b) of the Planning and Development Act 2000, as amended, are considered applicable in this case.

3.2 Planning Authority Reports

3.2.1 Planning Reports

The first report of the Planning Officer (dated 26th April 2021) includes the following comments;

- Concerns in relation to the need for a structure of the scale proposed in a residential setting.
- The proposed shed is unattached to a farmyard and limited details have been submitted regarding the nature of the farming practice requiring the proposed

shed. It is not clear if the applicant is the farm owner or the extent to which he is involved in agricultural activity as a livelihood.

- The site is located within an indicative flood risk area. Given the proximity of the site to European sites and the presence of an ecological conduit, AA Screening is considered necessary.

Further Information recommended.

3.2.2 The second report of the Planning Officer (dated 2nd September 2021) includes the following comments;

- The requirement for the proposed shed has not been substantiated on the basis that the farmyard is located 4 minutes from the application site.
- The AA Screening only considers the proposed shed and not the site in the assessment of connectivity to the Abbey Stream. The Abbey Stream forms part of the north-western boundary of the site. 3 no. European sites located downstream are screened out on the basis of the absence of connectivity. The Planning Authority is not satisfied that this is the case and has particular concerns in terms of the proposed works during the construction phase and the potential impact on the adjoining stream, which is a direct conduit to the nearby European sites.

The report of the Planning Officer recommends a refusal of permission consistent with the Notification of Decision which issued.

3.2.3 Other Technical Reports

None received.

3.3 **Prescribed Bodies**

None received.

3.4 **Third Party Observations**

None received.

4.0 Planning History

Appeal Site

PA Ref. 08/1491 – Permission GRANTED for a house, treatment system, domestic shed and access. This development has been implemented.

5.0 Policy Context

5.1 Development Plan

5.1.1 The proposed development was considered by the Planning Authority under the Galway County Development Plan 2015-2021 however the Galway County Development Plan 2022-2028 came into effect on the 20th June 2022 and is now the relevant development plan.

5.1.2 The appeal site is not subject to any specific land-use zoning under the Galway County Development Plan 2022-2028.

5.1.3 In terms of Landscape Character Type, the appeal site is located within the 'Central Galway Complex Landscape' (see Appendix 4 of CDP). Regarding landscape sensitivity, the appeal site is located within a Class 1 'Low Sensitivity Landscape'. The appeal site is not affected by any protected views (see Map 08, Appendix 4) or scenic routes (see Map 09, Appendix 4).

5.1.4 The provisions of the Galway County Development Plan 2022 - 2028 relevant to this assessment are as follows:

- DM Standard 13 – Agricultural Buildings
- DM Standard 17 – Rural Enterprises

5.2 Natural Heritage Designations

- Cloonmoylan Bog SAC – c. 260 metres south-west of appeal site.
- Cloonmoylan Bog pNHA – c. 260 metres south-west of appeal site.
- Barroughter Bog SAC – c. 450 metres north of appeal site.
- Barroughter Bog pNHA – c. 450 metres north of appeal site.
- Lough Derg, North-East Shore SAC – c. 1.1 km east of appeal site.

- Lough Derg (Shannon) SPA – c. 670 metres east of appeal site.
- Lough Derg pNHA – c. 670 metres east of appeal site.
- Slieve Aughty Mountains SPA – c. 1.7 km south-west of appeal site.
- Rosturra Woods SAC – c. 1.9 km west of appeal site.
- Rosturra Woods pNHA – c. 1.9 km west of appeal site.

5.3 EIA Screening

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

I consider that any issues arising from the proximity/connectivity to European sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment).

6.0 The Appeal

6.1 Grounds of Appeal

This is a first-party appeal against the decision to refuse permission. The grounds for appeal can be summarised as follows;

- The applicant is regularly involved in farming activity, helping his parents with the family farm.
- The applicant has a genuine practical and personal need for a shed of this size at this location. The shed is not large and if located within a farmyard would be exempt from the requirement to obtain planning permission.
- The site is not unattached to an agricultural landholding. The family farm is segmented and the site of the applicant's house was part of the farm. Farm lands surround the applicant's site.
- Keeping the applicant's belongings at his parent's home is not an option for security reasons.
- The existing shed on the appeal site is used for domestic purposes.

- There are private boat sheds which are of a substantial size in the vicinity of the appeal site.
- The proposed shed is located to the rear of the site and would blend in.
- There have been no objections to the proposal from neighbouring properties.
- There is no connectivity to any European site.
- The proposed shed will not give rise to any emissions which could affect the eco-system. The proposed shed will not house animals. The attachment of conditions concerning effects on the eco-system would be complied with.
- Construction phase concerns would be alleviated in a management plan.
- The proposed shed is located 25 metres from the stream, 15 metres more than would be required for a septic tank or the spreading of slurry.
- Revised Appropriate Assessment Screening Report submitted (dated 24th September 2021). The revised AA Screening Report reaffirms that there are no surface water connections to the Abbey Stream (referred by the applicant to as the 'Abbey Island Stream') and no discharges to the stream will occur during the construction phase of the proposed development.

6.2 Planning Authority Response

None received.

6.3 Observations

An observation on the appeal was received from the Department of Housing, Local Government and Heritage (DoHLGH). The submission notes that the site is located approximately 300 metres from the Cloonmoylan Bog European site (SAC Site code: 000248) and is upstream of Lough Derg (Shannon) SPA, Lough Derg, NE Shore SAC and Barroughter Bog SAC, which all lie within 1.1 km of the site. The submission notes that prior to granting planning An Bord Pleanála must be satisfied that all planned and potential necessary works have been assessed adequately during the screening procedures, and mitigated for, in order to rule out significant impacts on nearby European sites, their qualifying interest species, habitats and water quality.

7.0 Assessment

7.1 Having examined the application details and all other documentation on file, including the appeal, and having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Principle of/Justification for Development
- Impact on Visual Amenity
- Flooding
- Appropriate Assessment
- Issues Arising

7.2 Principle of/Justification for Development

7.2.1 The proposed development comprises an agricultural shed located within the curtilage of the applicant's dwelling. The use of the proposed structure is stated as being for the repair of agricultural machinery and storage. In addition, the applicant states that he will use the proposed shed for hobby purposes, described as 'automotive related'.

7.2.2 The applicant states that he has a part time role on the family farm, repairing machinery. It is unclear from the documentation submitted with the application/appeal how much of the applicant's time is dedicated to this work. The applicant states in the appeal documentation that he intends to take over the running of the family farm. Based on the information submitted, the applicant does not appear to be involved in other aspects of the farm. The family farmstead, comprising a house and shed structures, is located c. 1.7 km south of the appeal site. Based on the information submitted, I consider the applicant's involvement in agriculture on the family farm to be peripheral, repairing machinery as and when the need arises. On this basis I do not consider that the applicant has provided a satisfactory justification for the proposed shed structure.

7.2.3 The proposed structure is to be located within the curtilage of a dwelling, and not within or adjoining a farmyard/farmstead. Regarding the justification for the location of the proposed shed structure, the applicant contends that siting the proposed shed at his residence would provide security and that it would allow him to be near to his wife,

who suffers ill health. Whilst I consider the principle of an agricultural shed within a rural area to be acceptable, I note that DM Standard 13 of the Galway County Development Plan 2022-2028 provides that where possible new agricultural buildings should be located within or adjoining the existing farmyard complex. I consider that there are implications in terms of sustainability arising from having machinery repaired at a location remote from the farm where it is operating. The optimal arrangement would be to have this activity located on/within close proximity of the farmstead/farm yard. From a visual amenity perspective, clustering the proposed shed with other structures of a similar scale/design would also assist with the visual assimilation of the proposed structure. The applicant states that the family farm is fragmented and that his residence forms part of the family farm. In my opinion, the appeal site, which may have previously been used for agricultural purposes now accommodates the applicant's residence and therefore could no longer be considered to be part of the family farm. Furthermore, irrespective of the fragmented nature of the family landholding, I note that the farmyard and associated sheds are not themselves dispersed, but rather are clustered. Based on the forgoing, I do not consider that the applicant has substantiated a requirement for the proposed shed to be located at the applicant's residence.

7.3 Impact on Visual Amenity

7.3.1 There are a number of agricultural structures in the vicinity however these structures are generally located within farmyards and are grouped with other similar sized structures. I agree with the Planning Authority that the proposed structure has a warehouse appearance. In particular I consider that the large roller shutter door on the front elevation and the windows are not typical of an agricultural shed, and in my view would be incongruous within the curtilage of a residence in a rural area. Whilst the appeal site is located within a Class 1 'Low Sensitivity Landscape', I note that the site is elevated relative to the public road and that the adjoining area is relatively flat, rendering the proposed structure prominent within the immediate landscape. Some screening is provided by the copse of trees along the western boundary of the site however it remains that the proposed structure would be visible when viewed from the north, east and south. The applicant has indicated supplementary planting to the north of the site however in the absence of a landscape plan providing specifications of trees, I am unable to determine how effective this would be and as such I have not

taken account of this proposed screening in my assessment of the proposal. In summation, I consider that the proposed structure, having regard to its scale and design, and to the prominence of the site would negatively affect the visual amenities of the area.

7.4 Flooding

- 7.4.1 The lands to the west and north of the appeal site were indicated as being subject to fluvial flooding in the Strategic Flood Risk Assessment prepared as part of the previous Galway County Development Plan 2015 – 2021, and are similarly indicated as being subject to fluvial flooding in the Strategic Flood Risk Assessment prepared as part of the recently adopted Galway County Development Plan 2022 – 2028. The extent of flooding is based on Preliminary Flood Risk Assessment (PFRA) mapping. I note that these maps are ‘predictive’ flood maps, showing areas predicted to be inundated during a theoretical or ‘design’ flood event, with an estimated probability of occurrence.
- 7.4.2 The applicant has submitted a Site Specific Flood Risk Assessment (SSFRA). The source of flooding is identified as being from the Abbey Stream (i.e. fluvial flooding). Other sources of flooding have been discounted. The SSFRA states that there is no history of flooding on the appeal site, or in the immediate vicinity. The FFL of the proposed shed is 8.5 metres, 2.4 metres above the bank and a freeboard of 3 metres is provided against the 0.1% chance/1000 year return period flood (including an allowance of 20% for climate change). As such the SSFRA states that the proposed development is not within an area at risk of flooding. The SSFRA states that the proposed development will not obstruct natural flow paths and there are no flow paths on site. I therefore consider that the proposed development is acceptable in terms of flood risk and that it accords with the Planning System and Flood Risk Management Guidelines 2009.

7.5 Appropriate Assessment

7.5.1 Stage 1 Screening

- 7.5.2 Compliance. The requirements of Article 6(3) of the Habitats Directive as related to screening the need for appropriate assessment of a project under Part XAB, Section

177U of the Planning and Development Act 2000, as amended, are considered fully in this section.

7.5.3 Background. The applicant submitted an Appropriate Assessment Screening report (dated 30th July 2021) prepared by Moore Group – Environmental Services on foot of a request for further information. A revised Appropriate Assessment Screening report (dated 24th September 2021) prepared by Moore Group – Environmental Services was submitted as part of the appeal submission. I have reviewed both reports and note that the main difference between the reports is the additional detail provided in the latter report in relation to the assessment of likely significant effects and reference to best practice construction methods. I have considered the more recent report in my assessment. The applicant's Stage 1 Appropriate Assessment Screening report concluded that '*it can be excluded, on the basis of objective information, that the proposed development, individually or in combination with other plans or projects, will have a significant effect on a European site. An appropriate assessment is not, therefore, required*'. The applicant's Stage 1 Appropriate Assessment Screening report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European sites within a possible zone of influence of the development. Having reviewed the documents, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

7.5.4 Likely Significant Effects. 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). The proposed development is examined in relation to any possible interaction with European sites designated as SACs and SPAs to assess whether it may give rise to significant effects on any European site.

7.5.5 The Proposed Development. The development comprises;

- The construction of a shed (c. 171 sqm) to be used for the repair of agricultural machinery and the for applicant's automotive hobby.
- The provision of a gravel drive.
- A soakpit.

7.5.6 Potential Effects of the Proposed Development. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of the implications for likely significant effects on European sites:

- The uncontrolled release of pollutants to surface and ground water (e.g. sedimentation, run-off, fuel, oils) at construction phase of the proposed development.
- Potential for ground water contamination from the discharge of pollutants generated by the proposal at operational stage of the proposal.

7.5.7 Submissions and Observations. An observation on the appeal was received from the Department of Housing, Local Government and Heritage (DoHLGH), see paragraph 6.3 (above).

7.5.8 European Sites and Connectivity. A summary of European sites that occur within a possible zone of influence of the proposed development is presented in Table 7.1. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail. I am satisfied that other European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site or given the absence of any direct hydrological or other pathway to the appeal site.

Table 7.1 - Summary Table of European Sites within a possible zone of influence of the proposed development.

| European Site (code) | List of Qualifying interest /Special conservation Interest | Distance from proposed development (Km) | Connections (source, pathway receptor) | Considered further in screening Y/N |
|--|--|---|--|-------------------------------------|
| Cloonmoylan Bog SAC (Site Code 000248) | <ul style="list-style-type: none"> • Active raised bogs [7110] • Degraded raised bogs still capable of natural regeneration [7120] • Depressions on peat substrates of the Rhynchosporion [7150] • Bog woodland [91D0] | c. 260 metres south-west from appeal site | Appeal site is hydrologically connected via the Abbey Stream, however the appeal site is located upstream (the Abbey Stream flows in the opposite direction) | N |

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| | | | from Cloonmoylan Bog and as such I do not consider a likelihood of significant effects | |
| Barroughter Bog SAC (Site Code 000231) | <ul style="list-style-type: none"> Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the Rhynchosporion [7150] | c.450 metres north of appeal site | The appeal site is directly connected to Barroughter Bog SAC via the Abbey Stream, which runs along part of the western boundary of the appeal site. Groundwater could provide a potential pathway between the appeal site and the Abbey Stream. | Y |
| Lough Derg, North-East Shore SAC (Site Code 002241) | <ul style="list-style-type: none"> Juniperus communis formations on heaths or calcareous grasslands [5130] Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210] Alkaline fens [7230] Limestone pavements [8240] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Taxus baccata woods of the British Isles [91J0] | c. 1.1 km east of appeal site | The appeal site is directly connected to Lough Derg, North-East Shore SAC via the Abbey Stream, which runs along part of the western boundary of the appeal site. Groundwater could provide a potential pathway between the appeal site and the Abbey Stream. | Y |
| Lough Derg (Shannon) SPA (Site Code 004058) | <ul style="list-style-type: none"> Cormorant (Phalacrocorax carbo) [A017] Tufted Duck (Aythya fuligula) [A061] | c. 670 metres east of appeal site | The appeal site is directly connected to Lough Derg (Shannon) SPA via the Abbey Stream, which runs along part of the western boundary of the appeal site. | Y |

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| | <ul style="list-style-type: none"> • Goldeneye (Bucephala clangula) [A067] • Common Tern (Sterna hirundo) [A193] • Wetland and Waterbirds [A999] | | Groundwater could provide a potential pathway between the appeal site and the Abbey Stream. | |
| Slieve Aughty Mountains SPA (Site Code 004168) | <ul style="list-style-type: none"> • Hen Harrier (Circus cyaneus) [A082] • Merlin (Falco columbarius) [A098] | c. 1.7 km south-west of appeal site | No direct/indirect connectivity | N (due to separation distance and lack of connectivity) |
| Rosturra Wood SAC (Site Code 001313) | <ul style="list-style-type: none"> • Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] | c. 1.9 km west of appeal site | No direct/indirect connectivity | N (due to separation distance and lack of connectivity) |

7.5.9 Following an examination of sites within the zone of influence, and upon an examination of the connectivity between the appeal site and these sites (see Table 7.1 above), Barroughter Bog SAC, Lough Derg, North-East Shore SAC and Lough Derg (Shannon) SPA have been screened in as the appeal site is hydrologically connected to these European sites via the Abbey Stream which runs along part of the western boundary of the appeal site. All other Natura 2000 sites surrounding the proposed development have been screened out due to a lack of connectivity.

7.5.10 Conservation Objectives of European Sites ‘Screened-In’. There are no Conservation Management Plans for Barroughter Bog SAC, Lough Derg, North-East Shore SAC and Lough Derg (Shannon) SPA.

The generic Conservation Objective for Barroughter Bog SAC is;

‘to maintain or restore the favourable conservation conditions of the Annex I habitats and Annex II species for which the SAC has been selected’.

The generic Conservation Objective for Lough Derg, North-East Shore SAC is;

‘to maintain or restore the favourable conservation conditions of the Annex I habitats and Annex II species for which the SAC has been selected’.

The Conservation Objectives for Lough Derg (Shannon) SPA are;

‘To maintain or restore the favourable conservation condition of the bird species

listed as Special Conservation Interests for this SPA' and,

To maintain or restore the favourable conservation condition of the wetland habitat at Lough Derg (Shannon) SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

7.5.11 Identification of Likely Effects. In light of the above Conservation Objectives the main elements of the proposal which may give rise to impacts on the European sites listed above include those as a result of construction activity and operational activity. These are summarised overleaf as follows:

Construction Phase Impacts - During the construction phase there is potential for surface water runoff from site works to temporarily discharge via groundwater to the Abbey Stream, which runs along the western boundary of the site. The Abbey Stream connects with Barroughter Bog SAC, Lough Derg, North-East Shore SAC and Lough Derg (Shannon) SPA. Given the nature and scale of the proposed construction works and the distance between the appeal site and the Abbey Stream and the connectivity between the Abbey Stream and Barroughter Bog SAC, Lough Derg, North-East Shore SAC and Lough Derg (Shannon) SPA, there is the potential for the water quality pertinent to these European sites to be negatively affected by any contaminants, from site clearance and other construction activities and also from the release of hydrocarbons.

Operational Phase Impacts – During the operational phase of the proposed development there is the potential for contaminants from the proposed structure to enter ground water and in turn enter the Abbey Stream, which is connected to Barroughter Bog SAC, Lough Derg, North-East Shore SAC and Lough Derg (Shannon) SPA. It is unclear based on the information submitted if the proposed shed will be sealed, preventing the escape of potentially contaminated material from inside the structure.

Ex-Situ Impacts - The appeal site forms part of the amenity space of a dwelling and as such would not represent a favourable habitat for birds species connected with Lough Derg (Shannon) SPA for resting, foraging, breeding etc. As such the proposed development would not have the potential to result in habitat fragmentation or disturbance to bird species (i.e. ex-situ impacts) associated with Lough Derg (Shannon) SPA.

In-combination Impacts - There are no recent planning applications for the surrounding area that share a direct link with the subject site.

A summary of the outcomes of the screening process is provided in the screening matrix Table 7.2 overleaf.

| Table 7.2 - Summary Screening Matrix | | | | |
|---|---|--|------------------------|------------------------|
| European Site | Distance to proposed development/ Source, pathway receptor | Possible effect alone | In combination effects | Screening conclusions: |
| Barroughter Bog SAC (Site Code 000231) | c.450 metres north of appeal site | <p>During the construction phase there is potential for contaminated surface water runoff from site works to temporarily discharge via groundwater to the Abbey Stream which connects to Barroughter Bog SAC. This discharge could potentially negatively affect the water quality pertinent to this European site.</p> <p>During the operational phase of the proposed development there is the potential for contaminants from the proposed structure to enter ground water and in turn enter the Abbey Stream, which is connected to Barroughter Bog SAC. This discharge could potentially negatively affect the water quality pertinent to this European site.</p> | No effect | Screened in for AA |

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|---|--|--|-----------|--------------------|
| Lough Derg, North-East Shore SAC (Site Code 002241) | c. 1.1 km east of the appeal site. | <p>During the construction phase there is potential for contaminated surface water runoff from site works to temporarily discharge via groundwater to the Abbey Stream which connects to Lough Derg, North-East Shore SAC. This discharge could potentially negatively affect the water quality pertinent to this European site.</p> <p>During the operational phase of the proposed development there is the potential for contaminants from the proposed structure to enter ground water and in turn enter the Abbey Stream, which is connected to Lough Derg, North-East Shore SAC. This discharge could potentially negatively affect the water quality pertinent to this European site.</p> | No effect | Screened in for AA |
| Lough Derg (Shannon) SPA (Site Code 004058) | c. 670 metres east of the appeal site. | <p>During the construction phase there is potential for contaminated surface water runoff from site works to temporarily discharge via groundwater to the Abbey Stream which connects to Lough Derg (Shannon) SPA. This discharge could potentially negatively affect</p> | No effect | Screened in for AA |

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|--|--|---|--|--|
| | | <p>the water quality pertinent to this European site.</p> <p>During the operational phase of the proposed development there is the potential for contaminants from the proposed structure to enter ground water and in turn enter the Abbey Stream, which is connected to Lough Derg (Shannon) SPA. This discharge could potentially negatively affect the water quality pertinent to this European site.</p> | | |
|--|--|---|--|--|

7.5.12 Mitigation Measures. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.

7.5.13 Screening Determination. Having reviewed the applicant's Stage 1 Appropriate Assessment Screening report I note the following;

- The applicant's Stage 1 Appropriate Assessment Screening report does not consider the potential for contaminated run-off to enter the Abbey Stream via groundwater during the construction or operation phase.
- The applicant's Stage 1 Appropriate Assessment Screening report refers to adherence to 'best practice construction methods for the delivery and pouring of concrete'. The applicant contends that best practice construction methods are not relied upon to reach a conclusion of no likely significant affects. Having regard to the nature of the proposed development and the proximity between the appeal site and the location of the proposed shed/appeal site to the Abbey Stream, I consider that such measures are intended to address potential impacts on surface/ground water and in the absence of these measures polluted run-off could enter ground water and in turn enter the Abbey Stream.

In light of *People Over Wind and Sweetman v. Coillte Teoranta* (Case C-323/17) ('People Over Wind'), it was determined that measures intended to avoid or reduce the harmful effects of a plan or project on a European site cannot be taken account of when carrying out a screening for Appropriate Assessment. As such, I do not consider that the measures referred to could be considered as part of screening for Appropriate Assessment, and a NIS would therefore be required.

- The applicant's Stage 1 Appropriate Assessment Screening report states that the Abbey Stream does not intersect with Barroughter Bog SAC. However, from reviewing map based data on Catchment.ie I note that the Abbey Stream, whilst not flowing directly into Barroughter Bog SAC, passes in close proximity to Barroughter Bog SAC and given the degree of proximity I consider it likely that a connection does exist.
- The applicant's Stage 1 Appropriate Assessment Screening report focuses on the location of the proposed shed in relation to the Abbey Stream and does not address that fact the Abbey Stream abuts the western boundary of the site at a location north of the proposed shed. This is relevant in my opinion because during the construction phase of development vehicles, machinery etc. could be parked/refuelled and materials stored within the wider site, and as such the origin for the potential emission of pollution is not confined to the location/footprint of the proposed shed.

On the basis of the information provided 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 Barroughter Bog SAC (Site Code 000231), Lough Derg, North-East Shore SAC (Site Code 002241) and Lough Derg (Shannon) SPA (Site Code 004058) or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

7.6 Issues Arising

7.6.1 The reasons for refusal included in the Notification of Decision to refuse permission issued by the Planning Authority refer to material contravention of the Galway County

Development Plan 2015-2021, with specific reference to Objectives LCM1, LCM2 (Reason No. 1), NHB1, NHB2 and DM Standard 40 (Reason No. 2). The Galway County Development Plan 2022-2028 came into effect on the 20th June 2022 and is now the relevant development plan. I do not therefore consider that the Board is bound by the provision of Section 37 (2) (b) of the Planning and Development Act 2000 (as amended). Notwithstanding this, I consider it appropriate to address Section 37 (2)(b), and specifically the criteria provided under subheadings i – iv. I do not consider the proposed development to be of strategic or national importance. I do not consider there to be conflicting objectives in the development plan or objectives which are not clearly stated as they relate to the proposed development. Neither do I consider that the proposed development should be permitted in light of regional planning guidelines, guidelines under section 28, policy directives under section 29, the statutory obligations of a local authority, and any relevant policy of the Government, the Minister or any Minister of the Government. Furthermore, I do not consider that the proposed development should be permitted having regard to the pattern of development or permissions granted in the area since the making of the development plan.

8.0 Recommendation

- 8.1 I recommend that planning permission for the proposed development should be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. On the basis of the information submitted with the planning application 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 Barroughter Bog SAC (Site Code 000231), Lough Derg, North-East Shore SAC (Site Code 002241) and Lough Derg (Shannon) SPA (Site Code 004058), or any other European site, in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission.
2. Having regard to the scale and design of the proposed structure, and to the prominence of the site, the proposed development would seriously injure the visual

amenities of the area. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.

3. DM Standard 13, of the Galway County Development Plan 2022-2028 requires that, where possible new agricultural buildings are located within or adjoining the existing farm complex. The proposed shed structure is intended to be used for the repair of machinery associated with a farm located c. 1.7 km from the appeal site. The applicant has not provided a satisfactory justification for the location of the proposed shed structure within the curtilage of a residence remote from the farm it is intended to serve and the proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Ian Campbell
Planning Inspector

27th July 2022