



An
Bord
Pleanála

Inspector's Report ABP-311687-21

Development	Construct extension to building and proposed building, as granted under P 13/483 & P 13/48300, all as per drawing documentation submitted together with all ancillary site works and services.
Location	Kilmannin, Carrowreagh, Ballyhaunis, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	21355
Applicant(s)	Majorland Project Limited.
Type of Application	Permission.
Planning Authority Decision	Grant permission with conditions
Type of Appeal	Third Party
Appellant(s)	Transport Infrastructure Ireland.
Observer(s)	None.
Date of Site Inspection	22 June 2022.
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to a 2.78 hectare site located within the townland of Kilmannin, Carrowreagh circa 1.2 km to the north of Ballyhaunis in Co Mayo. The site which is irregular in shape lies on the eastern side of the N83. The site is formed by two main plots linked by a linear strip. The southwestern plot fronting the N83 is occupied by an industrial type building which has been recently extended (works still underway on the date of my site visit). The north-eastern part of the site comprises agricultural land. The River Dargan, traverses the site at the north-eastern extremity of the linear link strip. Documentation provided with the application indicates that the southwestern part of the site was formerly in use as a mart.
- 1.2. The appeal site is accessed by way of a private cul de sac road off the N83 from the south. (outside the site boundary) This access road also serves the adjoining Homeland / Connaught Gold co-op retail premises to the southeast and also a private dwelling. Site boundaries are defined by palisade fencing.
- 1.3. On the opposite side of the N83 to the west of the appeal site is a sand and gravel quarry and processing and manufacturing facility for aggregate products and concrete. Mapping indicates a number of water features in the vicinity of the site including a lake adjacent to the northern site boundary.

2.0 Proposed Development

- 2.1. The application involves permission to construct an extension to the existing building and proposed building as granted permission under P13/483 and extended under P13/48300. The proposal involves an extension of 1281.12m² while the previously permitted extension is 810.15m² (recently constructed) and the existing building is 800.94m². The proposed extension is part single storey part two storey and is forward of the existing façade of the existing building. Floor layout plans indicate that the new floor area will provide for an "intake area" and 4 no offices, a meeting room, canteen and welfare facilities. The existing and permitted (recently constructed) floor area is annotated on floor plans as production area.
- 2.2. In response to a request for further information it was outlined that the nature of the business at the site involves the storage and assembly of agricultural grass cutting

machinery in conjunction with the manufacturing plant located adjacent to Ballyhaunis Golf Club approximately 3km to the north of the site, also on the N83.

- 2.3. The initial submission outlined that the proposed wastewater treatment percolation area was to be located across the river Dargan towards the north-eastern extremity of the appeal site (circa 153m northeast of the building). In response to the request for additional information it was outlined that it is proposed to locate the wastewater treatment system to the front of the site, thereby avoiding the need for a river crossing. The proposal involves a *Klaro Uni 7* P.E Unit pumped to an *Ecoflow* Tertiary Treatment System discharging to a gravel distribution layer and discharge to subsoil. It is noted that initial layout plans proposed a machinery display area forward of the building and this was subsequently re classified as a service delivery area.

3.0 Planning Authority Decision

3.1. Decision

By order dated 20 September 2021 Mayo County Council issued notification of decision to grant permission and 14 conditions were attached which included the following of particular note:

Condition 2. The two existing entrances onto the N83 shall be permanently closed as part of these works as per site layout drainage PA002 April 2021.

Condition 3. The proposed relocation (removal of existing palisade) shall be carried out as per layout drawing PA002, April 2021 to attain the requisite sight visibility requirements.

Condition 8. Foul waste shall be treated and disposed of in accordance with the recommendations as outlined in the site assessment report submitted to Mayo County Council on 12/7/201 and in accordance with EPA Waste Water Treatment Manual for Small Communities, Business, Leisure Centres and Hotels.

Condition 14. Development contributions

€1272.58 Surface water Services

€762.27 Amenities

€3,243.37 Roads

€508.18 Footpaths

€762.27 Community, open space and recreational activity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's initial report sought additional information to include clarification of the exact nature of the proposed development. The request sought a revision to the site layout to incorporate the site entrance, details of sufficient legal interest with regard to entrance proposals, details of boundary treatment noting that palisade fencing was not considered appropriate. Other items requested included a landscaping scheme, car parking service delivery area layout, surface water drainage proposals incorporating SUDS. Applicant was also requested to provide details of proposed river crossing to facilitate the development and operation of foul sewer infrastructure. Following a clarification of further information request the final report recommends permission subject to conditions as per subsequent decision.

3.2.2. Other Technical Reports

National Roads Office Mayo County Council report - Application does not raise any issues for the National Roads System.

Senior Executive Architect Mayo County Council requests detail of front boundary treatment and landscaping. Palisade fencing is not an acceptable boundary finish.

Flood Risk Management report. Although the CFRAM maps indicate flood risk from both a 1% AEP and 0.1%AEP event type to a very small proportion of the site adjacent to the Dalgan River, the development as proposed is not specifically at risk of fluvial flooding from a 1% AEP flood event or from a 0.1% AEP event. The site is generally located within flood zone C. However, in order to ensure that the development does not contribute to increased flood risk to other properties or interfere with the flow/river channel capacity in the River Dalgan further information

should be requested to include details of surface water drainage incorporating a SUDS design to provide for a maximum of greenfield site discharges from the development, details of proposed river crossing and operation of the foul sewer infrastructure.

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland. – Proposal is considered to be at variance with official policy in relation to the control of development on/affecting national roads as the proposed development by itself or by the precedent it would set would adversely affect the operation and safety of the national road network. Proposal would create an adverse impact on the national road where the maximum speed limit applies and would be at variance with national policy in relation to the control of frontage development on national roads. The proposal if approved would result in the intensification of an existing direct access to the national road contrary to official policy in relation to the control of frontage development on national roads.

3.4. **Third Party Observations**

No submissions.

4.0 **Planning History**

13/48300 Extension of duration of 13/483. Granted 29/1/19 to expire 13th October 2024.

13/483 Permission was granted for extension to existing storage building, new entrance onto public road. New signage and new wastewater treatment system together with all ancillary site works and services - granted on 9/9/2014 subject to 23 conditions.

P07/634 Permission to develop existing agri buildings by way of extension refurbishment upgrading and development of showroom and storage for agricultural machinery to decommission 3 no existing site entrances and to replace them with 1 no site entrance together with all ancillary site works and services. Following third

party appeal of the grant of permission by the National Roads Authority the application was withdrawn.

88/910 Permission for upgrade of existing waste-water treatment system.

5.0 Policy Context

5.1. Spatial Planning And National Roads Guidelines for Planning Authorities DoEGLG 2012.

2.5 Required Development Plan Policy on Access to National Roads

With regard to access to national roads, all development plans and any relevant local area plans must implement the policy approaches outlined below. Lands adjoining National Roads to which speed limits greater than 60 kmh apply: The policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 kmh apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant

2.6 Exceptional Circumstances

Notwithstanding the provisions of Section 2.5 above, planning authorities may identify stretches of national roads where a less restrictive approach may be applied, but only as part of the process of reviewing or varying the relevant development plan and having consulted and taken on board the advice of the NRA and having followed the approach outlined below

(1) Developments of National and Regional Strategic Importance

A less restrictive approach may be adopted in the case of developments of national and regional strategic importance which by their nature are most appropriately located outside urban areas, and where the locations concerned have specific characteristics that make them particularly suitable for the developments proposed. Such proposals must be in accordance with the National Spatial Strategy, Regional Planning Guidelines and other Guidelines issued by the Minister for the Environment, Community and Local Government under the provisions of section 28 of the Planning Acts. In considering whether exceptional circumstances arise in the development plan and local area plan context, the planning authority and the NRA should take the following matters into account:

(1) the relevance and appropriateness of proposed development in supporting the aims and objectives of the National Spatial Strategy and Regional Planning Guidelines;

- (2) the requirements of other planning guidelines issued under section 28 of the Act including the Retail Planning Guidelines (2005), which include a general presumption against large retail centres being located adjacent or close to existing, new or planned national roads, including motorways;
- (3) the nature of proposed development and the volume of traffic to be generated by it,
- (4) any implications for the safety, capacity and efficient operation of national roads;
- (5) any plans for future upgrades of national roads and other transport infrastructure/services;
- (6) the suitability of the location compared to alternative locations;
- (7) the pattern of existing development in the area;
- (8) satisfactory details of the proposed demand management measures;
- (9) acceptable funding and delivery proposals for any road improvements required, and,
- (10) the precedent that could be created for cumulative development in the area and the potential implications for the national road network.

(2) Lightly-trafficked Sections of National Secondary Routes

A less restrictive approach may also apply to areas where additional development may require new accesses to certain lightly-trafficked sections of national secondary routes. Such areas would be confined to lightly trafficked national secondary roads serving structurally weak and remote communities where a balance needs to be struck between the important transport functions of such roads and supporting the social and economic development of these areas. In such areas, policies in development plans permitting new accesses to national secondary roads may be considered acceptable where the following criteria apply:

- Traffic volumes are low and are forecast to remain below 3,000 AADT (as verified by the NRA) for the next 20 years;
- There is no suitable alternative non-national public road access available;
- The development otherwise accords with the development plan, and
- Safety issues and considerations can be adequately addressed in accordance with the NRA's Design Manual for Roads and Bridges.

Where planning authorities wish to identify an area/national road where the foregoing less restrictive approaches could apply in a development plan or local area plan they must:

- (a) Consult with the NRA at the earliest practicable stage in reviewing the development plan on the identification of areas and developments that the planning authority considers represent exceptional circumstances, taking the criteria above and below into account; and
- (b) Ensure that any submissions from the NRA have been fully and properly considered within the process of preparing the plan

5.2. Development Plan

The Mayo County Development Plan 2014 – 2020 refers.

I note that the members of Mayo County Council adopted the Mayo County Development Plan 2021-2027 on the 29th June 2022. The new plan will come into effect on 10th August 2022, ie 6 weeks from the date of adoption.

Within the Mayo County Development Plan 2014-2020 I note the following objectives:

Objective RD-01 It is an objective of the Council to protect the capacity and safety of the National Road Network and Strategically Important Regional Road network (listed in Appendix 4) in the County and ensuring compliance with the Spatial Planning and National Roads Planning Guidelines (January 2013).

Development Management Standards are set out in volume 2 and I note Section 38.1.2 as follows:

38.1.2 No new non-residential accesses or development that generates increased traffic from existing accesses onto National Roads outside the 60km/hr speed limits of such roads shall be permitted in accordance with the provisions of Section 2.5 of the DoECLG Spatial Planning and National Roads Guidelines. A less restrictive approach to this policy may apply to development considered to be of national or regional strategic importance and in accordance with Section 2.6 Spatial Planning and National Roads 2012 (DoECLG). Exceptions are required to be identified for incorporation into the Development Plan and the Council will undertake a survey to identify such sites and agree cases in consultation with the NRA where 'exceptional circumstances' will apply in accordance with the provisions of Section 2.6 of the DoECLG Guidelines. Such exceptions may also include extensions to existing permitted developments along National Roads. In such cases the existing access may require mitigation measures and upgrading where it is found to be substandard.

In relation to the draft Mayo County Development Plan 2021-2027 I note from review of the documents available online at <https://www.mayo.ie/planning/county-development-plans/2021-2027>, the following National Roads Policies:

MTP 16 To avoid the creation of any additional access points from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 km/h apply

MTO 19 To apply a less restrictive approach to non-residential development of strategic or national importance or extensions to such developments accessing onto the National Road Network in accordance with the provisions of Section 2.6 of the 'Spatial Planning and National Roads -Guidelines for planning authorities' (2012).

Volume 2 sets out Development Management Standards and states.

7.2 Access onto National Roads When considering development on or adjacent to a national road, the Planning Authority will have regard to national policy as set out in:

- Spatial Planning and National Roads Guidelines(2012)
- Traffic and Transport Assessment Guidelines(2014)

The Spatial Planning and National Roads Guidelines avoid the creation of new access points or the generation of increased traffic from existing accesses to national roads to which a speed limit of greater than 60 km/h applies. The guidelines also provide for a limited level of access between the 50km/h zone and 60 km/h zone (transitional zones) to facilitate orderly development. Access to national roads with 50km/h speed limits will be considered subject to normal road safety, traffic management and urban design criteria.

5.3. **Natural Heritage Designations**

The site is not within a designated area. The nearest such sites include

River Moy SAC within 2km to the northwest.

Errit Lough SAC 5.3km northeast.

Carrowbehy / Caher Bog SAC 6.5km to the northeast.

5.4. **EIA Screening**

Having regard to the nature and scale of the proposed development, comprising an extension to a commercial premises, 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

6.0 The Appeal

6.1. Grounds of Appeal

This is a third party appeal by Transport Infrastructure Ireland of the decision of Mayo County Council to grant permission. Grounds of appeal are summarised as follows:

- The proposal is at variance with official policy.
- A grant of permission has the potential to compromise the safety and efficiency of the national road network at a location where an 80kph speed limit applies.
- Section 28 Ministerial Guidelines “Spatial Planning and National Roads Guidelines for Planning Authorities” DoECLG 2012 state in relation to lands adjoining national roads where speed limits greater than 60kph apply that the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses onto national roads.
- The extent of additional floorspace inevitably will increase activity on site resulting in an intensification of use which will inevitably increase and thereby intensify traffic movements onto an off the N83 at variance with national policy.
- Proposal would be at variance with official policy to preserve the level of service, safety and carrying capacity of national roads and to protect the public investment in such roads and would establish an undesirable precedent for such development.
- Proposal is inconsistent with the provisions of the Mayo County Council Development Plan 2014-2020. Objective RD-01 “to protect the capacity and safety of the National Road Network and Strategically Important Regional

Road Network in the Count And ensuring compliance with the Spatial Planning and National Roads Planning Guidelines....”

- Section 38.1.2 of the Development Plan regarding exceptions to the restrictive approach this policy requires identification and incorporation to the Development Plan. There is no record of consultation with TII regarding such exceptional circumstances.
- No evidence base has been prepared for agreement of exceptional circumstances in the manner proposed by the guidelines.
- A piecemeal approach to development impacting national roads as in the case of the application has significant potential implications for the application of official policy and road safety on the strategic national road network.
- The proposed development by itself and by the precedent that a grant of permission would create, would endanger public safety by reason of traffic hazard due to additional traffic, including turning movements, that would be generated onto the N83 at a point where a speed limit of 80km/h applies.

6.2. Applicant Response

The response by MKO Planning and Environmental Consultants on behalf of the applicant is summarised as follows:

- The appeal was submitted on the last day of the limit for appeals and the notification letter from An Bord Pleanála was sent to the incorrect agent. An Bord Pleanála granted an extended time period for the applicant to make a response once the error was brought to the Board’s attention.
- With no evidence of an appeal the applicant ordered and paid for cladding, insulation and steel girders to construct the proposed development. These components were delivered to the site and are exposed to the elements.
- The existing and proposed development comprise storage space and not, as referred to in the Planner’s report and TII submissions, a manufacturing facility.

- Major Equipment Intl Ltd (Majorland Ltd) is a family run business that designs and manufactures agricultural and amenity grass cutting machines. The manufacturing plant for the equipment is located adjacent to Ballyhaunis Golf Club approximately 3km north of the site, also on the N83. The proposed storage space is intended to free up valuable manufacturing space and increase efficiencies at the manufacturing plant. The production plan has planned for two additional deliveries per week from the manufacturing plant to the storage facility. There will be no additional staff required at the site as a result of the extension.
- This former mart site was purchased in the early 2000sa and was at that point in disrepair and almost derelict. There were a total of 3 entrances from the N83 in addition to the access from the private road. An application to develop the site for storage was withdrawn following a query from the NRA about use of existing entrances onto the N83. An agreement was reached with Connaught Gold to use the existing entrance from the private road to the south. An application for extension to the mart building for storage purposes was submitted in 2013 and permitted in 2015. Following the recession, the extension of duration was granted in 2019 P13/48300.
- Works on phase 1 to develop a storage facility have commenced in recent weeks.
- There are 95 people employed by the company in a variety of roles including manufacturing, R&D, marketing, sales, accounts and administration. Due to the seasonal nature of the business machines are produced year round and dispatched to the company dealer network during the growing season as required.
- A maximum of 6 no staff members will be moved from the manufacturing site to the extended storage site as permitted under PL 123/483 13/48300
- There are no plans to increase staff numbers at the premises in the event of the permission being granted. The permitted storage facility (currently under construction) will be serviced by 2 no deliveries per week from the main manufacturing premises to the north. A maximum of 2 additional deliveries to / from the site per week are envisaged.

- It is noted that TII dispute Mayo County Council's right to identify exceptional circumstances as provided for within the Spatial Planning and National Roads Guidelines 2012 without engagement with TII. Applicant is not in a position to comment on the nature of any engagement.
- The proposal meets criteria specified by both TII and Mayo County Council as potentially being 'exceptional circumstances' as follows:
 - TII Criteria - Lightly trafficked sections of national secondary routes.
 - MCC Criteria – Extension to existing permitted development.
 - Enclosed submission by Road Safety Matters identifies 5 key criteria which should be taken into consideration by An Bord Pleanála in the context of establishing the nature of the impacts that may occur on the N83 as a result of the development relating to achievable sightlines, low existing collision rate, low level of baseline traffic, negligible increase in trip rates to and from the development and proposed mitigation measures.
 - No intensification of use will occur on the existing access junction.
 - The access junction will operate safely in a post development scenario.
 - This is an optimum location for the adoption of a less restrictive approach to new development based on the lightly trafficked nature of the road network.
 - There will be no additional staff moving to the site. There will be two additional rigid truck deliveries per week as part of phase 2 i.e absolute worst case scenario of 4 generated HGV trips per day. The total number of additional new development generated trips per day will therefore be a maximum of 28 vehicles. On this basis the increase in trips associated with development is negligible and will not result in any material intensification of the existing access junction.
 - The Road Safety Audit has made a number of recommendations in respect of remediation and mitigation measures for identified risks, in accordance with standard Road Safety Auditing procedures and all are accepted by the applicant.

- These measures include decommissioning of three existing entrances onto the N83, erection of new steel palisade fence across the decommissioned entrances and along new visibility splay set back 1m from sight distance visibility lines.
- The developer will provide a stop sign stop line and associated road markings indicating a priority junction at the intersection of the direct access junction and the N83.
- Submission of Road Safety Matters concludes that based on the road conditions on the N83 and the low level of traffic currently generated at the site access, as well as the negligible increase in traffic flows anticipated as a direct result of the proposals to increase storage capabilities at the site, there will be negligible increase in risk expected to arise at this site as a direct result of development proposals.
- No significant residual risks are likely to arise based on the achievable sightlines at the existing access. The low existing collision rate at the site, the low levels of baseline ADT flows on the N83, the negligible increase in trip rates to and from the site and the proposed mitigation measures.

6.3. Planning Authority Response

The Planning Authority did not respond to the grounds of appeal.

6.4. Further Responses

Response of third party appellant TII to the first party response to the appeal is summarised as follows:

- It is noted that in Section 6.1 of the appeal response the applicant outlines that regardless of the procedure in identifying exceptional circumstances in a given development plan each individual development proposal should be assessed on its merits.
- Notwithstanding the applicants position, Section 2.6 of the Ministerial Guidelines “Spatial Planning and National Roads Guidelines for Planning Authorities” DoECLG 2012 indicate that the process of identifying exceptional circumstances can be

undertaken by the planning authority but only as part of the process of reviewing or varying the development plan.

- TII acknowledges the economic importance of Majorland Properties Ltd in the area. However, it appears that the application and appeal has not been subject to an evidence based and plan led approach as required by Section 38.1.2 of the Development Plan to ensure adherence to the provisions of Section 2.6 of the DoECLG Spatial Planning and National Roads Guidelines.
- Deferring critical policy and road safety considerations to the development management function of the planning authority in the manner applied by the Council in this instance is considered to conflict directly with the provisions of the Development Plan and Section 2.6 of the Ministerial Guidelines.
- While the applicant indicates that no intensification of use will occur on the existing access junction the other statements contradict this position as additional trips albeit low in number are outlined.
- There remains an absence of clarity as to whether the permission granted results in the intensification of access onto the N83. Such critical road safety and policy clarification remains outstanding.
- TII will rely on An Bord Pleanála to assess the application in terms of the application of official policy, intensification of access to the national road and maintenance of the strategic capacity and safety of the national roads network in accordance with National Strategic Outcome 2 of the National Planning Framework.
- It is noted that the mitigation measures outlined in Section 6.2.6 of the applicant's appeal response, in particular in relation to the closure of existing roadside accesses to the N83, national road, include requirements already included as conditions of the permission granted under planning application Ref 13/483.
- TII remains of the opinion based on the information currently available, that the application has not demonstrated that the proposed development will not result in intensification of access to the N83 national road.

7.0 Assessment

7.1. Having considered the application and appeal and having visited the site I consider that the proposal can be assessed under the following broad headings.

Legal and Procedural Issues

Traffic - Policy and Road Safety issues

Wastewater Treatment

Appropriate Assessment

7.2 Legal and Procedural

7.2.1 I note that the limits of the redline site boundary are such that the entrance from the private roadway to the south is excluded. The submitted site layout plan also does not demonstrate a right of way over this access. This issue was queried within the local authority request for additional information, which sought an enlargement of the site to incorporate the access. The response to this request provided an undated copy of land registry folio in respect of Folio 63923F, outlining a transfer of 0.0147 hectares from Majorland Properties Ltd to Aurivo Co Operative Society Ltd. A number of rights of way apparent on the map are indecipherable due to documents provided to the Board being in black and white. A second land registry draft (again undated and also unsigned) sets out an agreement relating to three folios 1060F, 63923F and 1211 with respect to a grant of right of way. The associated map again in black and white is unclear and therefore ambiguous.

7.2.2 I note that it is proposed to carry out a number of measures including the mitigation measures to the access road and entrance outside the redline boundary. The Road Safety Audit by Road Safety Matters, submitted in response to the appeal, identified a number of specific problems with the roadside drainage, road surface, parking, visibility and sight clearance issues and junction layout and alignment issues all of which require remedy outside the site redline boundary. In the absence of evidence of sufficient legal interest regarding the ability to carry out such works, I consider that the application is deficient. I note that this is a new issue in terms of the appeal and

in the event that the Board were to consider a grant of permission in this case such matters would need to be addressed.

7.3 Policy and Road safety matters.

7.3.1 It is submitted by the first party that national, regional and local planning policy and guidelines set a supportive context for commercial development such as the submitted application. Indeed, the submissions of the TII acknowledges the economic importance of Majorland Properties Ltd in the area however noting that a plan led approach is necessary having regard to the proper planning and sustainable development of the area.

7.3.2 The appellant outlines concern that the proposal resulting in an intensification of use of the entrance to the N83, is in conflict with National Policy as provided in the Spatial Planning and National Road Guidelines for Planning Authorities (DoECLG 2012). It is asserted that this proposal is also inconsistent with the provisions of the Mayo County Development Plan 2014-2020 as extended, in particular Section 38.1.2, and Objective RD-01 which seek to restrict new accesses and intensification of existing accesses along national and certain protected regional routes in order to preserve their carrying capacity, their life span and in the interest of traffic safety. (In respect of the recently adopted Mayo County Development Plan 2021-2027 due to come into effect on 10th August 2022 I note that the policy restates the requirement to comply with the 2012 Spatial Planning and National Roads Guidelines.)

7.3.3 Section 38.1.2 of the current Development Plan 2014-2020 as extended states that no new non-residential accesses or development that generates increased traffic from existing accesses onto National Roads outside the 60km/hr speed limits of such roads shall be permitted in accordance with the provisions of Section 2.5 of the DoECLG Spatial Planning and National Roads Guidelines. A less restrictive approach to this policy may apply to development considered to be of national or regional strategic importance and in accordance with Section 2.6 Spatial Planning

and National Roads 2012 (DoECLG). Exceptions are required to be identified for incorporation into the Development Plan and the Council will undertake a survey to identify such sites and agree cases in consultation with the NRA where 'exceptional circumstances' will apply in accordance with the provisions of Section 2.6 of the DoECLG Guidelines. Such exceptions may also include extensions to existing permitted developments along National Roads. In such cases the existing access may require mitigation measures and upgrading where it is found to be substandard. Section 2.6 of the guidelines provides that "*planning authorities may identify stretches of national roads where a less restrictive approach may be applied, but only as part of the process of reviewing or varying the relevant development plan and having consulted and taken on board the advice of the NRA.*"

7.3.4 I note that as outlined within the appeal there is no evidence of consultation between TII and Mayo County Council with regard to the application of exceptional circumstance to this case and therefore no evidence of a plan led approach as required by the Development Plan and in accordance with the Spatial Planning and National Roads Guidelines 2012. I would not consider that it has been demonstrated that the proposed development complies with the exceptional circumstances as set out in Section 2.6 of the Spatial Planning and National Roads (2012) and as required by Section 38.1.2 of the Development Plan.

7.3.5 The main operational issue of concern raised in the appeal is the question of intensification of use and additional traffic movement arising from the proposed development. Whilst the applicant proposes that the development will not give rise to any or at worst case scenario minimal intensification of use in terms of level of traffic arising (2 additional rigid truck deliveries per week) this is questioned by the third party appellant. I note that in terms of floorspace and layout the proposal provides for a substantial addition of 1,281.12sq.m to existing floor area 800.94sq.m and permitted 810.15sq.m. The proposed internal layout indicates the provision of 4 new offices, a meeting room and a canteen and I further note that it is proposed to provide a total of 45 no car parking spaces on the site. The nature of the development as proposed is difficult to equate with the claim that there will be no

intensification of use or minimal traffic arising. On the basis of the submitted plans I would concur with the appellant that the proposal will give rise to intensification of traffic and additional and conflicting turning movements generated by the proposed development would endanger public safety by reason of traffic hazard, would interfere with the free flow of traffic on this national road, would compromise the level of service and carrying capacity of the road at this location, and would fail to protect public investment in the national road network, both by itself and by the undesirable precedent it would set for similar such development. As outlined above the applicant has also failed to demonstrate sufficient legal interest of carry out the identified necessary mitigation measures

7.4 Wastewater Treatment and Servicing

7.4.1 I note that the details of wastewater treatment proposals were amended during the course of the application. The initial proposal, which appears to relate to the permitted development 13/483, involved the provision of a septic tank with gravity flow to pump chamber and pumping to a distribution box and percolation area located on the opposite side of the River Dargin. Following a request for additional information querying the detail of river crossing of sewerage infrastructure the proposal was revised to provide for a septic tank with gravity flow to pump chamber and pumping to a distribution box and distribution to percolation area to be located forward of the building adjacent to the service delivery area. The site suitability assessment noted that in trial hole excavated (28th June 2021) to 1.85m, bedrock was not encountered however the water table was at 1.25m. Soil is described as silt clay. A T value of 16.75 and P value of 12.03 were recorded.

7.4.2 I have a number of concerns with regard to the proposal. The proposed location of the wastewater treatment system is restricted, and is in close proximity to the service delivery area, the roadside and the site boundary. I note that map including historical maps note water feature to the north of the appeal site *Loughnascullia* and based on the timing of the site suitability assessment the issue of seasonal flooding and seasonal variation in water table should be addressed. I also note that there is no

clarity regarding any existing wastewater treatment system on the site and proposals for decommissioning of same. I am not satisfied based on the submitted details that it has been demonstrated that the proposal would not be prejudicial to public health. I note that this is a new issue in terms of the appeal. I note that the report of Mayo County Council's Executive Engineer Flood Risk Management raised the matter of flood risk with respect to the lands adjacent to the Dalgan River and proposals for surface water attenuation. I would consider that further detail on these matters would be required in terms of the holistic evaluation of the servicing of the site.

7.5 Appropriate Assessment

7.5.1 On the issue of appropriate assessment having regard to the nature of the proposed development and the distance between the appeal site and the Natura 2000 network, I do not consider that there is any likelihood of significant effects in this case. Accordingly, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

7.6 Conclusion and Recommendation

7.6.1 Having considered the contents of the application, the decision of the planning authority, the provisions of the Development Plan, the grounds of the appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that the appeal be upheld and permission be refused for the reasons set out hereunder:

Reasons and Considerations

Access to the subject site is proposed via an existing entrance off the National Secondary Road N83 where the posted speed limit is 80kmph. It is considered that the proposed development would:

- Involve the intensification of use of an existing entrance directly onto the National Secondary, N83 Route by reason of the additional traffic likely to be generated by the new development proposed,
- relies significantly on works outside the boundaries of the site, and over which sufficient legal interest has not been demonstrated, to seek to mitigate traffic impact,
- would conflict with the Council's Policy, as expressed in the specific objective RD-01 of the Mayo County Development Plan 2014-2020 and conflict with the Department of the Environment Guidelines with respect to Spatial Planning and National Roads (January, 2012) which seek to curtail development along National Roads, to safeguard the strategic role of the National Road Network and to avoid intensification of existing accesses to national roads,

therefore, the traffic movements likely to be generated by the proposed intensified use of an existing entrance onto the N83 would interfere with the safety and free flow of traffic on the national road, and would contravene the County Development Plan, be contrary to Section 28 Guidelines, would set an undesirable precedent for similar such development and would be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector

29th June 2022