



An  
Bord  
Pleanála

## Inspector's Report 312038-21

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<b>Development</b>	Construction of agricultural shed and all associated site works
<b>Location</b>	Carrowmoney, Partry, Co. Mayo
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	21/756
<b>Applicant(s)</b>	Michael Staunton
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party V Grant
<b>Appellant(s)</b>	Peter Garry
<b>Observer(s)</b>	None.
<b>Prescribed Bodies</b>	None.
<b>Date of Site Inspection</b>	19 <sup>th</sup> day of October 2021
<b>Inspector</b>	Fergal Ó Bric

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.69 ha and is located in the rural townland of Carrowmoney, approximately 1.5km south of the village of Partry and 7.5km northwest of the town of Ballinrobe. The site is located between Lough Carra (to the east) and Lough Mask (to the west) and is accessed from the N84 National Secondary Road, a route that links Castlebar and Galway.
- 1.2. The site is currently in agricultural use and comprises a slatted shed (205 square metres), adjoining hard-standing area and silage pit to the north. The shed is setback approximately 80 metres from the N84 road to the west, from which access is provided via a recessed entrance and agricultural access roadway. The site slopes gently downwards from the road level (c.23.8m) towards the existing shed (c. 20.4m). There is a large undeveloped field to the southwest of the existing shed which is bounded by mature trees and hedging. A field drain immediately adjoins the southern and eastern site boundaries.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise a 472 square metre, three bay slatted shed with underground slurry storage tank.
- 2.2. The agricultural shed would have a length of 24.3 metres and a width of 19.4 metres and maximum ridge height of approximately 7.25 metres, consistent with the height of the agricultural shed on site. The hard standing arrangements will remain. Comprehensive landscaping proposals are included in the form of tree and hedge planting to the west and south-west of the agricultural development.
- 2.3. Further information as submitted by the applicant to the Planning Authority on the 8<sup>th</sup> day of October 2021 in relation to the following: Details of a trial pit investigation at the location of the agricultural shed and in relation to details of run-off from the agricultural development.
- 2.4. The application included a Natura Impact Statement and a fertiliser plan prepared by Teagasc.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By order dated 3rd November 2021, Mayo County Council (MCC) issued notification of the decision to grant permission subject to ten standard conditions. The pertinent conditions are as follows:

Condition number 2: All farmyard wastes, slurry, manure and silage effluent to be managed in accordance with EU Good Agricultural Practice for Protection of Water Regulations 2017.

Condition number 4: All surface water and surface water gullies to be designed, maintained and managed to ensure no polluting matter enters the surface water drainage system or groundwater.

Condition number 10: All mitigation measures as outlined within Section 7 of the Natura Impact Statement shall be implemented in full.

### **3.2. Planning Authority Reports**

- 3.2.1. On the basis of the initial planning report, further information was requested on 6<sup>th</sup> day of September 2021
- 3.2.2. The applicant's responded to the further information request on the 8<sup>th</sup> day of October 2021 with details as outlined in Section 2.3 above.
- 3.2.3. The subsequent planning report deemed the further information response to be acceptable subject to standard agricultural conditions as set out within Section 3.1 above. A grant of permission was recommended, which forms the basis of the Planning Authority decision to grant permission.
- 3.2.4. The Planning documentation included a number of documents including a Natura Impact Statement and a report from Teagasc on managing slurry, run off and farmyard manure from the development as well as a fertiliser plan for the land holding.
- 3.2.5. An Appropriate Assessment report, assessing the content of the NIS was conducted by the Planning Officer and it determined that the proposed development

individually, or in combination with other plans or projects would not adversely affect the integrity of a European site, and therefore, would be in accordance with the proper planning and sustainable development of the area.

### **3.3. Other Technical Reports**

Environment, Climate Change and Agriculture Section: No objections, subject to conditions.

National Roads Office-Mayo County Council: No objections.

### **3.4. Prescribed Bodies**

Transport Infrastructure Ireland: No observations to make.

Department of Housing Local Government and Heritage: No objections, subject to conditions.

### **3.5. Third Party Observations**

One third party observation was made on this application by a neighbouring resident, Mr. Peter Garry (the appellant), of Carrowmoney, Partry, Co. Mayo. The issues raised by Mr Garry are covered in the grounds of appeal (see section 6.0 of this report).

## **4.0 Planning History**

Planning Authority reference 20/482, in 2020, Mayo County Council granted planning permission for an extension to an agricultural shed and associated site works. In October 2021, under Bord reference 308820-20, the decision of the Planning Authority was over turned and planning permission for the agricultural development was refused. The reason for refusal was as follows:

On the basis of the information submitted with the application and appeal, with particular regard to a potential deterioration in water quality as a result of construction-related pollution and siltation, as well as potential disturbance to habitats and species as a result of construction works, 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 of the Lough Carra/Mask Complex SAC (site code 001773), or any other European site, in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission.

## 5.0 Policy and Context

### 5.1. Mayo County Development Plan 2022-2028

5.1.1. The operative plan for the area is the Mayo County Development Plan 2022 – 2028.

Section 4.4.9-Agriculture, Agri food and Agri Tech

The following is set out in relation to supporting agricultural development: The Council will take a positive approach to applications for sustainable agricultural developments generally, subject to the protection of ground waters, residential amenities, designated habitats and the landscape.

5.1.2. Policy EDP-21: To support the implementation of the Mayo County Council Agricultural Strategy to promote the continued development and expansion of the Agri-Food Sector, subject to the measures and environmental objectives of the forthcoming Common Agricultural Policy Strategy for Ireland.

5.1.3. Volume 2 of the Development Plan (Development Standards) sets out planning guidance and standards for development in the county, including agricultural development. Section 10.1 sets out that: The principal aim is to support agriculture in the County subject to best environmental standards which promote maintaining good water quality and biodiversity. Farming activities shall comply with the provisions of S.I. No. 610 of 2010, European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2010 (now superseded by 2017 Regulations).

#### Landscape Protection

5.1.4. The appeal site is located within landscape Area 4 Map 10.1 sets out the Landscape Policy Areas within the County and Figure 10.1 comprises a landscape sensitivity Matrix. Agricultural structures are not specifically provided for within the matrix

The appeal site is located with Policy Area 4-Drumlins and Inland lowlands where forestry and commercial/industrial structures are deemed to have a low potential to create adverse impacts on the landscape.

### Traffic

- 5.1.5. Section 7.2 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 shall be permitted in accordance with Section 2.5 of *Spatial Planning and National Roads 2012* (DoECLG). A less restrictive approach may apply to development considered to be of national or regional strategic importance in accordance with Section 2.6 of these Guidelines. Exceptions are required to be identified for incorporation in to 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 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.

## **5.2. National Policy / Guidance**

- 5.2.1. The Guidelines for Planning Authorities on Spatial Planning and National Roads (2012) set out planning policy considerations relating to development affecting national primary and secondary roads, including motorways and associated junctions, outside the 50-60 km/h speed limit zones for cities, towns and villages. The Guidelines aim to facilitate a well-informed, integrated and consistent approach that affords maximum support for the goal of achieving and maintaining a safe and efficient network of national roads in the broader context of sustainable development strategies, thereby facilitating continued economic growth and development throughout the country.

## **5.3. Natural Heritage Designations**

- 5.3.1. The eastern and southern boundaries of the site adjoin the Lough Carra/Mask Complex SAC. The Lough Carra SPA is located approximately 370 metres north-

east of the appeal site and Lough Mask SPA is located approximately 1.4 kilometres west of the appeal site.

#### **5.4. Environmental Impact Assessment - Screening**

**I note that the relevant class for consideration is class 10(iv) of the Planning and Development Regulations, 2001 (as amended) which pertains to “Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere”. Having regard to the size of the development site (0.2217 hectares) and scale of the development, it is sub-threshold as set out with Class 10 (b) (iv) and therefore, does not require the preparation of a mandatory Environmental Impact Assessment. Having regard to the nature and scale of the proposed development, the brownfield nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment. The need for EIA can be excluded at preliminary examination stage and a screening determination is not required.**

**It is proposed to construct 39 residential units. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.69 ha and is located contiguous to the built-up area of Oughterard. The site is not located in a business district and currently constitutes a brownfield site.**

**An Environmental Impact Assessment Screening Report was not submitted with the appeal.**

**Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:**

- Construction of more than 500 dwelling units,**

- **Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use).**

**The site area is therefore, well below the applicable threshold of 10 ha or a built-up area and 20ha in the case of a site contiguous to the built-up area. As per the criteria set out within Schedule 7 of the Planning and Development Regulations 2001 (as amended)), as to whether a development would/would not have a significant effect on the environment, the introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not located within an area of landscape sensitivity or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site (as discussed below in Section 7.7 of my report) and there is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site/or other). The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Galway County Council, upon which its effects would be marginal.**

**Having regard to: -**

- **The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),**
- **The location of the site on lands that are governed by a town centre zoning objective under the provisions of the Oughterard Local Area Plan, and the results of the strategic environmental assessment of the Galway County Development Plan, undertaken in accordance with the SEA Directive (2001/42/EC),**



- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended).

I have concluded that, having regard to the nature, scale and location of the subject site within the confines of the settlement boundary on serviceable lands, the proposed development would not be likely to have significant effects on the environment. On preliminary examination, there is no real likelihood of significant effects on the environment, arising from the proposed development. The need for Environmental Impact Assessment Report (EIAR) can, therefore, be excluded at preliminary examination.

- 5.4.1. Having regard to the nature and modest scale of the development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for Environmental Impact Assessment (EIA) can, therefore, be excluded in this instance.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The decision of MCC to grant permission has been appealed by a neighbouring resident, Mr Peter Garry, of Carrowmoney, Partry, Co. Mayo. The grounds of appeal include the following:

- The development is within 2 metres of a drain which is part of an SAC, with a high water table and prone to flooding. Increased animal waste and volumes

of silage will result in an increased risk of pollution of the drain and Lough Carra, which would be an unacceptable risk to water quality, adjoining boglands, and the SAC.

- Under the previous proposals the inspectors report set out the potential deterioration in water quality as a result of construction activities as well as potential disturbance to protected habitats and species as a result of construction activities.
- No oversight regarding the monitoring of water quality into the land drain that adjoins the Lough Carra SAC and if the proposed mitigation was to fail or be removed during construction activities.
- Some of the data within the NIS is out of date and has failed to indicate the sources of information included.
- The conditions of the previous permission, which required upgraded access arrangements (condition no.3) and landscaping (condition no. 18) have not been complied with.
- The N84 is a heavily trafficked route linking Castlebar with Ballinrobe.
- The increased vehicular traffic would generate road safety concerns and would not adhere to Development Management standards as set out within the Mayo Development Plan regarding national roads, nor with the Guidelines for Spatial Planning and National Roads, 2012.
- The proposed entrance is substandard for an entrance onto a National secondary route.
- Sightlines below the 215 metres in both directions as per the Development Management standards are not included within the applicants' drawings.
- The inspectors report under Board reference 308820 stated that a design speed of 100km/h would be suitable for the adjoining carriageway.
- Sightlines are obstructed by stone walls, post and wire fencing, overgrown vegetation, utility poles and road signage.

## 6.2. Applicant Response

The applicant's response to the grounds of appeal prepared by Lally Chartered Engineers sets out the following:

- The current proposals have been modified based on the Board decision under reference 308820-20.
- The agricultural shed has been moved further away from the land drain and the European site boundary.
- A Natura Impact Statement including recommended mitigation measures has been prepared and submitted for the development.
- The vehicular entrance has been moved back to the original location as permitted under planning reference 06/3887.
- The development is vital for the management and operation of this small farm holding to mitigate potential environmental impacts.
- The development would facilitate housing of sheep during winter, which would help to eliminate illness, protect ground conditions, and promote good agricultural practice.
- The appellants' concerns about environmental issues are vexatious.
- The development would assist in the farm becoming more viable and sustainable and to comply with best farm practices.

## 6.3. Planning Authority Response

None.

## 6.4. Observations

None received.

## 7.0 Assessment

### 7.1 Introduction

- 7.1.1. At the outset, I wish to acknowledge the applicant's claim regarding vexatious elements to the appeal. However, I consider that the appeal raises valid planning issues and I do not consider that there are grounds to dismiss the appeal under Section 138 of the Planning and Development Act 2000 (as amended).
- 7.1.2. The proposal involves the erection of a slatted agricultural shed within the vicinity of an existing farm yard complex, comprising a silage pit, concrete yard area and agricultural shed. In accordance with Policy EDP-21 of the Development Plan, I would have no objection to the proposal in principle, subject to compliance with appropriate standards and demonstration that the development will not have significant adverse effects on the environment.
- 7.1.3. Having regard to the planning documentation submitted, and having conducted a site inspection, I consider that the main issues for assessment are as follows:
- Access and Traffic
  - Water Quality
  - Other Issues
  - Appropriate Assessment.

## **7.2 Access and Traffic**

- 7.2.1. It is proposed to open up a new splayed and recessed agricultural entrance approximately 45 metres north of the existing agricultural access. The existing entrance comprises a narrow road opening (approximately 8 metres wide) and a splayed gated entrance setback approximately 9 metres from the edge of the adjoining carriageway. The adjoining National Secondary Road (N84) consists of a long stretch of generally straight and level carriageway. The carriageway width is narrow (approximately 6 metres), with no 'hard-shoulder' provision, and is bound on each side by long stretches of traditional stone walls.
- 7.2.2. I note that a previous planning application (P.A. Ref. 06/3778) for the construction of the existing agricultural shed originally proposed to use this entrance. However, concerns were raised about adequate sight distances and the matter was included in a further information request issued by the planning authority. The applicant responded to this request on 19<sup>th</sup> April 2007 and included a proposal for a new

access road and site entrance c. 50 metres further north. Condition no. 1 of the planning permission required the development to be carried out in accordance with those proposals submitted to the Planning Authority on the 19<sup>th</sup> April 2007. Whilst condition no. 3 provided for the further agreement of access details, the file records provided by the Planning Authority do not include details of any such agreement. I am satisfied that the permission was based on the construction of that new access road and entrance, and I can confirm that no part of these works has been carried out to date.

- 7.2.3. Having regard to the above, I consider that the traffic-related impacts of the development warrant a broader examination than simply the proposed new agricultural development. There is no permission relating to the use of the existing entrance to access the farm complex and, accordingly, I consider it appropriate to re-examine its suitability from first principles.
- 7.2.4. The Development Plan reflects the national Guidelines (section 2.5) in stating that no new non-residential accesses or development that generates increased traffic from existing accesses onto National Roads outside the 60km/hr speed limits shall be permitted. I acknowledge that there appears to have been a long-established field entrance at this location prior to the 2006 planning application. Notwithstanding this, and consistent with the 'first principles' approach outlined above, I consider that the use of any such access in connection with a slatted shed would constitute a significant intensification of use and would, therefore, be contrary to local and national policy.
- 7.2.5. I note that the national Guidelines (section 2.6) refer to potential exceptions to policy, the details of which should be examined and outlined in the Development Plan. However, whilst the Development Plan in this case commits to the examination of potentially suitable cases, it does not specifically include any such exceptions. I acknowledge that it suggests that 'extensions to existing permitted developments' may be included as an exception, subject to mitigation measures and upgrading. However, for the reasons of non-compliance previously outlined, I do not consider that this case would benefit from any such potential exception.
- 7.2.6. Section 2.6 of the National Guidelines also outlines examples of such potential exceptional circumstances. Whilst again, I acknowledge that the guidance relates to

policy formulation rather than the consideration of individual applications, I will nonetheless consider the guidance in the interest of completeness. One type of suggested exceptional case relates to developments of national or regional importance, which clearly does not apply in this case. The second suggestion relates to cases on lightly trafficked sections of National Secondary Routes 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 any such case, the following criteria should 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.

7.2.7. With regard to the above criteria, I note that the TII traffic counts for the Partry - Ballinrobe section of the N84 are consistently well in excess of 3,000 AADT. The average figure for 2020 was 4,452, for 2021 it was 4,945 and for 2022 it was 5,567 and the figures for all 7 previous years prior to 2020 were above 5,000 AADT. Accordingly, I do not consider this to be a lightly trafficked section of a National Secondary route where policy exceptions should be considered.

7.2.8. The above paragraphs have outlined a general policy presumption against the existing/proposed agricultural development. Ultimately however, I consider that any such policy position, whether favourable or not, is qualified by the need to demonstrate that additional turning movements will not introduce additional safety risks to road users. In this regard, I note that Table 4, section 7.6 (Vol.2) of the Development Plan outlines a minimum visibility requirement of 215 metres in both directions for National Roads with a design speed of 100 kph.

7.2.9 Having inspected the site, I note that the adjoining carriageway is consistently straight and level for a significant length. I would consider it appropriate to apply a design speed of 100 kph and this was supported by my observations of estimated traffic speeds on the day of my site inspection. Having inspected the site, I would

have concerns about the suitability of the existing entrance given the restricted sightlines and the design speed on the adjoining roadway. The road opening has a limited width of approximately 8 metres and there is no appreciable visibility splay or roadside boundary setback. Sight distances are restricted by a combination of the roadside boundary (comprising a mix of stone walls, post and wire fencing and overgrown vegetation) and other features such as a utility pole (to the north) and a road sign (to the south) and the absence of a hard shoulder. The entrance level is also below that of the adjoining carriageway. The cumulative effect is that sight distances are effectively non-existent, and I consider the entrance to be grossly inadequate for this stretch of National Secondary Road. Therefore, I welcome the proposals for the development of a new recessed, splayed entrance which would require the removal, and setting back of approximately 22.5 metres of the existing stone wall roadside boundary. The new entrance would greatly improve the visibility for traffic exiting the site from the farm complex and the proposed agricultural development.

7.2.10 I am conscious of the nature and limited scale of the development, and I am also aware of the planning history of the site. In this context, I am of the opinion that the new agricultural entrance should be developed in advance of the agricultural development, so that the carrying out of the works for the agricultural development would have the benefit of a much improved and safer access point. This is a matter that can be addressed by means of a planning condition should the Board deem it appropriate.

### **7.3 Water Quality**

7.3.1 The planning documentation submitted by the applicant includes details of animal stocking numbers and a Fertiliser Plan prepared by Teagasc in 2021. The plan outlines that the manures produced on the holding and storage facilities on the farm amounts to a total slurry storage requirement of 226m<sup>3</sup> over the required 18-week period. I note that the stated capacity of the existing slatted tanks (275 m<sup>3</sup>) exceeds this requirement. I note that the stated capacity of the proposed slatted tanks (344 m<sup>3</sup>) exceeds this requirement. The farmyard manure produced (23.3 m<sup>3</sup>) will also be accommodated in the form of 55 m<sup>3</sup> of straw bedding.

- 7.3.2 Slurry and manure will be spread directly from the shed to land once a year and the planning documentation includes details of land availability for spreading. Proposals in this regard have been considered acceptable by the planning authority, subject to standard agricultural practice conditions.
- 7.3.3 It is stated that there will be no soiled water generated by the proposed development as the agricultural housing will be roofed and therefore, under cover. Handling facilities for animals are indoors and therefore, no animals, slurry or farmyard manure will be stored in the open yard area. Yards are to be kept clean and free from any dirt or leaves.
- 7.3.4 Having regard to the above, I am satisfied that the application demonstrates adequate capacity and proposals for the storage and disposal of effluent. Ultimately, the management of effluent arising from agricultural activities and the undertaking of land spreading is governed by the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, and the applicant will be required to operate in accordance with the relevant DAFM specifications, especially in the light of a grant aid application.
- 7.3.5 However, it must also be acknowledged that the proposed works are located in close proximity (approximately 23 metres) from a drain running along the southern and eastern site boundaries. There is, therefore, the potential that construction works and operational use of the agricultural development may impact on the water quality of this drain, which forms part of the wider lake water body. This matter is discussed further in section 8.0 of this report (Appropriate Assessment).

#### 7.4 **Other Issues**

- 7.4.1 The appellant raises issues in relation to compliance with conditions of the previous permission for the existing agricultural shed on site. The relevant conditions relate to the provision of additional landscaping and access arrangements. Whilst the issue of compliance with the previous permission is primarily a matter for the planning authority to consider, I have had regard to the relevant issues and assessed the current proposals on their merits. The issue of traffic safety was addressed within Section 7.4 above. The assessment above represents my de novo consideration of all planning issues material to the proposed development.



## **8.0 Appropriate Assessment**

### **8.1 Background**

- 8.1.1. I note that the reason for refusal as outlined under Board reference 308820-20 related to the matter of Appropriate Assessment (AA) and that the applicant had failed to demonstrate that the extension of the agricultural shed as previously proposed on the site would not adversely impact upon the integrity of the adjacent Lough Carra/Mask Complex SAC. Deterioration in water quality as a result of construction related pollution and siltation, as well as potential disturbance to habitats and species were specifically set out within the refusal reason. The applicant has not submitted a discrete Appropriate Assessment (AA) screening report but rather addresses the matter within the Natura Impact Statement (NIS).
- 8.1.2. 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 assessment.
- 8.1.3. The Planning Officer completed a separate Appropriate Assessment (AA) Report and appended it to the Planners Report.

#### **Appropriate Assessment-Screening**

- 8.1.4. Having reviewed the documents, drawings and submissions included in the appeal file, 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.
- 8.1.5. 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 would have any possible interaction that would be likely to have significant effects on a European Site(s).

### **8.2. Brief description of the development**

- 8.2.1. The development relates to the construction of an agricultural shed comprising a floor area of 472 sq. m. The shed will be partially dry bed and partially slatted.

Wastewater would be discharged to the slatted tanks and it is stated that surface water would be discharged to a soakpit. Comprehensive landscaping proposals are also included, including tree and hedge planting along the site boundaries.

- 8.2.2. The purpose of the proposal is stated to be to provide improved facilities for ewes for a period of 6 to 8 weeks prior to lambing. It is stated that approximately 90 ewes would be housed within the slatted area, 30 ewes on the straw bed area and the remainder of the areas within the shed would be used for lambing pens. The applicants Consultant Engineers state that the main element of the development will be the excavation of the concrete base and the in-situ casting of same. The concrete base works will take approximately 1 week to put in place and will utilise steel forms and shuttering to prevent concrete leaching from the construction area.
- 8.2.3. The applicant's Consultant Engineers further information response references best practice construction measures such as good environmental management of construction sites, sound agricultural practice and IFA guidance. No Construction and Environmental Management Plan (CEMP) was submitted.
- 8.2.4. The site comprises agricultural grassland and artificial surfaces. However, according to Corine Land Cover mapping (2018), the land surrounding Lough Carra and bounding the eastern site boundary is classified as 'wetlands'.
- 8.2.5. Given the proximity of the appeal site to the Lough Carra/Mask Complex SAC, located approximately 19 metres east of the proposed agricultural shed and given that ground levels fall in an easterly direction towards the European site, I consider that there is a strong likelihood that hydrological pathways exist to a local land drain (east of the appeal site) and indirectly to the European site. Given the potential effects to water quality during construction (particularly sediment and other construction related pollution) the likelihood of significant effects to the qualifying interests of Lough Carra/Mask cannot be ruled out.
- 8.2.6. Taking into account the characteristics of the agricultural development in terms of its location and scale, the following issues should be considered for examination in terms of implications for likely significant effects on European Sites:

#### Construction-related impacts

- Deterioration in water quality through increased sediment

- Habitat loss / fragmentation
- Habitat disturbance
- Species disturbance

#### Operational-related impacts

- Deterioration in water quality through nutrient enrichment
- Habitat and species disturbance

### 8.3. Submissions and observations

- 8.3.1. The appellant states that the agricultural development would be located within 2 metres of a drain which is part of an SAC and is prone to flooding. The appellant set out that increased animal waste and silage would result in an increased risk of pollution of the drain and adversely impact upon the water quality within the Lough Carra SAC.
- 8.3.2. The National Parks and Wildlife Service issued a response to the Planning Authority and outlined no particular objections to the development subject to the implementation of the full range of mitigation measures included within the Natura Impact Statement (which will be addressed in detail below).

### 8.4. European Sites

- 8.4.1. Having regard to the scale of the development; the separation distances involved; and the absence of identified hydrological pathways; I am of the opinion that there are a number of European sites that are located within the zone of influence of the appeal site and these are considered below:

**Table 1: Summary of European Sites within the zone of influence of the development**

European Site (Code)	List of Qualifying Interests / Special conservation interest	Distance from proposed development (metres)	Connections (source, pathway, receptor)	Considered further in screening (Yes/No)
Lough Carra/Mask Complex SAC	Oligotrophic waters containing very few minerals of sandy plains ( <i>Littorelletalia uniflorae</i> ) [3110]	19 metres east of proposed	Development site boundary	Yes

(001774)	<p>Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]</p> <p>Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140]</p> <p>European dry heaths [4030]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]</p> <p>Alkaline fens [7230]</p> <p>Limestone pavements [8240]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Hamatocaulis vernicosus (Slender Green Feather-moss) [6216]</p>	agricultural structure	directly adjoins.	
Lough Carra SPA (004051)	Common Gull (Larus canus) [A182]	Approximately 370 metres north-east of appeal site boundary	Drain and wetlands adjoining site boundary are potential for indirect hydrological connection	Yes
Lough Mask SPA (004062)	<p>Tufted Duck (Aythya fuligula) [A061]</p> <p>Black-headed Gull (Chroicocephalus ridibundus) [A179]</p> <p>Common Gull (Larus canus) [A182]</p>	<p>Approximately 1.38 kilometres west of the appeal site boundary.</p>	<p>Drain and wetlands adjoining site boundary are potential for indirect</p>	Yes

	Lesser Black-backed Gull ( <i>Larus fuscus</i> ) [A183] Common Tern ( <i>Sterna hirundo</i> ) [A193] Greenland White-fronted Goose ( <i>Anser albifrons flavirostris</i> ) [A395] Wetland and Waterbirds [A999]		hydrological connection	
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## 8.5. Identification of likely effects

- 8.5.1. In relation to potential construction-related impacts on habitats, I note the appeal site is in close proximity to the Lough Carra/Mask SAC and that works would take place within approximately 19 metres of the SAC boundary. I also note that native deciduous tree and hedge planting is proposed along the southern and western site boundaries and the impact of same should be considered with regard to potential siltation etc.
- 8.5.2. I consider that due to the modest separation distances from a number of European sites (particularly the Lough Carra/Mask SAC), there is potential for significant effects to arise on European Sites. Standard environmental measures will be adopted relating to storage of construction materials, refuelling and storm water being diverted to a soakpit, etc.
- 8.5.3. I acknowledge that the size and scale of the proposed development is not significant in the context of rural development. The appeal site comprises grassland and artificial surfaces, which are not protected habitats, and is located approximately 370 metres from the nearest of the two SPAs, that being Lough Carra SPA. However, the proposed development and planting works would be in close proximity to the eastern and southern site boundaries, the adjoining drain, and the Lough Carra/Mask complex SAC. I note the existence of a drain running along the southern and eastern site boundary and the wetland nature of the adjoining lands, which would conflict with the assertion regarding the separation from the 'aquatic section'. I also note that the appellant has raised the issue of potential ground and surface hydrological connections to European Sites.

- 8.5.4. Having regard to the presence of the drain along the southern and eastern site boundary, which is connected to the wider water regime and the adjoining wetlands, I consider that there is a potential hydrological connection with the Lough Cara/Mask Complex SAC.
- 8.5.5. The Conservation Objective for this SAC is to maintain and restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. With regard to habitats, this European Site includes 'Oligotrophic waters containing very few minerals', 'Oligotrophic to mesotrophic standing waters' and 'Hard Water Lakes' as Qualifying Interests. I consider that, having regard to the proximity of the works to the SAC and potential hydrological connection, likely significant effects on the water quality as a result of construction-related siltation or pollution cannot be excluded in this instance.
- 8.5.6. In terms of species, I note that the Otter and Lesser Horseshoe Bat are included as Qualifying Interests for the SAC. Therefore, consideration of likely significant effects on Otter, relating to water quality and disturbance, cannot be excluded. In relation to the Lesser Horseshoe Bat (LHB), I note that the NPWS mapping (map number 8) includes details of bat roosting areas within Lough Carra are all located along the eastern and south-eastern sections of the lake and the feeding zones are also removed from the appeal site. This species would not use animal sheds for roosting purposes and therefore, I am satisfied that this species can be removed from more detailed assessment.
- 8.5.7. I note that both Lough Carra SPA and Lough Mask SPA are significantly distanced from the proposed works, with Lough Carra SPA being the nearest at approximately 370 metres distant. Having regard to the limited scale and duration of the proposed works and the separation distances involved, I do not consider that the proposed development would be likely to have any significant direct disturbance effects on the relevant species of special conservation interest within the SPA. Furthermore, I do not consider that any indirect impacts on water quality would be likely to have significant effects on the species given the scale and separation distance of the proposed works.
- 8.5.8. Regarding impacts on habitats at operational stage, the applicant outlines that the proposed development will not result in an intensification of agricultural activity and

there will be no increase in nutrient loading within the catchment area. The Teagasc report submitted as part of the planning documentation sets out that slurry will be spread at a rate of 25m<sup>3</sup> per hectare, which is only 50% of the maximum permitted under the Good Agricultural Practice Regulations 2017. The Teagasc Report (including a Fertiliser Plan) states that this will dictate the spread times and slurry quantities, as well as distances from sensitive receptors. As outlined in Section 7.3 of this report, I am satisfied that the management of effluent arising from agricultural activities and the undertaking of land-spreading is governed by the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, and the applicant will be required to operate in accordance with the relevant DAFM specifications. Subject to compliance with these requirements, I am satisfied that the proposed development would not result in likely significant effects on Natura 2000 sites.

- 8.5.9. In terms of operational emissions from the proposed development itself, run off from the roof areas would comprise clean water and discharged to a soakpit, with no direct discharge to any drain, water course or stream. All soiled water will be diverted to the slatted tanks. I am, therefore, satisfied that there will be no likely significant effects on protected habitats.
- 8.5.10. Having considered the species listed as qualifying interests for these European Sites and the application of standard operational measures to prevent pollution, including on-site surface water management, I am satisfied that there will not be likely significant disturbance to species at operational stage.
- 8.5.11. In relation to cumulative impacts, It is noted that the planning authority was satisfied that each project would not have an adverse impact on Natura 2000 sites and therefore, there can be no cumulative impact relevant to the proposed development. Having reviewed the planning register, I would concur that applications in the area are limited to small-scale domestic and agricultural developments which would separately be subject to AA consideration. I do not consider that there is likely potential for cumulative impacts associated with other developments.
- 8.5.12. A summary of the outcomes of the screening process is provided in the screening matrix table below.

**Table 2: Screening summary matrix**

European Site (Code)	Distance to proposed development (metres)	Possible effect alone	In combination effects	Screening conclusion
Lough Carra/Mask Complex SAC (001774)	Approximately 19 metres separation distance	Water quality impacts on habitats as a result of construction-related pollution and siltation.  Indirect impacts on Otter as a result of a deterioration of water quality and habitat.	None	Possible significant effects cannot be ruled out without further assessment
Lough Carra SPA (004051)	Approximately 370 metre separation distance	Significant effects are not likely due to the limited scale and duration of the works and the separation distance from the appeal site.	None	Screened out for need for AA
Lough Mask SPA (004062)	Approximately 1.38 kilometres separation distance	Significant effects are not likely due to the limited scale and duration of the works and the separation distance from the appeal site.	None	Screened out for need for AA

## 8.6 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.

## 8.7 Screening Determination

8.7.1 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 give rise to likely significant effects on one European Site, namely the Lough Carra/Mask Complex SAC, in view of the sites' Conservation Objectives. An Appropriate Assessment is therefore, required.



## **8.8 Stage 2- Appropriate Assessment**

### **8.8.1 Natura Impact Statement (NIS)**

8.8.2 The application included a Natura Impact Statement for the proposed agricultural development at Carrowmoney, Partry, Mayo. The NIS provides a description of the project and the existing environment. It also examines and assesses potential adverse effects of the proposed development on a European Site (identified above). The characteristics of the appeal site are set out and potential impacts arising from the construction and operational phases of the development on the Lough Carra/Mask Complex SAC and includes details of mitigation measures that would be incorporated during the construction and operational phases of the development. In combination effects are also examined.

8.8.3 The NIS concludes that subject to the implementation of the mitigation measures outlined within Section 7 and measures included in the design of the development and the implementation of preventative measures during the construction phase and identified within the Natura Impact Statement, significant adverse effects on the conservation objectives or site integrity of the Lough Carra/Mask Complex SAC, and/or in combination with other plans and projects are not likely.

8.8.4 Having reviewed the documentation available to me, I am satisfied that the information submitted allows for a complete assessment of any adverse effects arising from the development on the conservation objectives of the European site listed above, alone, or in combination with other plans and projects.

### **Appropriate Assessment of implications of the proposed development on the European Site**

8.7.2 The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features which are located downstream of the development within the Lough Carra/Mask Complex SAC using the best scientific knowledge available in the field. All aspects of the project which could result in

significant adverse effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

8.7.3 I have relied on the following guidance as part of this assessment:

- Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009).
- Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002).
- Guidelines on the implementation of the Birds and Habitats Directives in Estuaries and coastal zones, EC (2011); •
- Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

8.7.4 A description of the designated site and its' Conservation Objectives and Qualifying Interests, including any relevant attributes and targets, are set out in the screening assessment above, and outlined above as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

### Potential Impacts on identified European Site

Table 3

Site 1:

<p><b>Name of European Site, Designation, site code:</b> Lough Carra/Mask SAC (site code 000268)</p> <p>Summary of Key issues that could give rise to adverse effects</p> <ul style="list-style-type: none"> <li>• Water Quality and water dependant habitats</li> <li>• Habitat Loss</li> <li>• Disturbance of QI species</li> </ul> <p><b>Conservation Objectives:</b> To maintain or restore the favourable conservation status of the protected habitats and species within Lough Carra/Mask.</p>			
		<b>Summary of Appropriate Assessment</b>	

Qualifying Interest feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded ?
Mudflats and sandflats not covered by water at low tide.	To restore the favourable conservation condition of the protected Mudflats and Sandflats not covered by seawater at low tide in Lough Carra/Mask.	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and deterioration in water quality arising from animal	Place straw bale barrier on the eastern side of the agricultural building in advance of construction works to restrict outfalls of sediment to adjacent drain which in turn flows into the SAC. Careful storage and handling of construction	No significant in-combination adverse effects	Yes

		waste run off from farm buildings and hard surfaces during operational stage of development and potentially adversely impacting upon water quality and protected habitats and species	materials and harmful materials including hydrocarbons.		
Large shallow inlets and bays	As above	As above	As above.	No significant in-combination adverse effects	Yes
Reefs		As above.	As above	No significant in-combination adverse effects	Yes

Otter	To restore the favourable conservation condition of Otter in Lough Carra/Mask	As Above	As above.	No significant in-combination adverse effects	Yes
<p><b>Overall conclusion: Integrity test</b></p> <p>Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.</p>					

8.7.5 Following the Appropriate Assessment and the consideration of mitigation measures, set out within the NIS and the further information response, I can ascertain with confidence that the project would not adversely affect the integrity of the Lough Carra/ Mask Complex SAC (site code 001774), in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

#### **Appropriate Assessment Conclusion**

8.7.6 The agricultural development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

8.7.7 Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on two European Sites, the Lough Carra/Mask Complex SAC. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of the European site in light of its conservation objectives.

8.7.8 Following the Appropriate Assessment and the consideration of mitigation measures, I can ascertain with confidence that the project would not adversely affect the water quality as a result of construction or operational related impacts, nor the overall integrity of the Lough Carra/Mask Complex SAC, in view of the Conservation Objectives of this site. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of the aforementioned designated sites.
- The comments received from the Department of Housing, Local Government and Heritage (Development Applications Unit) dated the 26 the day of August 2021).
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals, and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Lough Carra/Mask Complex SAC.

## 9.0 Recommendation

I recommend that planning permission be granted.

## 10.0 Reasons and Considerations

Having regard to the rural location of the site; the demonstrated additional farm buildings to house animals on this land holding; the established and permitted farm complex and practices on the holding; the character and pattern of development in the vicinity; and to the policies and objectives of the Mayo County Development Plan 2022-2028, it is considered, subject to the conditions set out below, that the proposed development would not seriously injure the amenities of the area nor adversely impact upon water quality nor give rise to disturbance of protected habitats

or species in the adjacent European site. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application to the Planning Authority on the 14th day of July 2021 and the 8<sup>th</sup> day of October 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The slatted shed shall be used only in strict accordance with a management schedule to be submitted to and agreed in writing with the planning authority, prior to commencement of development. The management schedule shall be in accordance with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2014 (SI No 31 of 2014), and shall provide at least for the following:
  - (1) Details of the number and types of animals to be housed.
  - (2) The arrangements for the collection, storage, and disposal of slurry.
  - (3) Arrangements for the cleansing of the buildings and structures.

**Reason:** In order to avoid pollution and to protect residential amenity.

3. All foul effluent and slurry generated by the proposed development shall be conveyed through properly constructed channels to the proposed and existing storage facilities and no effluent or slurry shall discharge or be allowed to discharge to any stream, river, or watercourse, or to the public road.

**Reason:** In the interest of public health.

4. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. In this regard-
  - (a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and
  - (b) all soiled waters, shall be directed to the slatted storage tank. Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

**Reason:** In the interest of environmental protection, public health and to ensure a proper standard of development.

- 5 (a) The entrance shall be constructed as per the Site Layout drawing number 20-138-DWG-P01, submitted to the Planning Authority on the 14<sup>th</sup> day of July 2021. The roadside boundary shall be maintained in a neat and tidy manner and below a height of 1.1 metres so that sightlines shall not be obstructed.
  - (b) The agricultural roadway from the agricultural entrance to the slatted shed shall be suitably hard cored and be maintained in a clean and tidy manner all year round. The adjoining public road shall be maintained in a clean and tidy fashion such that no muck, dirt, or surface water from the agricultural operations shall be deposited on same. (c) Upon the commissioning of the new agricultural entrance the existing entrance shall be closed up permanently and the old entrance area shall be landscaped with native deciduous hedging at a maximum height of 1.1 metres.

**Reason:** In the interest of traffic safety.

- 6 The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than [1:500] showing –



(i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech, or alder and which shall not include prunus species.

(ii) Details of screen planting which shall not include cupressocyparis or leylandii.

(iii) Details of roadside planting which shall not include prunus species.

(b) A timescale for implementation [including details of phasing]

All planting shall be adequately protected from damage until established. Any plants which die, are removed, or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

- 7 All mitigation measures included within Section 7 of the Natura Impact Statement submitted to the Planning Authority on the 14<sup>th</sup> day of July 2021 and those included as Appendix B with the response to the further information request submitted to the Planning Authority on the 8<sup>th</sup> day of October shall be implemented in full.

**Reason:** In the interest of protecting natural heritage.

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Fergal Ó Bric  
Planning Inspectorate

31st March 2023