



An  
Bord  
Pleanála

## Inspector's Report ABP-312326-21

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<b>Development</b>	Infilling of a 3.78 hectare site for agricultural improvement purposes, with greenfield soil and stone, associated site works and services to facilitate the development.
<b>Location</b>	Keernaun, Headford, Co Galway
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	21/1838
<b>Applicant(s)</b>	Evan Lenihan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Evan Lenihan
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	20th day of October 2022
<b>Inspector</b>	Fergal Ó Bric.

## **1.0 Site Location and Description**

- 1.1 The appeal site has a stated area of 3.78 hectares and is located within a rural part of north County Galway, approximately 5.6 kilometres south of Headford and approximately 22 kilometres north of Galway city. The site is located at the end of a private roadway which in turn is accessed off a national secondary route, the N84, which is single carriageway and at a point where the 100 kilometre per hour speed control zone applies. To the north, south-east and west of the appeal site are agricultural lands, and to the south-east is the private roadway (cul-de-sac) which is approximately 4 metres wide. Further agricultural lands lie on the opposite side of the private roadway. There is one dwelling and a number of agricultural structures located further east of the appeal site which are accessed off the private roadway.
- 1.2 The appeal site comprises three agricultural fields which are separated from each other by post and wire fencing and agricultural gates. The lands are in pasture and parts of them are low lying. The lands are undulating with a large ridge feature spreading in an east-west direction in the most southerly field and various undulations within the two northerly fields. Cattle were grazing in one of the northerly fields during the site inspection. The site is irregular in shape and has no features of note. There is a ringfort located approximately 155 metres north-west of but outside of the appeal site boundary.

## **2.0 Proposed Development**

- 2.1 Planning permission is sought for the infilling of a 3.78 hectare site for agricultural improvement purposes, with greenfield soil and stone and all associated site works and services to facilitate the development., The site would be accessed via an existing agricultural roadway, which in turn is accessed off a private roadway, south-east of the site.
- 2.2 The area of land to be infilled would be 3.57 hectares. It is stated that it is proposed to import 100,000 tonnes of material over a period of 5 years, at an average of

20,000 tonnes per annum. It is stated that the material would be imported from various sites in County Galway (as per the BMC supporting documentation).

- 2.3 The Planning Authority conducted an Appropriate Assessment (AA) screening exercise and concluded that the development, either alone or in combination with other plans or projects would not adversely impact the integrity any Natura 2000 sites and that the submission of an NIS is not required.
- 2.4 The Planning Authority conducted an Environmental Impact Assessment (EIA) screening exercise and concluded that the development, either alone or in combination with other plans or projects would not adversely impact the environment and that the submission of an EIAR is not required.
- 2.5 There were a number of supporting reports submitted as part of the planning documentation and included an Appropriate Assessment (AA) screening document, a hydrogeological report, an agronomy report, a Traffic and Transport Assessment (TTA) and an Invasive Weed Management Plan.
- 2.6 A letter of consent from the landowner, Mr Frank Hannon has been submitted consenting to the applicant making a planning application on his lands.
- 2.7 Correspondence from the applicant's solicitor has been submitted whereby the applicant has given an undertaking to the five owners of the private roadway that he will maintain the roadway to its current standard over the five year period from the commencement of the infill on the lands.

### **3.0 Planning Authority Decision**

- 3.1 Galway County Council refused planning permission for the proposed development for two reasons as follows:

1: Having regard to the proposed development and the details submitted in this application which would appear to be for a large scale infill development of a commercial nature, which, if permitted, would intensify the use of the junction along the N84 with the private agricultural road serving the subject site. It is considered that the resulting turning and traffic movements at the existing National Route (N84) junction arising from the proposed development would interfere with the safety and free flow of traffic on the public road serving the subject site, would be contrary to

Policy TI7 and objective TI6 relating to the protection of the capacity and safety of the National Road Network of the Galway County development Plan 2015-2021, and to the proper planning and sustainable development of the area.

2: Having regard to the scale of the development and the location of the site in an agricultural/rural setting served by a private agricultural road, it is considered that the proposed development (i.e. infill of land with non-hazardous inert material) by virtue of its scale and intended use which would appear to be of a commercial nature, would result in a form of development that does not accord with objective EDT 11 and Development Management Standard 12 of the Galway County Development Plan 2015-2021 relating to Rural Enterprise. It is considered that the open source nature of the material and the commercial type nature of the proposed development is not compatible with the agricultural setting and as such is considered contrary to the proper planning and sustainable development of the area and to grant the proposed development would militate against the preservation of the rural environment, would contravene materially a development objective and development management standard contained in the Galway County Development Plan and would be contrary to the proper planning and sustainable development of the area. :

### **3.2 Planning Authority Reports**

Planning Report:

The Planner was not satisfied that the proposal accorded with the policies and objectives of the development plan in relation to waste management. Based on reports received from the Roads Section within the Local Authority and the referral response received from Transport Infrastructure Ireland, the Planner deemed the proposal would be contrary to the TII policy on access to National routes. A refusal of planning permission was recommended.

This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

### **3.3 Other Technical Reports**

Environment & Water Services Department: No objection, subject to conditions.

Roads Department: Recommended a refusal of permission as considered proposals would be contrary to TII guidance on access to National Routes.

### **3.4 Prescribed Bodies**

Transport Infrastructure Ireland: The proposal is at variance with policy in relation to control of development on/affecting national routes as outlined in the Guidelines issued by the Department of Environment, Community and Local Government entitled, Spatial Planning and National Roads Guidelines for Planning Authorities, 2012.

### **3.5 Third Party Observations**

Two observations were received. One was received from a local elected representative, Cllr James Charity who is supportive of the proposals. The second from Wild Ireland Defence CLG who set out that the development should be assessed with the proper planning and sustainable development of the area in mind, that the development be screened for Environmental Impact Assessment and that the Planning Authority must exercise its responsibilities under the Habitats Directive,

## **4.0 Planning History**

I am not aware of any relevant planning history pertaining to the appeal site.

## **5.0 Policy and Context**

### **5.1 Galway County Development Plan 2022-2028**

Section 4.7-Rural Development

There are certain industries that are suitable within the rural area outside of designated settlements. These industries include for example agriculture, horticulture, forestry, tourism and rural resource based enterprise. These should be supported where appropriate.

RD 1 Rural Enterprise Potential To facilitate the development of the rural economy through supporting a sustainable and economically efficient agriculture and food industry, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism. Development

of Cafes, Art Galleries, Hot Desk Facilities etc. which are important to the rural economy.

#### Section 4.8 Agriculture

The Council will facilitate and encourage best practice in terms of new agricultural development.

AD 1 Sustainable Agriculture Practices To facilitate the development of sustainable agricultural practices and facilities within the county, subject to complying with best practice guidance, normal planning and environmental criteria and the development management standards in Chapter 15 Development Management Standards.

#### Section 4.9 Agri Diversification

It is Council policy to facilitate the development of the rural economy through supporting sustainability and economic efficiency in agriculture and diversification into alternative on-farm and off-farm activities such as the food and drinks sector, forestry, horticulture, crafts, agri-business, fishing, aquaculture, waste management, rural tourism, renewable energy and the bio-economy, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.

#### Section 6.5.3.1 National Roads

The policy objectives within this plan will seek to ensure the protection of the safety, carrying capacity and efficiency of the existing and future national road networks. In addition, future schemes are safeguarded whilst also making provision to encourage sustainable compact forms of development which will have minimal impact on the carrying capacity, efficiency and safety of the national road network.

NR 1: Protection of Strategic Roads: To protect the strategic transport function of national roads and associated national road junctions, including motorways through the implementation of the 'Spatial Planning and National Roads Guidelines for Planning Authorities' DECLG, (2012) and the Trans European Networks (TEN-T) Regulations.

NR 4: New Accesses Directly on National Roads: The policy objective 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 km/h apply. This provision, in accordance with the relevant TII Guidelines, applies to all categories of development.’ Consideration will be given, where appropriate, for the facilitation of regionally strategic projects and utility infrastructure.

#### Section 7.6 Waste Management

The Connacht-Ulster Waste Management Plan 2015-2021 (CUWMP) provides a framework for the prevention and management of waste in a sustainable manner in Galway and the other local authority areas. The Connacht-Ulster Waste Management Plan was adopted in May 2015. This plan contains a comprehensive list of policies to achieve the overarching strategy and targets of the plan. Some of the key measures for local authorities and industry contained in the plan can be summarised as follows:

- Ensure existing and future waste facilities do not impact on environmentally sensitive sites through proper assessments and siting.

A number of policy objectives are set out and include the following:

WM 1 To support the implementation of the Connacht and Ulster Waste Management Plan 2015- 2021 or any updated version of this document within the lifetime of the plan.

WM 3 To support and facilitate the provision of adequate waste recovery and disposal facilities for the count.

WM 6 To continue to meet the duties under the Waste Management (certification of historic unlicensed waste disposal and recovery activity) Regulations 2008, including those in relation to the identification and registration of closed landfills.

Map 8.1 of the Development Plan identifies the appeal site as being located within a lake environs landscape where the sensitivity is within Class 3-and is highly sensitive to change.

LCM 3 Landscape Sensitivity Ratings Consideration of landscape sensitivity ratings shall be an important factor in determining development uses in areas of the County. In areas of high landscape sensitivity, the design and the choice of location of proposed development in the landscape will also be critical considerations.

#### **5.2.2 Spatial Planning and National Roads Guidelines for Planning Authorities, Department of Environment, Community and Local Government, 2012.**

Section 2.5 To maintain the strategic function and to protect, maintain and ensure the safety of this finite and critical network resource. Managing the extent of direct accesses to national routes and the turning movements associated with these accesses is critical in terms of adhering to TII's policy in terms of maintaining and the strategic function of these routes.

#### **5.3 Connacht Ulster Waste Management Plan 2015-2021**

Table 12,2 of the Waste Plan sets out that in 2012, there was approximately 320,000 tonnes of Construction and Demolition waste arising in the region.

#### **5.4 Natural Heritage Designations**

The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Lough Corrib SAC (Site code 000297) is located approximately 1.1 kilometres south-east of the appeal site and Lough Corrib SPA, (Site code 004042) is located approximately 1.4 kilometres south-east of the appeal site, (the infilling works).
- The Turloughcor pNHA (site code 001788) is located approximately 1.1 kilometres north-east of the appeal site. There is no hydrological surface pathway linking the appeal site to the pNHA.



## 6.0 The Appeal

### 6.1 Grounds of Appeal

A first-party appeal has been received from Billy Moore Consultant Engineer (BMC) on behalf of the applicant. The key issues raised within the appeal submission can be summarised as follows:

Access and Traffic:

- The Traffic and Transport Assessment Report (TTAR) estimates that less than 10% of trips generated will occur during peak traffic hours.
- The junction of the private roadway with the N84 will operate at 98% spare capacity with no queueing during the predicted 2026 peak hours with the infill development operating.
- The infilling operations would occur over a five year period.
- The total tonnage of material to be infilled is 50% of the capacity that would require an EPA Waste/IED licence.
- Even with the application of a peak factor of 3, the volume of additional traffic that would be generated would be very low and can be satisfactorily accommodated at the junction of the private roadway with the N84.
- The junction in question is on a realigned section i.e., a widened straight stretch of road with hard shoulders on both sides, with sightlines in excess of 215 metres each direction.
- Policy TI7 of the Galway County Development Plan 2015-2021 sets out policy in relation to the protection of the National Road Network. This policy seeks to safeguard the carrying capacity, operational efficiency, safety and significant investment in the national road network.
- Objective TI6 of the GCDP 2015 similarly seeks to protect National routes to ensure compliance with the Spatial Planning and National Roads Guidelines and that the Local Authority will not normally permit direct access or an intensification of traffic for existing accesses onto national routes outside the 50-60kp/h speeds zones.

- The development cannot be deemed to constitute an intensification of traffic from an existing access. The traffic and turning movements associated with the development will not interfere to any significant degree with the safety and free flow of traffic or the carrying capacity on the N84.

Other Matters:

- The development would not materially contravene Objective EDT 11 of the GCDP 2015-21 regarding the establishment of small scale rural operated enterprises in unserviced rural areas.
- The proposals relates to agricultural improvement and therefore, is not in conflict with the EDT 11 objective.
- The proposals would be in compliance with DM Standard 12 of the GCDP 2015 regarding rural enterprise which includes provision for farm related business.
- The proposal would preserve and enhance the rural environment and result in agricultural improvement of the 3.57 hectare appeal site, which will be reinstated following completion of the infill works.
- There are hills and hollows present within the appeal site that produce extreme gradients in certain points which cause health and safety issues, and no agricultural contractor would carry out works on the lands due to the potential dangers arising from the steep gradients.
- There are a number of precedents in the area for similar infill developments permitted by the Planning Authority under refence numbers 15/1527 and 16/104 where the source of material was from the construction of the N84 realignment project.
- There is a pressing demand for infill sits in County Galway and the proposal would provide a useful outlet for surplus greenfield soils and stone from construction projects and of benefit to the landowner as a result of the agricultural improvement that would arise on the appeal site.

## 6.2 Planning Authority Response

None received.

## **7.0 Assessment**

7.1 At the time the Planning Authority made its planning decision on the 29th day of November 2021, the Galway County Development Plan 2015 -2021 was in effect. However, the Galway County Development Plan (GCDP) 2015-2021 has since been superseded by the Galway County Development Plan (GCDP) 2022-2028, operational since the 20<sup>th</sup> day of June 2022.

7.2 The key issues in this appeal relate to access to the appeal site from a national secondary route. Compliance with the Galway County Development Plan and flooding impacts will also be assessed. Environmental Impact Assessment and Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The key issues can be dealt with under the following headings:

- Principle of development
- Access and traffic
- Flooding
- Environmental Impact Assessment
- Appropriate Assessment.

### **7.3 Principle of Development**

7.3.1 It is not uncommon in rural areas for landowners to seek to improve the quality of their agricultural lands by way of raising the level of same through the importation and re-grading of suitable inert material. In this respect, the subject proposal (seeks permission to import 100,000 tonnes of inert (uncontaminated) greenfield soil and stone (from construction projects in the Galway area) in order to raise ground levels an at an average height of 1.8 metres, and up to a maximum height of 4.7 metres for the purpose of recontouring the lands and improving their agricultural use. More specifically, reference has been made to the presence of a ridge (in the most southerly field in an east-west direction) and a number of notable hollows/ depressions within the site topography which produce some extreme gradients and

renders the lands difficult for contractors to apply inputs accurately to the ground and creates health and safety issue for potential contractors. The completion of the works would allow for more modern machinery and outside contractors to be used for the saving of winter feed.

7.3.2. The applicant has submitted a report from an agronomist as part of the planning documentation in support of the need to carry out the proposed land improvement works. This report sets out that the saving of hay is carried out by the farmer due to health and safety concerns, contractors would not take on the job due to the extreme gradients within parts of the lands. Machinery operations that would routinely be carried out on the lands include fertiliser spreading, hay mowing, turning and baling, drawing in of bales, grass topping and slurry spreading. The plan is to raise up the lower areas and create a gradual gradient to the higher areas without removing any subsoil material. Presently, the depth of overburden above the underlying limestone rock is shallow. It is stated in the agronomy report that the subsoil has excellent drainage characteristics and so retaining as much of it as possible is positive. The content of the fill material is crucial, with rock, stones, concrete parts broken to small pieces, gravel, sand and subsoil acceptable, with the larger size stones and concrete pieces to be kept at the lower levels and the finished layer of fill comprising subsoil without any large sized material in order to maintain the strong drainage characteristics of the lands. It is stated that the compaction of soils should be avoided, and a layer of topsoil should be included on top which should be spread evenly over the fill area and in dry conditions. Reseeding of the fill area with grass seed would take place, thereafter, driving over the filled area in wet weather should be avoided and any subsidence of material should be rectified with topsoil.

7.3.3 I would concur with the agronomist (and the assessment by the Environment Section of the Local Authority) that the lands in question comprise a number of areas with pronounced hollows/hillocks within the site confines which serves to inhibit its overall use. Accordingly, I would accept that the importation of suitable clean inert soil and stone, in combination with the appropriate re-grading of the lands, would benefit the site's overall agricultural use.

7.3.4 With respect to the provisions of Section 7.6: Waste Management of the current Galway County Development Plan, 2022 and the broader assessment of the

proposal as a 'waste facility', while the application does not provide much detail on the precise sources or the nature of the soil & stone to be imported to the site, it has been confirmed that an intake register will be maintained with only material classified as 'List of Waste Code: 17 05 04 – Soil and Stones other than those mentioned in 17 05 03' (with LoW Code: 17 05 03 referring to soil and stones containing hazardous substances as per the Environmental Protection Agency's waste classification methodology would be accepted on site. It is further anticipated that the material will be drawn from known and verified sources which have previously been inspected by / for the applicant, although these have not been identified and are only described as comprising small scale construction sites.

7.3.5. While the lack of detail as regards the precise material sources is regrettable given the potential difficulties arising in ensuring a consistent supply over the anticipated timeline of the works, I note that the applicant has indicated that he is in the business of haulage to the effect that he will be in a position to transport soil and stone to the lands from excavation sites. Furthermore, while the site is located at a remove from major urban centres with the result that the proposed development could involve the haulage of material over a significant distance, it cannot be ruled out that there may be a supply available locally.

7.3.6. Considering that the material to be imported to the site would come under the general classification of 'Construction & Demolition Waste' (C & D), I have had regard to the provisions of the Connacht and Ulster Region Waste Management Plan, 2015-2021 which estimated that in 2012 there was in the region of 320,000 tonnes of C&D waste arising in the region although that figure was increasing rapidly with the increase in construction activities following the financial downturn. That document acknowledges that many sites selected for infilling with uncontaminated soil & stone comprise marginal agricultural land, however, it states that there is a sense that at many of these sites, the deposition of waste material rather than improvement or development of the land was the primary purpose of the facility. It is also suggested that consideration needs to be given as to whether the placement of inert waste at such sites remains an appropriate land-use strategy or indeed the best use of potentially recyclable material (more applicable to waste concrete, stone and masonry-type materials).

7.3.7. More specific quantities and policy recommendations are set out in the report commissioned by the three waste management planning regions - 'Construction and Demolition Waste – Soil and Stone Recovery / Disposal Capacity' (December 2016). This report also confirms that the capacity available to recover soil and stone wastes is an issue in each region as a result of the growth in construction activities and the scale of soil waste being generated. With regard to future proposals, Section 6.1 of the report states: 'It is concluded from the analysis that the preferred solution for providing secure and longer term outlets for soil waste recovery. Under the current system this can only be achieved through the waste licensing system. The lack of a consistent supply of licensed capacity across the regions is an issue. Alternative solutions are needed for areas which cannot support the investments required to develop these sites. Secure and long term sites for soil recovery facilities are preferred. Locations which offer these benefits include exhausted quarries or pits. Many existing licensed sites are sited at such locations. This approach is favoured by the regional waste management plan with policy preference for large central sites which require restoration through the placement of clean soil returning the site back to its original profile.'

7.3.8. It is further noted that there appears to be a lack of new licensed facilities coming on-stream in the regions despite market need with forecasts showing a national shortfall of up to 4 million tonnes by 2023 assuming new facilities are not developed. While it is accepted that the capacity situation is fluid with additional licensed capacity expected to be available in the market over the coming years, the requirement for these new facilities to obtain the necessary planning and licensing consents gives rise to an element of uncertainty. Therefore, based on an extensive review of the waste and capacity data available, the 'Soil Recovery Market Analysis Report' has concluded that there is a lack of licensed capacity nationally, to meet current and forecasted growth. It states that there is a clear need to bring additional capacity on stream to alleviate the current shortfall as well as providing security over the medium to long-term.

7.3.9. There is relatively little specific guidance or information within either the Regional Waste Management Plan or the County Development Plan as to the appropriateness of the development proposed, applicable site selection criteria, information on the

sources of material, or whether there is a shortfall of this type of facility. Policy objective WM3 within the Development Plan does aim to facilitate the development of appropriate facilities (notwithstanding that the Regional Waste Management Plan is largely silent on inert materials such as those proposed in the subject instance). The 'Construction and Demolition Waste – Soil and Stone Recovery / Disposal Capacity' report highlights a shortfall of appropriate sites for soil and construction waste treatment and disposal in the overall region and identifies the need for more such facilities across the three regions with a stated policy preference for larger, more centralised facilities.

7.3.10. Accordingly, on the basis of the foregoing, and subject to the further assessment of the potential impact of the proposal on access, traffic and flooding considerations in accordance with Section 7.6: 'Waste Management: Facilities for disposal of inert materials' of the current Development Plan, I am satisfied that a need for the infill development has been sufficiently established by the applicant, and that the proposal would be acceptable in principle.

#### **7.4 Access and traffic**

- 7.4.1 Access to the appeal site is from a private roadway which accesses directly onto the N84, national secondary route, which is single carriageway at a point where the 100 kilometre per hour speed control zone applies. The applicant has submitted details of sightlines, whereby unobstructed visibility of 160 metres in each direction would be achieved at the junction of the private roadway with the N84. The site access is located approximately 900 metres west of the junction of the private roadway with the N84.
- 7.4.2 The applicants submitted a Traffic and Transport Assessment (TTA) as part of their planning documentation. This report, prepared by Traffic, Transport and Road Safety Associates Ltd, was submitted as part of a further information response, a manual traffic count was undertaken on the 1<sup>st</sup> day of October 2020. This was during the Covid pandemic period when Government restrictions were in place. As a result, the Consultants have applied a factor to both the am and pm peak periods in order to "normalise" the results. The Consultants state that they have used Transport Infrastructure Ireland data when considering traffic growth from the period 2021-2026. The development is expected to generate less than 1 two-way trip during each

peak hour. The Consultants state that following consultation with the Road Safety Authority, there is only a record of one minor road collision in proximity to the junction of the private roadway with the N84 in 2009. They set out that sightlines of 215 metres from a 2.4 metre set back at the junction of the private roadway with the N84 are achievable.

7.4.3 The layout on site is designed to cater for 4 axle rigid HGV trucks that have capacity to carry 18 tonne loads, Parking on site for up to 4 HGV.s rigid trucks is provided. A wheel wash facility is proposed in proximity to the site access. No alterations are proposed to the external road network beyond the appeal site boundary. 2 phases of infill are proposed. 100,000 tonnes of material would be imported onto the site over a 5 year period at an average rate of 4 truck loads per day, which would generate an average total of eight HGV movements to/from the appeal site on a daily basis. I note that Appendix B of the TTA states that the maximum anticipated number of two way HGV trips would be 12 per day. however, that the average number is anticipated to be less than this number.

7.4.4 The Traffic Consultants submitted an analysis of development on the capacity of the junction of the N84 with the private roadway. The PICADY traffic modelling software was used as part of this analysis and concluded that the junction of the N84 and private roadway access onto the N84 is located on a section of the N84 that was realigned in 2016, and that there is adequate capacity at the junction in terms of traffic capacity and that no queueing would arise at the junction arising from the development. Sightlines of 215 metres in both directions at the junction from a 2.4 metres set back distance are available. TII in their referral response set out the following: The development has the potential to compromise the safety and efficiency of the national road network at a location where the 100km/h speed limit applies, in the opinion of the Authority, is at variance with the provisions of official policy. The stated policy of TII is set out within the Spatial Planning and National Roads Guidelines for Planning Authorities (DoECLG, 2012). Section 2.5 sets out the following: 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. This provision applies to all categories of development.



- 7.4.5 The results of the traffic counts provided within the TTA show traffic levels along the N84, particularly cars and HGV; s rises between the earlier quartile within the am peak to the latter quartile within the am peak. A similar trend was also observed within the pm peak period with the latter quartile experiencing the highest traffic volumes. The PICADY modelling concludes that the junction of the N84 with the private roadway has adequate capacity to cater for the HGV traffic associated with the infill development.
- 7.4.6 I note that the infill development would generate additional HGV vehicular movements at the junction of the N84 with the private roadway. The development would intensify the level of traffic that would be generated at the junction of the private roadway with the N84. The increase in trips would largely be generated by the day-to-day activities of the applicant, trips generated by HGV movement coming and going to/from the site, up to 12 movements per day, an average of 8 movements per days for a period of 5 years, machinery operators, service providers attending the site or visitors driving to/from the site. The TTA sets out that the development would generate a modest number of trips and turning movements. However, the traffic analysis does not take account of trips generated by machinery operators, visitors or service providers. Transport Infrastructure Ireland (TII) make reference to the need: To maintain the strategic function and to protect, maintain and ensure the safety of this finite and critical network resource. Managing the extent of direct accesses to national routes and the turning movements associated with these accesses is critical in terms of adhering to TII's policy in terms of maintaining and the strategic function of these routes. The strategic nature of these routes is highlighted in the statistics which set out that National primary and secondary routes carry 46% of all road traffic in Ireland and 50% of those travelling by public transport.
- 7.4.7 Section 6.5.3.1 of the Galway Development Plan sets out specific policies and objectives seeks to ensure the protection of the safety, carrying capacity and efficiency of the existing and future national road networks. In addition, future schemes are safeguarded whilst also making provision to encourage sustainable compact forms of development which will have minimal impact on the carrying capacity, efficiency and safety of the national road network. Specific policy objectives NR1 and NR4 of the Plan are relevant in this regard. These policy objectives seek to

preserve and protect the strategic function of National routes. I consider that the current proposals would undermine this strategic function of the N84 which was realigned in the recent past and this investment should not in any way be undermined.

- 7.4.8 I note that the Road Design Section within the Local Authority stated that the development should be refused permission on the basis that it would be: At variance with the provisions of the Spatial Planning and National Roads Guidelines, Section 2.5, that the development will result in the generation of increased traffic from an existing access onto a national road to which speed limits greater than 60km/h apply. Therefore, permitting the intensification of an access onto a National secondary route would not be strictly in adherence with policy.
- 7.4.9 National Strategic Outcome number 2 of the National Planning Framework sets out that: There is a requirement to ensure adequate maintenance of the national road network in order to protect the value of previous investments, and that such investments are not jeopardised.
- 7.4.10 In conclusion, the applicant has not presented any exceptional circumstances that would justify a departure from the policy as set out by TII in terms of road safety considerations. It is considered the development proposal would establish an undesirable precedent, would endanger public safety by reason of a traffic hazard by virtue of the additional heavy goods vehicle traffic that it would generate, including turning movements onto the N84 secondary route at a point where the 100 kilometre per hour speed control limit applies, and would therefore, interfere with the safety and free flow of traffic along this strategic route.

## **7.5 Flooding**

- 7.5.1 I note that the agronomy report recommends the type of inert material that should be used to raise up the levels within the appeal site. The Agronomist recommends that larger stones and broken pieces of concrete be used at the lower levels of the foil operation and that free draining subsoils be used thereafter, and a final layer of topsoil be used in order to maintain the free draining soil conditions of the lands. The OPW are the competent authority on flooding matters in Ireland. I have reviewed the most up to date data available on flodinfo.ie and there is no record of flood events having occurred within the bounds of the appeal site, nor within its vicinity.

Therefore, I am satisfied that the proposals would not increase the risk of flooding within the appeal site nor on lands within the vicinity of the appeal site.

## **7.6 Environmental Impact Assessment Screening**

7.6.1 The development would involve the importation of 100,000 tonnes of inert soil and stone over a period of five years in order to improve the agricultural quality of the appeal site (with the fill area measuring 3.57 hectares). Whilst these works could be held to amount to land remediation, they may also be categorised as a 'waste' operation on the basis that the input material is technically 'waste' (by way of case precedent, the Board has previously held that material such as soil and stone from construction sites which is imported from outside a landholding for infilling purposes constitutes waste).

7.6.2. Therefore, in view of the foregoing, it is necessary to determine whether or not the proposal involves a class of development which is prescribed for the purposes of Section 176 of the Planning and Development Act, 2000, as amended. In this respect I would advise the Board that Class 11(b) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, prescribes 'Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule' for the purposes of Part X of the Act.

7.6.3. Given that the subject proposal involves the disposal of 100,000 tonnes of material over a period of five years (equating to an average intake rate of approximately 20,000 tonnes per annum), it is below the aforementioned threshold and thus there is no mandatory requirement for the planning application to be accompanied by an Environmental Impact Assessment Report.

7.6.4. Accordingly, having regard to the nature, scale and extent of the development proposed, the site location outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development and I would concur with the Planning Authority's screening determination in this regard.

## **7.7 Appropriate Assessment**

7.7.1 The nearest Natura 2000 sites to the appeal site are the Lough Corrib SAC (site code 000297) and the Lough Corrib SPA (site code 004042) which are located approximately 1.1 kilometres and 1.4 kilometres respectively south-east of the appeal site. There is no surface water hydrological pathway linking the appeal site to this European site. Having regard to the nature and small scale of the proposed development and the distance from the nearest European sites, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

## **8.0 Recommendation**

I recommend that planning permission be refused for the following reasons:

## **9.0 Reasons and Considerations**

- 1 It is considered that the proposed development, which would result in an intensification of use of a private roadway onto the National Secondary Road, N84, at a point where the speed limit of 100 kilometre per hour speed control zone applies, would endanger public safety by reason of a traffic hazard and the additional and conflicting traffic movements generated by the development would interfere with the safety and free flow of traffic on the public road.
- 2 The proposed development would be contrary to specific policy objectives NR1 and NR4 of the Galway Development Plan 2022-2028 which seek to protect and preserve the strategic function of national routes. The proposals would undermine the achievement of these policy objectives and would,

therefore, be contrary to the proper planning and sustainable development of the area.

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Fergal Ó Bric

Planning Inspectorate

23rd day of February 2023