



An  
Bord  
Pleanála

## Inspector's Report

**ABP-312597-22**

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<b>Development</b>	Renovation of cottage, construction of extension, reinstatement of disused shed, install a proprietary effluent treatment system, percolation area and all associated works.
<b>Location</b>	Coolylaughnan, Brownstown, Hollymount, Co. Mayo
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	21/730
<b>Applicant(s)</b>	Maria Byrne
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party V. Refusal
<b>Appellant(s)</b>	Maria Byrne
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	20th day of October 2022
<b>Inspector</b>	Fergal O'Bric

## 1.0 Site Location and Description

- 1.1. The appeal site is located within the rural townland of Coolylaughnan, approximately seven kilometres north-west of the rural settlement of Hollymount. The appeal site is located within 5 metres of the south-eastern lakeshore of Lough Carra. The surrounding landscape is primarily one of undulating rural countryside and lakeshore with intermittent instances of one-off housing and agricultural outbuildings.
- 1.2. The site itself has a stated area of 0.409 hectares, is rectangular in shape and comprises a brownfield site where there is a derelict cottage with boarded/blocked up windows and doors and a galvanised roof. The western elevation of the dwelling immediately adjoins the local public road. Site levels fall from 98.91 metres Ordnance Datum (mOD) to the south-east of the site to 96.28 mOD to the north-west of the site. The adjoining public road has a carriageway width of approximately 4 metres. There is a post and wire fence and an access gate along the northern boundary. The eastern, southern and western site boundaries of the site are defined by hedgerow and foliage. The public road is located to the west and north of the appeal site, a neighbouring dwelling to the south-east, a single storey building owned by Fisheries Ireland to the north-east and Lough Carra to the west and north-west on the opposite side of the public road. There are no protected structures or recorded monuments within the appeal site boundary nor in the vicinity of the appeal site.

## 2.0 Proposed Development

- 2.1. The development would comprise the renovation of a vacant cottage, construction of a side extension, reinstatement of existing disused shed, upgrading of existing system to provide a proprietary effluent treatment system and percolation area and all associated site works. The cottage has a floor area of 42 square metres (sq. m.) and a ridge height of 3.9 metres, the extension would have an area of approximately 11 sq. m, and the existing shed is said to have a floor area of 40 sq. m and would have a maximum ridge height of 3.8 metres. External finishes within the cottage and shed are of random rubble stone which would be retained, and blue/black slates would replace the existing galvanised roof on the cottage and a corrugated sheeting roof is proposed for the domestic shed.

- 2.2. Access to the site would be from the adjoining public road. It is proposed to install a packaged wastewater treatment system and soil polishing filter whilst a water supply would be obtained from a connection to a local group water scheme.
- 2.3. The planning application was accompanied by a number of supporting reports including an Appropriate Assessment (AA) Screening Report, a Natura Impact Statement (NIS), a Site Characterisation Report (SCR) and generic details of the packaged wastewater treatment system.
- 2.4. Further information was submitted by the applicants in relation to: Revised public notices specifically referencing the Natura Impact Statement; Submission of a Site Specific Flood Risk Assessment (SSFRA); Details of sightlines; Surface water management details; Revised location of domestic extension to rear of dwelling; Details of land ownership and rights of way and clarity regarding the existence of a caravan on site. The further information response was deemed significant by the Planning Authority (PA) and revised public notices were requested and submitted by the applicant.
- 2.5. A letter of consent from the land owner, Mr Thomas Weiss (father of the applicant), consenting to the making of a planning application by his daughter, Maria Byrne, a part of which relates to lands located outside of but adjacent to, the red line appeal site boundary.
- 2.6. A letter of consent from the secretary of the Robeen Group Water Scheme (GWS) has been submitted, consenting to the applicant making a connection to the GWS.
- 2.7. The appeal was circulated by the Board to An Taisce, the Heritage Council and the Department of Culture Heritage and the Gaeltacht inviting submissions in relation to the proposal. No response was received from any of the parties.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Planning permission was refused by the Planning Authority for four reasons which can be summarised as follows:

1-Flooding-Part of the appeal site is located with a flood risk area and the proposals would be contrary to a specific flood objective FS-01 within the Mayo County Development Pan 2014-20 and also contrary to the provisions of the Flood Management Guidelines, 2009.

2- The proprietary effluent treatment system and percolation would be located within one hundred metres of the high water mark for Lough Carra, would contravene Section 20.2.3 Mayo County Development Pan 2014-20 and also be prejudicial to public health.

3- Adequate sightlines in both direction have not been demonstrated; Proposal would endanger public safety by reason of a traffic hazard.

4- The applicant failed to demonstrate that significant adverse effects on the integrity and conservation objectives of the Lough Cara/Mask SAC would not arise as a result of the development proposals.

### 3.2. **Planning Reports**

The Initial Planning Officers report dated the 27<sup>th</sup> day of August 2021 set out the following.

- The site is located within a rural area.
- The dwelling on site appears to pre date the enactment of the 1963 Planning and Development Act.
- Further information was requested as per the details included within Section 2.4 of this report above.

The subsequent Planning Officers report dated the 20<sup>th</sup> day of December 2021 set out the following.

- The Planning Officer was satisfied: That the development is located in an area which is at risk to flooding.; As effluent would be discharged to groundwater within 100 metres from the lakeshore, which is liable to flooding, and, therefore, contrary to the provisions of the MCDP; That sightlines in accordance with the visibility standards set out within the MCDP had been demonstrated; Concluded that the development either individually, or in

combination with other plans/projects, would not adversely impact upon the qualifying interests and conservation objectives of the Lough Carra/Mask Complex SAC.

- A refusal of planning permission was recommended, for the four reasons as summarised in Section 3.1 above.

### 3.3. Other Technical Reports

**Senior Executive Planner:** Recommended that further information be sought in relation to a number of issues including the following: Flooding and surface water management: Sightlines: Land ownership/rights of way and for the relocation of the domestic extension to the rear of the vacant dwelling.

**Area Engineer:** Stated that there is no watermain in the vicinity of the development.

**Flood Risk Management, Environment, Climate Change and Agriculture:** The flood risk assessment submitted does not comprehensively address flooding from the obvious source, that being the adjacent Lough Carra.

### 3.4. Prescribed Bodies

**Department of Housing, Local Government and Heritage:** Set out that the site is located immediately adjacent to the Lough Carra/Mask SAC and that the wastewater treatment system should be located sufficiently distant from the lake and stated that the Qualifying Interests (Qi's) associated with the lake are sensitive to changes in water quality and nutrient enrichment. They recommended that a report be prepared and submitted in accordance with Article 6(3) of the Habitats directive given, the close proximity of the appeal site to the European site.

### 3.5. Third Party Observations

None received.

## 4.0 Planning History

The relevant planning history pertaining to the appeal site is as follows:

Reference number 17/886, in 2017, planning permission was refused by Mayo County Council to Catriona Byrne (mother of current applicant) for the renovation of existing cottage, construction of a side extension and install a new proprietary wastewater treatment system and percolation area and all associated site services. The reasons for refusal related to the wastewater treatment system being located within 100 metres of the high water mark of Lough Carra, restricted sightlines and that the applicants had failed to demonstrate that the proposal would not adversely affect a natural habitat identified within Annex 1 of the Habitats Directive.

## 5.0 Policy and Context

### 5.1. Mayo County Development Plan 2014-2020

At the time the Planning Authority made its planning decision on the 14th day of October 2021, the Mayo County Development Plan (MCDP) 2014-2020 was the operational plan. The MCDP has since been superseded by the Mayo County Development Plan (MCDP) 2022-2028.

### 5.2. Mayo County Development Plan, 2022-2028

Chapter 2-Core and Settlement Strategy.

There are a number of Core Strategy Objectives set out within the plan as follows:

SO9: To ensure that proposals for developments located within identified or potential flood risk areas, or which may exacerbate the risk of flooding elsewhere, are assessed in accordance with the provisions of the Flood Risk Management Guidelines (DoEHLG/OPW 2009) and Circular PL2/2014 (or any updated/superseding document), the relevant policies, objectives and guidelines within this plan and shall also take account of the National CFRAM Programme Flood Hazard Mapping and Flood Risk Management Plans when they become available.

Section 2.8.1.1 sets out the following in relation to the rural countryside:

The Council will ensure that development of the unserved rural areas takes place in a manner that is compatible with the protection of key economic, environmental, biodiversity and cultural/heritage assets such as the road network, water quality and important landscapes.

“A single category mixed-use zoning applies to the rural village plans i.e., Rural Village Consolidation Zoning. A similar approach is adopted for Tier IV Rural Settlement Plans. These rural villages provide a choice for those who wish to live in a rural setting but not in the rural countryside”. Hollymount is the nearest designated Tier 5-Rural village within the Plan.

### Chapter 3: Housing

#### Section 3.4.8 Rural Single Housing

The sensitive reuse, refurbishment and replacement of existing rural dwellings is also recognised as a vital element in maintaining the vibrancy of the countryside.

The following Rural Housing policies and objectives are considered pertinent:

RHP 6: To encourage the reuse of an existing rural building/structure other than a house for residential development subject to proper planning and sustainable development.

RHP 7 To consider replacement dwellings or development of other structures to habitable homes in all rural areas, subject to normal planning considerations. To ensure that future housing in rural areas have regard to the Sustainable Rural Housing Guidelines for Planning Authorities 2005 (DOEHLG) or any amended or superseding guidelines.

### Chapter 10: Natural Environment

Map 10.1 identifies the appeal site as being within Policy Area 4A-Lakeland sub-area.

Table 10.1 Landscape sensitivity matrix sets out that rural dwellings are deemed to have a low potential to create adverse impacts upon the landscape character of the area.

The Design Guidelines for the single rural houses have been adopted and are included within Volume 4 of the Mayo County Development Plan 2022-2028.

### **5.3. Natural Heritage Designations**

The Lough Carra/Mask SPA (site code 004051) is located approximately 5 metres from the northern and western appeal site boundaries.

The Lough Carra/Mask SAC (site code 001774) is located approximately 50 metres from the northern and western appeal site boundaries.

The Lough Carra/Mask pNHA (site code 001774) is located approximately 5 metres from the northern and western appeal site boundaries.

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

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**

A first party appeal against the Planning Authority's decision to refuse planning permission has been received from Armstrong Reape Architectural Services, on behalf of the applicant, Maria Byrne. The main issues raised within the appeal submission relate to the following:

Principle of development:

- The Planning Authority (PA) assessed the proposals as if it was assessing proposals for a new dwelling on a greenfield site.

- The approach taken by the PA is not consistent. Specific reference is made to planning reference 21/563 in relation to the development of a single dwelling approximately 200 metres from the appeal site.
- The MCDP within its policies and objectives encourages the re-use of vacant residential properties as an alternative to developing greenfield sites.
- The structure on site will continue to deteriorate if undeveloped, impacting negatively on the local environment.

#### Natural Heritage:

- The applicant went as far as preparing and submitting a Natura Impact Statement (NIS) which was backed up by a field survey conducted in 2015 which outlined that there was no evidence of the presence of Otters on the site, but that the site might be frequented by foxes and badgers.
- An NPWS ranger visited the appeal site in 2021 on two occasions and confirmed that the site was not suitable for otters due to the number of residential properties in the area and that there was no evidence of bats foraging/roosting within the site.

#### Access:

- The renovation is being asked to satisfy every compliance that a new house would be required to meet, even though considerable improvements in terms of sightlines are being proposed.
- The site is accessed off a narrow laneway which has a narrow width, and a design speed of 42/km/h is applicable in this instance. Table 3.8.9 of the MCDP 2014, sets out a requirements of 50 metre sightlines in both directions which are annotated on the revised Site Plan submitted to the PA.
- The access proposals relate to the improvement of access to an existing dwelling and not the creation of an additional entrance.

#### Wastewater and Flooding:

- Clause 20.2.3 of the MCDP 2014 requires that treatment systems and percolation areas be located at least 100 metres distant from the high water

mark. Clause 20.2.4 refers specifically to existing structures, which is more applicable to the current proposals.

- The applicant is improving the wastewater treatment situation on the site.

## 6.2. **Planning Authority Response**

No comments in relation to the appeal were received from the Planning Authority.

## 7.0 **Assessment**

7.1. The Mayo County Development Plan (MCDP) 2014-2020 has recently been superseded by the Mayo County Development Plan (MDP) 2022-2028, which was adopted on the 29<sup>th</sup> day of June 2022 and became operational on the 10<sup>th</sup> day of August 2022. Therefore, this assessment will make reference to the policies and objectives of the MDP 2022-2028.

7.2. The main issues in this appeal relate to the issues raised in the reasons for refusal as set out within the PA's decision and addressed within the grounds of the appeal, in this regard relate to flooding, compliance with wastewater standards, access and sightlines and proximity of the appeal site to a European site. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development.
- Wastewater
- Flooding
- Site Access
- Natural Heritage
- Other Issues
- Appropriate Assessment

## 7.3. **Principle of Development**

7.3.1. The policies and objectives set out within the Mayo County Development Plan (Sections 2.7 and 2.8) support and encourage the principle of the refurbishment and renovation of vacant properties. The Plan sets out that extensions should be

subordinate to the dwelling and that domestic sheds should be of a scale proportionate to the site area and context. I am satisfied that the proposals would allow for the reuse and refurbishment of a vacant residential property and that the scale, height and external finishes of the domestic extension (providing for sanitary facilities) and refurbishment of the vacant dwelling would be acceptable. In terms of the domestic shed, there is a partial ruin remaining on site, in the form of some rising walls overgrown with ivy and no roof remaining. However, I consider that it could be feasible to build up the rising walls and roof the structure in order to provide for a domestic shed, ancillary to the residential unit on site, despite the fact the applicant has failed to demonstrate the structural feasibility of re-instating the shed structure.

7.3.2. Based on the documentation submitted, I am satisfied that the principle of the refurbishment of a vacant dwelling and its extension is acceptable and would accord with the guiding principles as set out within the current MCDP 2022-2028. However, this has to be qualified in that the development proposals must also satisfy other Development Management Criteria including suitable wastewater treatment proposals, safe means of access and that flooding and Appropriate Assessment matters are addressed in a suitable and comprehensive manner.

7.3.3. In conclusion, it is considered that the applicant has demonstrated that the principle of the proposals are acceptable and would accord with the guiding principles of in terms of dwelling refurbishment and extension in this rural area, as required under the provisions of the MCDP 2022-2028.

#### **7.4. Flooding and Surface Water Management:**

7.4.1. The first reason for refusal as set out by the PA is in relation to the front (western) part of the appeal site being located within an area at risk from fluvial flooding associated with lough Carra. The Planning Authority (PA) were not satisfied that the Site Specific Flood Risk Assessment (SSFRA) submitted by the applicant (as part of the further information response) adequately addressed the potential flood risk associated with Lough Carra and, therefore, considered the proposals to be contrary to the flooding objectives within the Mayo Development Plan and to the provisions of the Flood Risk Management Guidelines (FRMG's), as published by the Department of Environment Heritage and Local Government in 2009.

- 7.4.2. I have consulted with the OPW flood mapping website floodinfo.ie, and from the data available on this site, it is apparent that there is an identified flood risk in the area associated with a land drain (reference CM 5/7) located immediately south-west of the appeal site. There are benefit lands located along the banks of that channel and another land drain located north east of the appeal site, (reference CM 5/8) with some benefit lands located in proximity to that particular drainage channel. These drains are maintained by the OPW. The boundaries of the benefit lands do not encroach those of the appeal site. There is no record of historical flood events within the appeal site nor within its immediate vicinity.
- 7.4.3. I have examined the SSFRA submitted by the applicant. The SSFRA acknowledges that there is a potential flood risk arising in the area, that being from an arterial drain, (reference CM 5/8), located approximately 0.5 kilometres east of the appeal site. There are lands adjacent to the drain and the appeal site which benefit from the maintenance of this land drain; However, the appeal site boundaries are not within the identified benefit lands. The SSFRA references the original National Preliminary Flood Risk Assessment (PFRA.s) mapping which was conducted in 2011 by the OPW. The PFRA's did not identify Coolylaughnan as being an area which required further assessment (AFA). However, these PFRA, s were merely preliminary assessments, therefore, were not detailed flood assessments and were conducted in 2011, and would, therefore, not be up to date.
- 7.4.4. The SSFRA sets out that: The fluvial flood risk is solely from the adjacent OPW benefit lands. I would not concur with this statement. I consider that there is a much more obvious and proximate source of fluvial flood risk, that being Lough Carra which is located within 5 metres of the northern and western appeal site boundaries. The SSFRA submitted by the applicant has failed to assess if there is any potential fluvial flood risk arising at the appeal site, resulting from the close proximity to Lough Carra. No evaluation or assessment in terms of a rise in water levels within Lough Carra that would occur during a 1:100 or 1:1,000 year flood event has been submitted. The applicant has failed to assess or demonstrate if the buildings on site would be impacted upon by water breach during a severe weather/storm event. Given the close proximity of the appeal site to Lough Carra, a precautionary

approach should be adopted and, therefore, I consider it reasonable to uphold the PA's first reason for refusal in this instance.

- 7.4.5. In conclusion, it is regrettable that the applicant has failed to comprehensively consider the impact of a change in water levels within Lough Carra within an extreme weather event scenario. In the absence of this comprehensive assessment, it is considered that the applicant has failed to demonstrate that the appeal site would not be adversely impacted upon within a fluvial 1% or 0.1% weather event. I am of the opinion that the applicant has failed to demonstrate that the appeal site is not at risk of flooding, as required under the provisions of specific objective SO9 within the current Development Plan and the Flood Management Guidelines, 2009.

## 7.5. **Wastewater Treatment**

- 7.5.1. The second reason for refusal as set out by the PA is in relation to the location of the wastewater treatment system and percolation area within a distance of 100 metres of the high water mark of Lough Carra which would contravene, Section 20.2.3 of the MCDP 2014. The applicant has submitted a Site Characterisation Report (SCR) as part of her planning documentation. This report, prepared in June 2021 sets out that the site overlies a regionally important aquifer where the bedrock vulnerability is classified as "Extreme". A Ground Protection Response of R2 is noted. Groundwater flow direction on site is north to north-west, in the direction of Lough Carra. The soil conditions found in the trial hole were stated as comprising dark brown mineral topsoil to a depth of 0.3 metres which is underlain by mid brown alluvial silt with gravel and cobble to a depth of at least 1.4 metres. The water table has not encountered at a depth of 2 metres. Average t-and p values of 23.61 and 25.19 were recorded indicating good percolation characteristics. The Site Characterisation Report recommends the installation of a packaged waste water treatment system and polishing filter (24 linear metres). The EPA CoP 2021 (Table 6.4) confirms that the site is suitable for a secondary treatment system and soil polishing filter discharging to groundwater.
- 7.5.2. I note that the trial and percolation holes were dug on lands removed from and east of the main part of the appeal site, including the vacant dwelling. The treatment system is to be accessed via a right of way provided over third party lands. The applicant has stated that in order to achieve the 50 metre separation distance from a

lake feature, as required under Table 6.2 of the EPA, Code of Practice 2021, the wastewater system needed to be located on higher ground. As per the details submitted, the effluent system is to be located on higher ground. A letter of consent from the adjoining land owner has been submitted, consenting to the making of a planning application on his lands. I note that the third party in this instance is the applicants' father and, therefore, it is likely that consent regarding the right of way would be forthcoming in this instance.

- 7.5.3. I note that Section 2.10 of the MCDP 2022-2028 includes a Development Management standard whereby wastewater treatment systems and/or percolation areas should be located at least 100 metres from the high water mark of lake features and also 100 metres from lands liable to flooding. I also note the EPA CoP 2021, sets out that a 50 metre separation distance (table 6.2 of CoP 2021) from a lake feature is sufficient. The applicant has failed to denote the high water mark of Lough Carra within the planning documentation submitted. Therefore, it is not possible to definitively ascertain if the wastewater treatment system, or the percolation area would be located within a 50 metre distance from the nearest part of the lake shore. Therefore, I am not satisfied that the applicant has demonstrated compliance with the CoP 2021, in relation to the separation distance from a lake shore nor with Section 2.10 of the current Development Plan, and, therefore, I consider that the second reason for refusal as set out by the PA should be upheld.

## 7.6. Access and traffic

- 7.6.1. The third reason for refusal as issued by the PA set out that the applicants had failed to demonstrate adequate sightlines at the entrance point in accordance with the County Development Plan standards. Access to the appeal site is from a local county road, the L66362, where the 80 kilometre per hour speed control zone applies. As part of her further information response, the applicant has revised the entrance location to the south-west part of the appeal site. The applicant contends that the design speed on the local road is 42 kilometres per hour and details of sightlines of 50 metres in both directions from the entrance point have been submitted. I note that the 50 metre sight line in a north westerly direction is not measured to the near roadside edge, in accordance with best practice road safety standards.

7.6.2. I consider that the applicant has not demonstrated adequate sight lines from the proposed entrance point in accordance with Section 7.6 (Access Visibility Requirements), Table 4, Volume 2 of the MCDP 2022-28. The MCDP sets out that an x-distance (set back) of three metres should be achieved but that this can be relaxed to 2.4 metres and that the minimum y and z (sight and stopping distances) distances set out in relation to local roads is 70 metres, even allowing for a 50km/h design speed. It sets out that the lands within the sight distance triangles shall be within the control of the applicant and shall be subject of a formal agreement with the adjacent landowner which ensures certainty that the applicant is in a position to comply with the relevant condition and/or standard. To achieve the requisite sightlines, in this instance, would necessitate the removal/setting back of the roadside boundaries to the north-west of the entrance, which is not possible due to the existence of the vacant dwelling gable wall on the roadside edge, which restricts the visibility.

7.6.3. In conclusion, given that the necessary sight distances have not been demonstrated, in accordance with MCDP/best practice road safety standards, and also may not be achievable, I consider that the development has the potential to compromise the safety and efficiency of the local road network at a location where the 80km/h speed control limit applies. I am of the opinion that the development, if permitted, would result in the creation of a traffic hazard and, therefore, I consider that the third reason for refusal as set out by the PA should be upheld.

## 7.7. Natural Heritage

7.7.1. The appeal site is located on the opposite side of the road from the Lough Carra SPA (site code 004051) approximately 5 metres north and west of the appeal site boundary and the Lough Cara/Mask SAC (site code 001774) is located approximately 50 metres of the appeal site northern boundary. The PA within its fourth reason for refusal raised issues in relation to significant adverse impacts upon water quality arising from the proposed development which would adversely impact upon the protected species within the European site. These are matters that will be addressed in detail later within Section 7.8 of the report in relation to Appropriate Assessment (AA).

## 7.8. Appropriate Assessment

## **Background**

- 7.8.1. An Appropriate Assessment Screening Report and Natura Impact Statement were submitted as part of the planning documentation. I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified, and sound scientific information and knowledge was used. The information contained within the submitted reports is considered sufficient to allow me to undertake a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans or projects on European sites. The screening is supported by an associated report, including a Site-Specific Flood Risk Assessment as well as a review of National Parks and Wildlife Service (NPWS) datasets, Ordnance Survey mapping and aerial photography.
- 7.8.2. The AA Screening Report states that this assessment was undertaken without considering or taking into account specific mitigation measures or protective measures included in the construction management plan prepared for the proposed development.
- 7.8.3. The applicants AA Screening Report concludes that: Significant effects cannot be ruled out to Lough Carra SAC. The applicant identified that potential exists for loss of sediment and other construction pollutants to surface water which could result in temporary negative effects to water quality and impacts to the invertebrate communities of the mudflat habitats during the construction phase. Significant effects to the SAC cannot, therefore, be ruled out.
- 7.8.4. As a result, an Appropriate Assessment may be required. A Natura Impact Statement has been submitted to inform such an assessment, if deemed required by the Board.

### **Appropriate Assessment-Screening**

- 7.8.5. The project is not directly connected to or necessary to the management of a European site. The development is examined in relation to any possible interaction

with European sites designated Special Areas of Conservation (SAC) and Special Protection Areas (SPA), to assess whether it may give rise to significant effects on any European Site.

### **Description of development site**

- 7.8.6. The development is described in Section 2 of my report. The proposed development is located on a brownfield site within a rural area as defined within the current Mayo Development Plan. The development would provide for the renovation of a derelict cottage and the construction of a modest domestic extension and the installation of a proprietary effluent treatment system and percolation area and all associated site works. Wastewater would be discharged to ground following treatment within a soil polishing filter.

### **Submissions and observations**

- 7.8.7. The Department of Housing, Local Government and Heritage issued a response to the Planning Authority and set out that the applicant should be requested to submit an assessment on accordance with Article 6(3) of the Habitats Directive due to the proximity to the European site(s) and potential to impact upon the qualifying interests with the lake feature.

### **Characteristics of Project**

- 7.8.8. Given the proximity of the appeal site to the Lough Carra SPA and the Lough Carra/Mask Complex SAC, located approximately 5 metres and 50 metres west and north of the appeal site, and given that ground levels fall in a north-westerly direction towards the European site, I consider that there is a strong likelihood that surface and ground water hydrological pathways exist towards the European sites. This information is corroborated by the information provided within the Site Characterisation Report submitted by the applicant. Given the potential effects to water quality that may arise during construction (particularly from sediment and other construction related pollution), the likelihood of significant adverse effects to the qualifying interests within Lough Carra/Mask cannot be ruled out.

7.8.9. The relevant characteristics of the project that might give rise to potential impact on European sites, both during the construction and operational phases are as follows:

Construction-related impacts

- Deterioration in water quality through increased sediment from surface water run-off.
- Species disturbance arising from noise during construction activities on site.

Operational-related impacts

- Habitat loss/degradation disturbance from sediment in surface water run-off

**Designated Sites and Zone of Influence**

7.8.10. A potential zone of influence has been established by the applicant having regard to the location of European sites, the Qualifying Interests (QIs) of the sites, the source-pathway-receptor model and potential environment effects of the proposed project.

7.8.11. A number of European sites in the wider area were examined by the applicant and found not to be within a likely zone of influence due to the absence of ecological pathways between them and the appeal site or due to the significant separation distances between them and the appeal site. I consider that only sites within the immediate area of the proposed development require consideration as part of the screening process.

7.8.12. The following Natura 2000 sites are considered to be located within a possible zone of influence of the development site:

**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 (Littorelletalia uniflorae) [3110] Oligotrophic to mesotrophic standing waters with vegetation of	50 metres west and north of	Surface water run off to lake and by means	Yes

(001774)	<p>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>Cladium fens with 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>	the development	of groundwater connection which could be adversely impacted by effluent treatment system.	
Lough Carra SPA (004051)	Common Gull (Larus canus) [A182]	Approximately 5 metres north of appeal site boundary	Surface water run off to lake and by means of groundwater connection which could be adversely impacted by effluent treatment system.	Yes

### Identification of likely significant effects

- 7.8.13. The Lough Carra/Mask SAC and the Lough Carra SPA are the two European sites being considered within this assessment, due to the possibility of habitat degradation and/or habitat loss arising from construction impacts associated with the development proposals. These actions would include the release of sediment during groundwork excavations and sediment created during the installation of the effluent treatment system and percolation area. These works have the potential for adverse impacts to arise with the surface water drainage discharging to the groundwater system and ultimately to the same groundwater source system which feeds Lough Carra resulting in potential adverse impacts upon water quality, alone or in combination, with other pressures on water quality.
- 7.8.14. Having regard to the proximity of the appeal site to the European sites and the fall in ground levels from the appeal site towards the south-eastern lake boundary, I consider that there is potential for a hydrological connection with the Lough Cara/Mask Complex SAC and Lough Carra SPA.
- 7.8.15. The Conservation Objective for this SAC is to: 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. These habitats are highly sensitive to a deterioration in water quality. I consider that, having regard to the proximity of the works to the SAC, and potential hydrological connection, likely significant effects on water quality as a result of construction-related siltation or pollution cannot be excluded at this stage in the assessment.
- 7.8.16. In terms of species, the Otter is included as a Qualifying Interest (QI) for the SAC. Therefore, consideration of likely significant effects on Otter, relating to water quality and disturbance, must be undertaken. I note that the NPWS mapping (Conservation Objective Map number 9) includes details of Otter commuting habitat. However, the mapping does not indicate the presence of Otter habitat in the vicinity of the appeal site. Therefore, I am satisfied that this species can be screened out and removed from more detailed assessment.
- 7.8.17. The Lesser Horseshoe Bat (LHB) is included as a QI for the SAC. I note that the NPWS mapping (map number 8) includes details of potential foraging areas within

Lough Carra, all located along the eastern and south-eastern sections of the lake, some in close proximity to the appeal site. I am of the opinion that this species would not use the existing structures on site for roosting purposes, as the LHB seek out areas which are sheltered from the elements for roosting purposes. The NIS sets out that the site has been visited by a local National Parks and Wildlife (NPWS) ranger who has verified the unsuitability of the site for LHB roosting and foraging purposes. Therefore, I am satisfied that given the structures on site are in a poor state of repair and open to the elements, that this species can be removed from more detailed assessment.

- 7.8.18. I acknowledge that the size and scale of the development is not significant in the context of rural development. The Common Gull is the particular QI associated with the Lough Carra SPA. Both NPWS records and records from the National Biodiversity Data Centre (NBDC) provide no records of the Common Gull habitat in the vicinity of the appeal site. The habitats on site were deemed of low ecological significance, none of which are designated as protected habitats. In light of the low ecological value of the site, I am satisfied that the appeal site would not provide for suitable foraging grounds for the Common Gull and therefore, the Lough Carra SPA can be screened out on this basis.
- 7.8.19. Catchments.ie have classified the water quality in Lough Carra as good, which would indicate that the waters within the lake have not been adversely impacted upon by either wastewater or surface water outfalls from development within the area to date.
- 7.8.20. I note that water supply would be sourced from a local Group Water scheme. I am of the opinion that the water quality within Lough Carra would not be adversely impacted upon by virtue of the water supply proposals for the development. Therefore, I am satisfied that these particular potential impacts do not require further assessment in the context of Appropriate Assessment.
- 7.8.21. Regarding impacts on habitats at operational stage, the applicant outlines that the proposed development will not result in an intensification of activity in this vicinity and there would be no increase in nutrient loading within the catchment area. The applicant states that water quality would be improved arising from the higher quality of effluent treatment proposed on site, with the installation of a system in accordance with best practice EPA CoP standards. I refer to Section 7.5.3 of my report above

and it is regrettable the applicant has failed to denote the high water mark for Lough Carra. Therefore, it is not possible to definitely determine if the required separation distances between the wastewater treatment system and the lakeshore are achievable. I cannot ascertain with certainty if the relevant separation standards as set out with the Development Plan and the EPA CoP standards would be achieved in this instance.

7.8.22. In relation to cumulative impacts, from a review of 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. Given the proposals relate to a modest scale of development and with the incorporation of best practice construction methods and the fact the lands in Rural Mayo would have been subjected to a Strategic Environmental Assessment and an Appropriate Assessment determination under the preparation of the Mayo County Development Plans of 2014 and 2022. Therefore, the cumulative environmental impact of development within the appeal site and within the adjacent lands has been considered, and deemed acceptable. I do not consider that there is likely potential for cumulative impacts associated with other developments.

7.8.23. A summary of the outcomes of the screening process is provided in the screening matrix table below.

7.8.24. Therefore, adopting the precautionary approach, I consider that there is an ecological rationale for proceeding to a Stage 2 AA in relation to further assessing any potential adverse construction impacts that may arise in relation to the Lough Carra/Mask SAC. This conclusion is consistent with that of the applicant.

**Table 2: Screening summary matrix**

European Site (Code)	Distance to proposed development (metres)	Possible effect alone	In combination effects	Screening conclusion
Lough Carra/Mask	Approximately 50 metres	Water quality impacts on habitats as a result of construction-related pollution and siltation.	None	Possible significant effects cannot

Complex SAC (001774)	separation distance			be ruled out without further assessment
Lough Carra SPA (004051)	Approximately 5 metre separation distance	Water quality impacts on bird species as a result of construction-related pollution and siltation.	None	Screened out for need for AA

### Mitigation measures

7.8.25. 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.

### Screening Determination

7.8.26. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant adverse effects on the Lough Carra/Mask Complex SAC, in view of the and Appropriate Assessment is, therefore, required.

7.8.27. The potential for significant effects on other European sites can be excluded.

### 7.9. Stage 2- Appropriate Assessment

#### Natura Impact Statement (NIS)

7.9.1. The application included a Natura Impact Statement (NIS) for the development at Coolylaughnan, Hollymount, Mayo. The NIS provides a description of the project and the existing environment. The NIS examines and assesses potential for adverse effects of the proposed development on Lough Carra/Mask Complex SAC. Section 3.7 of the NIS outlines the characteristics of Lough Carra. Section 3.8 sets out the potential impacts/pressures arising from the construction and operational phases of the development on the Lough Carra/Mask SAC and includes details of mitigation

measures (Stage 2, table of significance) that would be incorporated during the development works.

- 7.9.2. The NIS concludes that subject to the implementation of the mitigation measures outlined within the tables included with the NIS appendices, and measures included in the design of the development and the implementation of preventative measures during the construction phase, adverse effects on the site integrity of the European site alone, or in combination with other plans and projects, can be excluded.

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

- 7.9.3. The following is an assessment of the implications of the project on the qualifying interest features of the Lough Carra/Mask Complex SAC using the best scientific knowledge in the field as provided in the NIS. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.
- 7.9.4. A number of Qualifying Interests (QI's) within the Galway Bay Complex SAC have been removed from further assessment as the potential for significant effects on a number of QI's has been ruled out due to the absence of hydrological pathways between the appeal site and these QI's. These QI's include: European dry heaths, Semi-natural dry grasslands, and scrubland facies on calcareous substrates Cladium fens, Alkaline fens, Limestone pavements, Alluvial forests; Lesser Horseshoe Bat, the Otter, and Slender Green Feathermoss.
- 7.9.5. A description of the SAC and Conservation Objectives and Qualifying Interests ([www.npws.ie](http://www.npws.ie)), are set out in the screening assessment above, and repeated in Table 3 of the AA.

### **Potential Impacts on identified European Sites**

#### **Table 3**

##### **Site 1:**

**Name of European Site, Designation, site code:** Lough Carra/Mask SAC (site code 001774)

Summary of Key issues that could give rise to adverse effects.

- Water Quality and water dependant habitats

- Habitat Loss
- Disturbance of QI habitat

**Conservation Objectives:** To restore the favourable conservation status of the protected habitats and species within Lough Carra/Mask. [CO001774.pdf \(npws.ie\)](#)

		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives  Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]	To restore the favourable conservation condition of Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or of the Isoëto-Nanojuncetea in Lough Carra/Mask Complex SAC,	Deterioration in water quality arising from sedimentation entering surface water channels and impact upon groundwater arising from wastewater treatment on site.	Surface water run-off will be retained on site and allowed to infiltrate naturally to the groundwater system. Effluent treatment system will be installed and maintained in accordance with EPA CoP guidance	No significant in-combination adverse effects	Yes
Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140]	To restore the favourable conservation condition of Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. in Lough Carra/Mask Complex SAC,	As above	As above.	No significant in-combination adverse effects	Yes

**Overall conclusion: Integrity test**

Following the implementation of the mitigation measures and the installation and operation of the effluent treatment system in accordance with EPA CoP 2021, best practice guidance, 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.

7.9.6. Following the Appropriate Assessment and the consideration of mitigation measures, set out within the NIS, 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 this site. This conclusion has been based on a complete assessment of all implications of the project alone, and in combination with other plans and projects.

### **Appropriate Assessment Conclusion**

7.9.7. Having carried out screening for Appropriate Assessment of the project, it was concluded that in the absence of mitigation measures to prevent construction related pollutants reaching Lough Carra, it may have a significant effect on the Lough Carra/Mask 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.

7.9.8. Following the Appropriate Assessment and the consideration of mitigation measures, I can ascertain with confidence that the project would not adversely affect the integrity of the Lough Carra/Mask 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 site.
- 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.

## 8.0 Recommendation

I recommend that planning permission be refused.

## 9.0 Reasons and Considerations

- 1 Having regard to the soil conditions and the proximity of the appeal site to Lough Carra, the Board is not satisfied on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated and/or disposed of on site in accordance with the EPA, Code of Practice 2021, specifically table 6.4, notwithstanding the proposed use of an effluent wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.
- 2 The Board is not satisfied, on the basis of the information submitted with the planning application and in response to the appeal, that the development is not at risk of flooding. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.
- 3 It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a local road at a point where sightlines are restricted in a north westerly direction and have not been demonstrated in accordance with the Mayo County Development Plan standards.

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Fergal O'Bric

Planning Inspectorate

4<sup>th</sup> day of May 2023