



An
Bord
Pleanála

Inspector's Report

ABP-313417-22

Development	Permission for a cattle pen and crush, roadside parking area, land access gate and boundary walls.
Location	Slevinagee, Antogher Road, Roscommon Town, Co. Roscommon.
Planning Authority	Roscommon County Council
Planning Authority Reg. Ref.	21590
Applicant	Margaret Kennedy
Type of Application	Permission
Planning Authority Decision	Granted Permission
Type of Appeal	Third Party
Appellant	Padraig Nally
Observer(s)	None
Date of Site Inspection	26 th October 2022
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.046 ha (460 sqm) and is located in the townland of Slevinagee, on the southern side of Antogher Road, c. 1 km south of the centre of Roscommon. The River Jiggy is located to the immediate west of the appeal site. A stone bridge over the river is situated to the north-west of the appeal site. Residential development is located to the west and north-west of the appeal site.
- 1.2. The appeal site is relatively flat, broadly rectangular in shape and comprises part of a larger agricultural landholding. The roadside boundary of the appeal site has been removed and an area of compacted hardcore has been laid across much of the appeal site and up to the top of the river bank. Correspondence submitted with the planning application states that these works have been carried out by a contractor on behalf of Irish Water as part of the Roscommon Town Main Drainage Scheme. The appeal site is traversed by a wayleave to facilitate these works. A silt fence has been erected long the eastern boundary of the River Jiggy to protect it from sediment during the Roscommon Town Main Drainage Scheme. An open drainage ditch runs along part of the front of the site and adjoining lands to the east.

2.0 Proposed Development

- 2.1. The proposed development comprises;
 - The construction of a cattle crush/pen (with stated dimensions 14 metres x 7 metres)¹, consisting of 1.8 metre high concrete walls with a gate on the east and west elevation.
 - A splayed parking area, set back 4 metres from the road edge.
 - An entrance gate (8 metres wide) affixed to 1.2 metre high piers and wall (finished in random rubble).

¹ The planning application form refers to the cattle crush/pen accommodating 45 no. cattle or 150 no. sheep whereas *Drawing No. 7737-2052 A* submitted with the planning application refers to the cattle crush/pen accommodating 55-70 cattle. In response to the Planning Authorities request for Further Information the applicant stated that the cattle crush/pen would accommodate 45 cattle or 105 sheep.

- 450mmØ land drain connecting the existing drainage ditch along the front of the appeal site to the water course/River Jiggy (described in the documentation submitted as ‘the piping of an existing land drain’).
- Catchpit and soakpit.

3.0 Planning Authority Decision

3.1. Request for Further Information

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

3.1.1. Further Information was requested on the 14th December 2021 as follows:

- Item 1 - Agricultural buildings are not normally permitted on lands zoned Greenbelt, submit details of activities to be undertaken in the cattle crush, numbers of animals it will serve, and whether it is intended as a replacement structure.
- Item 2 - Submit sightline drawing and confirm whether works are required to facilitate same.
- Item 3 - Submit details of parking area to front of site and confirm how it will operate.
- Item 4 - Submit details of suitably designed soakpit. No surface water from the cattle pen should discharge to the River Jiggy.
- Item 5 - Confirm planning status of hardstanding on the site and a remediation plan for the buffer zone adjacent to the River Jiggy to address the discharge of solids and silt from this area to the river.

3.1.2. Further Information submitted on the 4th February 2022 as follows:

- Item 1 – The Proposed cattle crush/pen is predominantly located within the land zoned for ‘Transitional Agricultural Use’, and under the Roscommon Town Local Area Plan (LAP) 2014-2020 ‘Agricultural Buildings’ are ‘open for consideration’ within this zoning.

The existing cattle crush was demolished in order to facilitate construction of a gravity sewer through the lands as part of the Roscommon Town Main Drainage Scheme on behalf of Irish Water. The original cattle crush was located with the area zoned 'Greenbelt'.

The cattle crush/pen will be used twice a year for herd test for cattle and three times a year for dosing of cattle, five times a year for dosing of sheep, loading/unloading cattle twice a year, loading/unloading sheep five a year, inspection of cattle and sheep three to four times a year, and miscellaneous attendance to animals when required due to illness, injury, etc. The proposal will typically serve 45 Cattle/105 Sheep.

- Item 2 - Sightline drawing (*Drawing no. 7737-2053*) indicates 90 metre sightline to east and west, 2.4 metres from the road edge. No works are required to third party lands to facilitate sightlines.
- Item 3 – Confirmation of procedures for vehicles using the site, specifically, vehicles will park in splayed area to the front of the site on arrival, gates will be opened and vehicles can enter site for loading/unloading of animals, vehicles then exit site and park in the splayed area while the gates are closed. The dimension of the splayed area allows for vehicles to park and occupants to exit/enter vehicles safely. The splayed area will accommodate 1 no. rigid truck and a tractor or car/SUV. The loading/unloading of animals will take place in the pen and not within the splayed area. *Drawing no. 7737-2054* indicates typical vehicular manoeuvres. The parking area will have a crossfall directing surface water run-off away from the River Jiggy, any soiled water from the parking area will be piped to a soakpit with a sediment trap.
- Item 4 – *Drawing no. 7737-2053* indicates details of a catch pit and a soakpit. The catchpit will capture solids preventing fouling of the soakpit. The soakpit is designed in accordance with BRE Digest 365 (calculations attached). Surface water discharge from the parking area and the cattle pen will be directed to the soakpit via gullies and pipework, there will be no discharge of surface water collected, accumulated on the holding pen, crush and associated hardstand area to the land drain, both open and piped, or to the River Jiggy.

- Item 5 – Confirmation that there was no planning permission associated with the existing hardstand area, this is a temporary hardstand area associated with the construction of the upgraded sewer. A wayleave was acquired by Irish Water through the lands for the purpose of renewing the existing sewer. The hardstand area will be removed upon completion of the sewer upgrade, which is anticipated towards the end of 2022. Section 4(1)(g) of the Planning and Development Act, 2000, confers an exemption for these works. Reference to Class 58 is also made. The River Jiggy is currently protected from the discharge of solids and silt from the hardstand area by the extent of the wayleave and the silt fence. The silt fence will remain in place until such time as the works are completed. Under the Roscommon Town Main Drainage Scheme the contractor must adhere to specific construction management measures, including the management of silt and the erection and maintenance of a silt fence.

3.2. Decision

The Planning Authority issued a Notification of Decision to GRANT Permission on the 1st April 2022 subject to 10 no. conditions.

C2 - requires a silt barrier to be retained along the western boundary of the site for a specified duration.

C3 – requires a stock proof fence to be maintained along the River Jiggy.

C4 – requires the area between the western boundary wall and the River Jiggy to be grassed once the hardcore is removed.

C5 – requires the provision of a 10 metre wide riparian zone at the top of the bank of the River Jiggy and the omission of the stone wall from the western part of the site².

C6 – stipulates that the cattle pen be used for the loading/unloading of animals and the veterinary care of animals, and prohibits the use of the cattle pen for the feeding of animals.

C8 – requires the cattle pen to be cleaned down after each use.

² In omitting the section of wall west of the entrance, an alternative boundary or means of enclosing the lands have not been specified, and as permitted there would be a gap west of the entrance.

C9 – requires run-off from the development to be disposed of to soakpits or adjacent watercourses³.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The first report of the Planning Officer includes the following comments;

- The majority of the site is zoned Greenbelt and a portion of the east of the site is zoned 'Transitional Agricultural Uses' in the Roscommon Town Local Area Plan 2014-2020.
- An Appropriate Assessment screening may be required considering the connection of the River Jiggy to the River Hind and to Lough Ree SAC and SPA.
- Given that there is an existing cattle crush on the site it is not considered that the proposal would be harmful to the visual amenity of the area.
- Details of the use of the setback area are required.
- The proposal will not interfere with the bridge over the River Jiggy, a Protected Structure (RPS Ref. 03900738).
- Disruption to Bully's Acre is not anticipated given the separation distance concerned.
- A small area west of the site is susceptible to flooding however the proposed use is not vulnerable to the effects of flooding.

Further Information recommended.

3.3.2. The second report of the Planning Officer includes the following comments;

- The structure will be used infrequently.
- The majority of the structure is located on lands zoned 'Transitional Agricultural Uses' in the Roscommon Town Local Area Plan 2014-2020 and is a replacement structure.

³ Condition 9 appears to allow for the discharge of run-off from the development to the River Jiggy.

- There will be no discharge to the adjoining water course.
- Conditions will be attached to address any potential impact on the River Jiggy.

3.3.3. Other Technical Reports

Environment Department – Initial report raises concerns in relation to the proximity of hardcore to River Jiggy and recommends a number of conditions in the event of a grant of permission, including that surface water be discharged to a soakaway and not to a watercourse or land drain, open or piped; the cattle pen be cleaned after each use and shall not be used for the feeding of animals, and that a remediation plan be submitted for the buffer along the River Jiggy. Second report notes that the proposed cattle crush will not result in any discharge of contaminated surface water to the surface water drains; recommends that conditions are attached to any grant of permission requiring the use of the cattle crush to be restricted to loading/unloading and routine veterinary care, and not for feeding, that inspection manholes are installed, that the pen is cleaned down after each use and organic fertiliser collected in accordance with EU (Good Agricultural Practice for Protection of Waters) Regulations, 2017, and that any construction and demolition waste activities do not result in discharges to the River Jiggy.

3.4. Prescribed Bodies

Inland Fisheries Ireland (IFI) –

Initial submission notes that the River Jiggy supports brown trout⁴, is a priority area for action under the 2nd and 3rd cycles of the Water Framework Directive and has ‘poor status’; that the existing silt fencing along the River Jiggy is not in the correct position; that a 10 metre wide buffer free of development is required from the top of the bank of the River Jiggy, however fill is located within this buffer and the buffer should be reinstated to protect the river; that it is not appropriate to drain surface water from the cattle crush to the river and a separation of clean and soiled water is required; that the culverting of the surface water drain is acceptable however details (including outfall design, culvert sizing and method statement) would need to be agreed with IFI.

⁴ Reference in the IFI initial submission refers to the River Jiggy as being a Salmonid river. I have consulted the EPA website and note that this stretch of the River Jiggy is not indicated as a Salmonid river.

Second submission notes that IFI were not consulted in relation to the works being undertaken on behalf of Irish Water; that in order to limit potential impacts from the proposed cattle crush, a 10 metre wide riparian zone should be reinstated at the top of the river bank and the roadway and entrance designed to allow for a 10 metre wide vegetated buffer from the watercourse, and that the IFI are satisfied with the proposed soakaway.

3.5. **Third Party Observations**

4 no. observations were received by the Planning Authority (inc. 1 no. observation in response to the significant further information submitted by the applicant). The following is a summary of the main issues raised in the third-party observations:

- The proposed development would impede access/future access to a historic burial ground located south of the site known as 'Bully's Acre'. The Local Authority should ensure access to this burial ground from Antogher Road.
- Potential impact on adjoining watercourse arising from the proposed development;

4.0 **Planning History**

Appeal Site:

PA. Ref. 21/380 – Permission sought to raise levels of land by c. 0.8m with imported clean soil and stone and associated site works. (APPLICATION DEEMED WITHDRAWN).

5.0 **Policy Context**

5.1. **Development Plan**

- 5.1.1. The relevant development plan is the Roscommon County Development Plan 2022-2028. The appeal site is not subject to a specific land-use zoning in the Roscommon County Development Plan 2022-2028.

5.1.2. The appeal site was previously zoned 'Greenbelt' and 'Transitional Agricultural Use' under the Roscommon Town Local Area Plan (LAP) 2014-2020 however this LAP has expired. The Roscommon LAP 2023 – 2029 is currently being prepared.

5.1.3. The following policy objectives of the Roscommon County Development Plan 2022-2028 are relevant to this assessment:

- Policy Objective NH10.19 – Inland Waterways
- Policy Objective NH10.20 – Inland Waterways

The stone bridge to the north-west of the appeal site is a Protected Structure (RPS. Ref. 03900738).

5.2. Natural Heritage Designations

- Lough Ree SAC (Site Code 000440), c.3.5 km east.
- Lough Ree pNHA (Site Code 004064), c.3.5 km east.
- Lough Ree SPA (Site Code 004064), c. 9 km east.

5.3. EIA Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended) and therefore is not subject to EIA requirements.

6.0 The Appeal

6.1. Grounds of Appeal

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

- The Planning Authority have assessed the proposed development as the replacement of an existing facility, whereas the previous structure on the site appears to have been unauthorised. The Board should assess the proposal without taking into account the existence of a previous structure on the site.

- The location of the proposal is suboptimal. The Board should compel the applicant to re-locate the proposal, affording a more peaceful setting to the nearby burial ground.
- The Planning Authority did not carry out adequate environmental assessments of the cumulative impact of the proposal with other developments in the area. The planning reports on the file are difficult to decipher and it is unclear from these reports whether Appropriate Assessment has been adequately considered. Environmental Impact Assessment has not been clearly addressed by the Planning Authority.
- Environmental screening has not been submitted in respect of the works being carried out on behalf of Irish Water, nor has it been demonstrated that these works will not adversely affect European sites. The Board should insist that the applicant provide information in relation to past, current and proposed development. The intended use of the lands is unclear, specifically in the context of the proposal for the site to be used for agriculture and also as a landfill.
- The proposed development would materially contravene objectives of the County Development Plan and the Roscommon Local Area Plan 2014-2020, including the zoning objective for the lands, and the Planning Authority did not follow appropriate procedures in this regard.
- The site is zoned Greenbelt and should be maintained as a visual and environmental buffer, protected from inappropriate development.
- The proposal and the precedent it sets poses a risk to public health and the protection of water sources. The use of a soakpit to dispose of contaminated water is unacceptable. The Board should consider the Ground Water Source Protection Zones report from April 2003 published by GSI in assessing the proposal. The existing public foul sewer system should be used to dispose of waste water from the proposal.
- Preferential flow paths may have been created during the engineering works and this needs to be assessed.
- The lands contribute to the Roscommon Regional Water Support Source, as indicated on Map 7 of the Roscommon LAP.

- Potential impact on traffic safety arising from the proposal.
- Potential impact on Protected Structures.
- Condition no. 5 which refers to the omission of a wall results in ambiguity in relation to this part of the front boundary of the site.

6.2. Applicant Response

The applicant has submitted a response to the third party appeal, specifically;

- The principle of a cattle crush/pen has been long established at this location. The structure was demolished in 2021 to facilitate works being undertaken for Irish Water.
- The appeal site straddles two zonings in the Roscommon Town LAP 2014-2020, Greenbelt and Transitional Agricultural Use. The proposed structure is located on part of the site zoned Transitional Agricultural Use and is therefore open for consideration. The issue of material contravention does not arise. Regarding conflict between the proposed development and stated objectives of the County Development Plan and the Roscommon Town LAP, the Planning Authority have taken into account objectives of the CDP and the LAP
- Bully's Acre is in the ownership of Roscommon County Council, is surrounded by lands owned by the applicant and is not publicly assessable from Antogher Road. In the event that the applicant agrees access with the Local Authority, the proposal does not impede any future access route to Bully's Acre, and this may be achieved along the 10 metre wide riparian zone.
- Works forming part of the Roscommon Town Main Drainage Scheme, which is essential for the protection of the environment in Roscommon and the wider Shannon catchment, are substantially complete on the site and these works have no bearing on the current application. These works were subject to appropriate environmental assessments, including Appropriate Assessment Screening, NIS and EIA Screening.
- The works undertaken on the applicant's lands on behalf of Irish Water were exempt under Section 4(1)(g) of the Planning and Development Act, 2000. Class 58 also provided a wide variety of exemptions.

- The existing Irish Water wayleave across the site prevents the landowner from carrying out development within the wayleave.
- It is the applicant's intention to continue to carry out agricultural activities on the lands. The lands will not be used as a landfill, and as such no environmental impact will arise from it.
- The proposed use of the cattle pen will be infrequent and will not represent a risk to the environment. Surface water discharge from the parking area and the cattle pen will be directed to a soakpit via gullies and pipework, such that no discharge of surface water collected, accumulated in the holding pen, crush and associated hardstand area will be directed to any of the adjoining water course, which includes the land drain, both open and piped, and the River Jiggy. The cattle pen/crush will be only used infrequently and therefore and subject to good farming practices the runoff from it will generally be clean and suitable for discharge to ground via the soakpit. A catchpit is proposed upstream of the soakpit in order to capture any solids that could foul the soakpit. The catchpit can be cleaned when required via tanker and disposed of appropriately.
- There will be no direct discharge from the cattle pen/crush to the River Jiggy, which is connect to Lough Ree SAC/SPA. The cattle pen/crush will be used infrequently, and subject to good farming practices the run-off from it will generally be relatively clean. The buffer zone also provides added protection to the river, and downstream to Lough Ree SAC/SPA.
- The contractor for the Roscommon Town Main Drainage Scheme does not intend to use the lands for the disposal of excavated material and PA. Ref. 21/380 (the landfill application) is due to be withdrawn.
- Sightlines of 70 metres are required at the entrance, whereas sightlines of 90 metres have been demonstrated. Irish Water have a 'way leave' over the lands, and not a 'right of way' and will only access the lands for maintenance of the sewer which would be infrequent.
- There are no Protected Structures within the site. As per Condition 5 the stone wall west of the entrance will be omitted and with the approval of the Planning Authority it is the intention of the applicant to erect a fence at this location.

6.3. **Planning Authority Response**

None received.

6.4. **Observations**

An Taisce have submitted an observation in respect of the appeal. The submission requests that the Board assess the proposed development against Article 4 of the Water Framework Directive to determine if it will cause a deterioration in the water quality of the River Jiggy and note that the Board must be sure that protective measures are sufficient to prevent run-off of contaminants entering the river. A 10 metre wide riparian buffer zone is recommended along the river. An Taisce also recommend that the impact of the proposed development on the historic burial ground to the south of the appeal site is addressed.

7.0 **Assessment**

7.1. I consider the main issues in relation to this appeal are as follows:

- Principle of Development
- Impact on Water Quality
- Traffic Safety & Access
- Other Issues
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. In terms of land use zoning, the proposed development was assessed under the Roscommon Town LAP 2014-2020, under which the appeal site was zoned 'GB – Greenbelt' and 'TA - Transitional Agricultural Use,' with the location of the proposed cattle crush/pen appearing to fall under the part of the site zoned 'TA'. I note that 'Agricultural Buildings,' which the cattle crush/pen was considered analogous with, were 'open for consideration under the 'TA' zoning objective.

- 7.2.2. The Roscommon Town LAP 2014-2020 has expired and at the time of writing this report no draft LAP has been published, therefore the relevant Development Plan is the Roscommon County Development Plan 2022-2028, under which the subject site is not subject to a specific land-use zoning. Having regard to the nature of the proposed development, that being an agricultural structure, and its location within a wider agricultural landholding, I consider the principle of the proposed development to be acceptable.
- 7.2.3. The third party contends that the proposal development would materially contravene objectives of the County Development Plan and the Roscommon Local Area Plan 2014-2020, including the zoning objective for the lands, and notes that the Planning Authority did not follow appropriate procedures in this regard. I note that the proposed development was assessed under the Roscommon County Development Plan 2015-2021, and with reference to the Roscommon Local Area Plan 2014-2020. I note that both of these plans have expired and as such I am satisfied that the issue of material contravention does not arise. Additionally, I note that the Board is only bound by the provision of Section 37 (2) (b) of the Planning and Development Act 2000 (as amended) in instances where permission has been refused by the Local Authority on the basis of the proposed development materially contravening a Development Plan, however as the proposed development was granted by the Planning Authority this issue does not arise.

7.3. Impact on Water Quality

- 7.3.1. In my opinion the crux of this appeal is the potential impact of the proposed development on water quality, specifically on the River Jiggy, and also the River Hind which is located downstream of the River Jiggy, and which according to EPA mapping is identified as being 'nutrient sensitive'. I also consider the potential impact of the proposed development on groundwater to be pertinent.
- 7.3.2. The proposed development entails the construction of a cattle crush/pen which will be located c. 18 metres from the eastern bank of the River Jiggy. The first party has set out the frequency which the cattle crush/pen will be used and the number of animals which it will cater for. Whilst I agree with the first party that the cattle crush/pen will be used relatively infrequently, nonetheless I consider that given the nature of its use and

the number of animals which it would potentially cater for it has the potential to retain a concentration of effluent, the disposal of which requires consideration, in particular noting its proximity to a watercourse, and downstream connection to a watercourse which is nutrient sensitive. I note that run-off from the splayed area to the front of the site and from the cattle crush/pen will be conveyed to a catchpit, where solids are trapped, and then to a soakpit. Reference is made to the catchpit being 'cleaned when required via tanker and disposed of appropriately'. Whilst a soakpit is generally appropriate in the management of surface water it does not in my opinion provide an adequate level of treatment where run-off may potentially contains contaminants, such as animal effluent. As such I consider that there is potential for groundwater to become contaminated, and also potential for contaminated run-off to enter the River Jiggy, affecting its water quality, and further downstream to affect the River Hind, which is a nutrient sensitive waterbody.

- 7.3.3. In response to the request for further information the first party states that the temporary hardstand along the River Jiggy is to be removed upon completion of the sewer upgrade works and the area reinstated to agricultural use. I note that this area is indicated in the proposed development as facilitating the entrance to the site. In my view, it would be impractical for large vehicles carrying animals to use this area should it not comprise some form of surfacing/hardstanding. The extent of the proposed development as it relates to this area is therefore unclear. I further note that this area is within the 10 metre buffer which Inland Fisheries Ireland have recommended is maintained free of development. In my view, this specific element of the proposal has not been adequately considered and as a result the potential for impacts on the River Jiggy have also not been addressed.

7.4. Traffic Safety & Access

- 7.4.1. The posted speed limit at the location of the appeal site is 50 kmph. The corresponding sightline requirement for a 50 kmph road, as set out in Table 4.2 of DMURS, is 45 metres. Figure 12.4 'Sight Distances Requirements' of the Roscommon County Development Plan 2022 – 2028 requires sightlines of 90 metres for local roads. However I consider that DMURS is the applicable policy in respect of sightline standards in this instance having regard to the advice contained in Circular PL17/2013.

Based on the site layout plan submitted with the appeal, I note that the maximum achievable sightlines are 90 metres to the east and west from a setback of 2.4 metres. Works to the third party lands are not indicated as being required. Based on the information submitted, I consider sightlines to be acceptable.

- 7.4.2. Details regarding car and lorry movements in the splayed area to the front of the appeal site have been submitted. The applicant has confirmed that loading/unloading of animals will take place within the site, and not within the spayed area adjacent to the public road. Having regard to the information submitted in relation to vehicular manoeuvres and to the relative infrequency which the appeal site will be accessed, I am satisfied that the proposed development would not represent a traffic hazard and is acceptable in terms of access and traffic safety.

7.5. **Other Issues**

7.5.1. Burial Ground

The third party contends that the proposed development may impede access to Bully's Acre, an historic burial ground in the ownership of Roscommon County Council located south of the appeal site. The observation from An Taisce also recommends that this issue is addressed by the Board. Table 11.2 in the Roscommon County Development Plan 2022 – 2028 sets out public rights of way within the county however I note that there is no reference to the existence of a public right of way in the vicinity of the appeal site, or connecting to Bully's Acre. As such, I consider this issue to be outside the scope of this appeal.

7.5.2. Planning Status of previous Cattle Crush/Pen

The third party have raised the planning status of the cattle crush/pen which was previously located on the site, contending that the Planning Authority have assessed the proposed development as a replacement of an existing facility, whereas the previous structure on the site appears to have been unauthorised. The third party have requested that the Board assess the proposal without taking into account the existence of a previous structure on the site. At the time of my site inspection there was no cattle crush/pen on the appeal site however from reviewing Google Maps imagery I note that there was a cattle crush/pen on the appeal site in 2009, which is as far back as Google

Maps imagery for the appeal site extends. The Planning Authority refer to the proposed development as 'a replacement of a previous structure' and in assessing the proposal in the context of land use zoning, it appears that the Planning Authority have attached weight to the previous structure on the appeal site, however I note that as both the Roscommon County Development Plan 2015-2021 and the Roscommon Local Area Plan 2014-2020 have expired, consideration of the proposed development in terms of previous land use zonings pertaining to the appeal site is moot, and by extension consideration of the existence of a previous structure on the appeal site is not relevant in my opinion. In assessing the principle of the proposed development I have not had regard to the existence of any previous structure on the site as at the time of my site inspection no such structure was present on the appeal site, furthermore consideration of the planning status of any previous structure is beyond the scope of this appeal.

7.5.3. Works forming part of the Roscommon Town Main Drainage Scheme

The works which have been undertaken on the appeal site in connection with the Roscommon Town Main Drainage Scheme appear to have formed part of the consideration of the proposed development by the Planning Authority, and the works associated with the scheme are also referred to by Inland Fisheries Ireland and the third party. In particular, the planning status of these works, assessments undertaken as part of Roscommon Town Main Drainage Scheme, and the efficacy of the silt fence erected along the River Jiggy as part of these works has been raised. Whilst these works carried out in connection with the Roscommon Town Main Drainage Scheme overlap with the appeal site, they do not form part of the proposed development and in my opinion have no bearing on the appeal which is before the Board. Additionally, I note that any issue of enforcement, should it arise, is a matter for the Planning Authority and is therefore outside the scope of this appeal.

7.5.4. Impact on Protected Structure

The stone bridge to the north-west of the appeal site is indicated as a Protected Structure (RPS. Ref. 03900738) in the Roscommon County Development Plan 2022-2028. Having regard to the nature of the proposed development, and its relationship

and distance to the bridge, I do not consider that the proposed development would result in any significant negative impacts on the bridge.

7.5.5. Flooding

From reviewing Floodmaps.ie I note that the appeal site is located within the 0.1% AEP Fluvial Flood Extent, i.e. Flood Zone C, where the probability of flooding is low. Lands in proximity, c. 150 metres north of the appeal site, are however indicated as being located within the 10% AEP Fluvial Flood Extent, i.e. Flood Zone A, where the probability of flooding is highest. In respect of flooding, the first party states that the finished floor level (FFL) of the cattle crush/pen is 48.3 metres OD Malin, whereas the 0.1% AEP estimated flood level is 47.8 metres OD Malin, and therefore the proposal will have FFL c. 0.5 metres above the predicted flood level. Given that such mapping is indicative and cannot be relied upon to give precise information in relation to individual sites, noting the nature of the proposed development where concentrations of effluent are likely to arise, and the sensitivities of the appeal site, I consider that an assessment of pluvial and fluvial flooding would be required in order to examine the appeal site in the context of flood risk. The issue of flooding, whilst addressed by the Planning Authority, was not the subject of the third party appeal and as such is a **new issue**. Should the Board be minded to permit the proposed development they may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out above, it may not be considered necessary to pursue the matter.

7.6. **Appropriate Assessment**

- 7.6.1. The proposed development entails the construction of a cattle crush/pen c. 18 metres from the River Jiggy. The River Jiggy flows in a southerly direction and connects with the River Hind, which in turn connects to Lough Ree SAC⁵ at a location c. 4 km east of the appeal site. According to the Site Synopsis on the NPWS website, the main threat to the aquatic life in Lough Ree comes from artificial enrichment of the waters by agricultural and domestic waste, and also by peat silt in suspension. Whilst there

⁵ The Qualifying Interests of Lough Ree SAC can be found at [Lough Ree SAC | National Parks & Wildlife Service \(npws.ie\)](https://www.npws.ie/en/our-work/protected-areas/lough-ree-sac).

is also a hydrological connection between the appeal site and Lough Ree SPA, noting the distance to Lough Ree SPA, at c. 9 km, I consider that Lough Ree SPA can be screened out.

7.6.2. As addressed above at paragraph 7.33 there is ambiguity in relation to whether the proposed development entails the construction of hardstanding at the proposed entrance. The construction of hardstanding within this area has the potential to result in contaminated run-off entering the River Jiggy. Additionally, the release of sedimentation could also affect the River Jiggy. Should hardstanding be proposed for this area, details of construction management measures would be required. The first party has intimated that the existing silt fence is to be removed upon completion of the Roscommon Town Main Drainage Scheme. I also note the observation of Inland Fisheries Ireland which states that the silt fence which is currently in situ is incorrectly positioned and its efficacy is impacted as a consequence. As such, I do not consider that any reliance could be placed on this silt fence in assessing potential impacts on the River Jiggy under the current proposal.

7.6.3. During the operational phase of the proposed development there is the potential for animal waste from the proposed cattle crush/pen to enter ground and surface water and the River Jiggy. For the reasons outlined at paragraph 7.3, I consider that based on the information submitted there is potential for the proposed development to adversely affect the water quality within the River Jiggy, which is hydrologically connected to Lough Ree SAC. The Qualifying Interests of Lough Ree SAC are sensitive to water quality and eutrophication of Lough Ree SAC could occur if nutrient enriched run-off entered to site. Common sources of such contaminants include animal waste.

7.6.4. I consider there are information deficiencies within the application/appeal, in particular in relation to the extent of works associated with the proposed access. Furthermore, the proposed treatment of run-off from the cattle crush/pen is inadequate in my opinion and I have concerns in relation to the potential for associated downstream effects as a consequence. On the basis of the information submitted with the planning application, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant

effect on the Lough Ree SAC (Site Code: 000440), or any other European site, in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission.

8.0 Recommendation

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

9.0 Reasons and Considerations

1. It is considered that it has not been demonstrated to the satisfaction of the Board that the proposed cattle crush/pen and the effluent associated with the facility would not give rise to water pollution, affecting the water quality of the River Jiggy and the River Hind by way of general pollution and by way of increased nutrient loadings, and of groundwater. The proposed development therefore, if permitted, would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
2. There are information deficiencies within the application and appeal, in particular in relation to the extent of works associated with the proposed access. Additionally, the use of a catchpit and soakpit to treat potentially contaminated run-off from the cattle crush/pen is not adequate, and as such there is potential for groundwater to become contaminated, and also potential for contaminated run-off to enter the River Jiggy, which connects to the River Hind and into Lough Ree SAC. On the basis of the information submitted with the planning application and the appeal, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Lough Ree SAC (Site Code: 000440), or any other European site, in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Ian Campbell
Planning Inspector

25th April 2023