



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313975-22

#### Development

An anaerobic digestion (ad) biogas facility and associated gas pipeline. comprising of: renewable energy project consisting of an ad biogas facility using locally sourced silage & slurry as feedstock to generate biogas for export to the national grid with residual digestate being available for use locally as bio-fertiliser and associated site works. NIS included.

#### Location

Lisglennon, Ballybroony,  
Coonealmore, Coonealcauraun,  
Rathroen, Culleens,  
Laghtadawannagh & Farrannoo,  
Ballina, Co Mayo

#### Planning Authority

Mayo County Council

#### Planning Authority Reg. Ref.

2193

#### Applicant(s)

Lisglennon Ad Limited

#### Type of Application

Permission

#### Planning Authority Decision

Grant Permission

|                                |   |
|--------------------------------|---|
| <b>Type of Appeal</b>          | Third Party                                   |
| <b>Appellant(s)</b>            | Gertie Gardiner; Asahi Local Residents Assoc. |
| <b>Observer(s)</b>             | None  |
| <b>Date of Site Inspection</b> | 25 <sup>th</sup> July 2023                    |
| <b>Inspector</b>               | Una O'Neill                                   |

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## 1.0 Site Location and Description

- 1.1. The site is located in the rural area of Lisglennon, Killala, in Co. Mayo. The site has a stated area of c.13.23ha, including the area for a proposed pipeline (stated site area of c. 5ha when pipeline excluded). The main body of the site is c.5km to the southwest of Killala, Co. Mayo and c. 2.5km west of the R314 (from the northern site entrance) that connects Killala and Ballina. A 8.6km pipeline (c. 550m within the site and 8.03km within the public road) is proposed connecting from the southern site entrance along the L1110 to the southeast, where it connects after 4km to the R314, and continues from here to the northern outskirts of Ballina. The proposed pipeline passes through the townlands of Ballybroony, Coonealmore, Coonealcauraun, Rathroen, Culleens, Laghtadawannagh & Farrannoo.
- 1.2. The site is agricultural in nature and is located within an operational dairy farm. The Board will note that the applicant has identified landholdings outside of the application site for the purposes of grassland/silage and slurry feedstock for the proposed development and for the purposes of land spreading of by-product from the proposed development.
- 1.3. Existing access to the farm is from the south via the L1110. The site is bounded to the west, north and east by agricultural fields and to the south by agricultural buildings related to the existing dairy farm. A second vehicular access is proposed from the north, from the Mullafarry Road. This road serves two operational quarries to the northeast and northwest of the site entrance. The Killala Business Park (previously Asahi factory), which is accessed off the R314, is located c. 2km east (as the crow flies) of the northern site entrance. Killala Community Windfarm is located c. 1.5km to the north. Lisglennon Water Treatment Plant is location c. 0.6km to the northeast and treats water sources from Lough Conn, which is in a different catchment.

## 2.0 Proposed Development

- 2.1. The development comprises:
  - A renewable energy project consisting of an Anaerobic Digestion (AD) Biogas facility, using locally sourced silage and slurry as feedstock to generate biogas for

export to the national grid with residual digestate being available for use locally as a bio-fertiliser.

- 2 no. grass silage storage clamps.
- Access and circulation track from the L1110 of c. 832m with a width of 6m.
- New site entrance on the Mullafarry Road and c. 236m of new 4m wide site access track and upgrade of c. 92m.
- Pipeline of c. 8.6km located in the public road and in the public road verges to connect the AD Biogas facility to the national grid north of Ballina.
- All ancillary development, including a site office building, weighbridge, perimeter landscaping berm, fencing, lighting, attenuation tank and on-site drainage.

2.2. The application is accompanied by the following documentation:

- Planning and Environmental Report (dated February 2021)
- Response Report for Request for Further Information (dated October 2021)
- Response Report for Clarifications on Request for Further Information (dated January 2022)
- Photomontages and Artist Impressions
- Ecological Impact Assessment (updated January 2022)
- AA Screening Report (updated January 2022)
- Natura Impact Statement (updated 14<sup>th</sup> January 2021 and updated 6<sup>th</sup> January 2022)
- Construction Method Statement in relation to the proposed gas pipeline.

2.3. Anaerobic Digestion (AD) is the controlled use of biodegradable organic materials in the absence of oxygen for the production of renewable energy in the form of biogas and by product of organic fertiliser/digestate. The process is operated under controlled conditions in sealed tanks.

2.4. This project relates to the production of biogas and digestate using 60,500 tonnes of feedstock per annum - c.42,500 tonnes per annum of grass silage and 18,000 tonnes per annum of slurry. Grass will be harvested from three cuts per year – the

last two weeks of May, two-weeks around mid-July and two weeks in late August – with silage supplied by the applicant’s farm as well as 35 other farm holdings in the surrounding area. It is stated that up to 6 trailers per hour (8am – 9pm) would be required for c. 14 days for each of these periods every year. Peak slurry production will be in the winter months when cattle are housed and will be from the applicant’s farm (to be pumped via a pipeline from the existing sheds) as well as from 14 other landholdings which have existing slatted sheds storing their own slurry.

- 2.5. The anaerobic digestion process residue (digestate) can be separated into liquid fraction and a fibrous fraction and is returned to the land respectively as either a fertiliser or soil conditioner. The applicant’s Nutrient Management Plan (NMP) includes agreements from livestock producers on feedstock that will be used in the plant and land parcels which will receive digestate or soil conditioner back from the process (under the EU Renewable Energy Directive II, use of bio-fertilisers is mandatory for farmers supplying feedstock to ADs). Peak digestate removal will occur for c. three weeks following silage cutting (up to 32 tanker loads per day during periods when land spreading required). The soil conditioner is to be sold to horticultural contractors, which involves 3-4 trailers per day for up to 5 days per week all year round.
- 2.6. Gas production is expected to reach 421m<sup>3</sup>/h of biogas, which is stated to be equivalent to 4.33MWh/h or 37.9GWh/annum.

#### Process

- 2.7. The submitted Planning and Environmental Report (February 2021) and submitted NIS (January 2022) sets out the processes involved in the Anaerobic Digestion (AD) plant as follows:
- Grass is harvested as silage and delivered to the clamps/storage pit.
  - Slurry is piped to a buffer tank (tank has a design volume of 228m<sup>3</sup>) from the on-site slatted units and will be tankered from the slatted units on the outlying parts of the farm to the buffer tank.
  - Silage and slurry are fed via the Feedhopper (capacity of 200m<sup>3</sup> or 140 tonnes) to the Digester tank (volume of 4,240m<sup>3</sup>), where the main biogas generation occurs.

Gas is stored within the domed roof of the tank. Gas within the tank is stated to equate to 3850m<sup>3</sup>.

- Following digestion, liquid is fed to the Post Digester Tank (which has a volume of 5,130 m<sup>3</sup>) where a smaller amount of biogas may be generated with this gas stored within the domed roof. Gas storage within the post digester tank is stated to equate to 2600m<sup>3</sup>.
- Residual liquid (digestate) is transferred to and stored in the storage tank until required for land spreading. From the drawings, the storage tank has a volume of 8,830m<sup>3</sup>, which is stated to equate to a capacity for c. 180 days.
- Biogas is removed from the tanks and conditioned/cleaned in a separate unit prior to discharge to the gas pipeline for onward transmission to the network at Ballina.
- Leachate from the clamps/silage pits is collected and fed into the process via the buffer tank and Feedhopper.
- Figure 2.2 on page 14 of the Planning and Environmental Report illustrates the steps in a flow diagram.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission GRANTED on 7<sup>th</sup> June 2022, subject to 21 conditions, including the following:

C2: Plant will handle maximum of 42,500 tonnes per annum of grass silage and a maximum of 18,000 tonnes per annum of slurry.

C6: Road strengthening works to be carried out in vicinity of each entrance for a distance of 50m either side of the entrance.

C7: Operational noise levels of LarT (1 hour) of 55dBA between 8:00 and 18:00 and an LAeq (15 minute) of 45dBA at any other time. Night time emissions shall have no tonal component.



C8: Operating hours – 7:00 to 20:00 Monday to Friday and 8:00 to 18:00 on Saturdays. Truck loading activities shall only be undertaken between the hours specified.

C13: Log of complaints.

C15: Details of the supplier and recipient farms, including the location of the liquid and solid fraction shall be retained as the log, to ensure compliance with EU (Good Agricultural Practice for Regulation of Waters Regulations 2022).

## 3.2. Planning Authority Reports

### Planning Reports

- 3.2.1. The Planning Officer's reports generally reflect the decision of the Planning Authority. The following process and receipt of information is noted.
- 3.2.2. **Further Information** - In a letter dated 1<sup>st</sup> April 2021 from the PA to the applicant, it is stated 'I refer to the above [application description] and I am to inform you that you must please submit 6 no. copies of the following...', with 33 points of information listed.
- 3.2.3. In a letter dated 24<sup>th</sup> September 2021, the PA agreed to a request by the applicant for a three month extension to the time to reply to the Further Information requested, stating the final date for receipt of information was 8<sup>th</sup> January 2022, after which time the application would be deemed withdrawn.
- 3.2.4. A reply was received from the applicant on 6<sup>th</sup> October 2021 (described by the applicant as a draft response) and is titled 'Response Report for Request for Further Information'.
- 3.2.5. The FI requested on 01.04.21 related to 36 points including inter alia the following:
  - Points 1-5; Point 8; Point 9 - Details in relation to how existing water main within the public roads will be protected during laying of gas pipeline, and request for method statements and risk assessments. Request to identify any other services along proposed gas route.

- Point 6 – Request that proposed temporary northern entrance be maintained as a permanent entrance to the site, in addition to the existing southern entrance.
- Point 8 – Any upgrades to existing pumped water main will be at the applicant's expense.
- Point 10 and Point 11 – Request for all land folios of other farms involved in silage harvesting and slurry generation to be used by proposed development. Identify associated haul routes.
- Point 12 – Identify proposed or required number, weight, size, frequency of delivery trucks/tankers etc and weekly/yearly days of operation. Also identify other vehicle/delivery nos. etc for clarity.
- Point 13: Operational start/finish times for digester and numbers of staff.
- Point 14 – Provide details of similar operation elsewhere in Ireland.
- Point 15 and Point 16 – Site access and sight line details. Construction access details.
- Point 17 – Construction timelines requested.
- Point 18 – Point 20 – Proposals to mitigate general road user disruption during construction; to consult re road opening licence.
- Point 21 – Any exclusion zones required during operation.
- Point 22 – Confirm digester by-products and identify weights and haul routes.
- Point 23 and Point 24 – NIS to consider gas pipeline and its crossing of water courses; in-combination effects should include a number of large commercial renewable energy and industrial developments in the immediate area.
- Point 25 – Confirm buffer zones for spreading.
- Point 26 – At what point will feedstock from other farms be utilised.
- Point 27 – Details in relation to badger sett requested.

- Point 28 – Landscaping plan requested.
- Point 29 – Queries around supply of raw materials and quantities, where the maximum operating capacity is proposed, ie 77 tonnes/day.
- Point 30 – Specifications in relation to construction of tanks, silage pits, proposal for storage of digestate solid fraction on site and prevention of odours, flow diagram showing volumetric storage capacity of each tank and average and maximum retention times in each instance.
- Point 31 – A Nutrient Management Plan, including digestate materials, both liquid and solid, from the enterprise to be submitted.
- Point 32 – Landspread areas to be indicated and associated nutrient management plans.
- Point 33 – Details of soiled water minimisation and control to ensure surface waters not contaminated.
- Point 34 – Details of land spreading mechanisms.
- Point 35 – Details of oil and chemical spillage controls.
- Point 36 – Renewable Energy Compliance is ensured through the Green Gas Certification Scheme – provide details in relation to the auditing and awarding authority.
- Point 37 – Details in relation to transportation of wastewater from the site.

3.2.6. **Clarification of Further Information** - In a letter dated 29<sup>th</sup> November 2021, the PA state that following their letter on 1<sup>st</sup> April 2021 and the reply from the applicant on 6<sup>th</sup> October 2021, 'Mayo County Council require the following further information and particulars which are reasonably required to clarify the matters dealt within in your response', with the PA listing 11 points of information.

3.2.7. Information was submitted by the applicant and received by the PA on 15<sup>th</sup> December 2021 and 7<sup>th</sup> January 2022. The report submitted is titled 'Response for Report for Clarifications on Request for Further Information'.

3.2.8. Clarification was sought in relation to the following:

- Extent of AA Screening Report and NIS, specifically inclusion of pipeline works and assessment of any potential impacts on Killala Bay/Moy Estuary SAC and SPA; and inclusion of an assessment of any likely effects of the land banks associated with the production of silage feedcrop and use of digestate by-products.
- Scope of Ecological Impact Assessment to include feed crop supplier landbanks to assess potential for any negative effects on biodiversity.
- Clarification in relation to figures requested under Point 30(b) and (d).
- Clarification of calculations for pledged supply of 12,065m<sup>3</sup> of slurry and way data is presented.
- Land spreading pledges to be signed and format information in relation to this and Nutrient Management Plans. Drawings to indicate land pledge lands, including owned/rented/leased land, buffer zones to be maintained, wells to be marked, gradients exceeding 10% adjacent to watercourses to be identified, areas subject to flooding to be identified.
- Request in relation to when project will be carbon neutral.
- Consideration of partnering with an educational institute.
- Additional drawings of movement of vehicles on the site and surface water attenuation.
- Details in relation to construction and operational vehicles so that does not interfere with existing network traffic.

As a result of the clarification of information request, I note the AA Screening Report and NIS were expanded to include possible effects of the pipeline element of the project on Killala Bay/Moy Estuary SAC and SPA and possible effects of the landbank for supply of silage and slurry feedstock and receipt of digestate and soil conditioner.

The Ecological Impact Assessment was updated to include the feed crop supplier landbanks.

3.2.9. **Advertisement as ‘Significant Further Information’** (following receipt of clarification of information) - In a letter dated 2<sup>nd</sup> February 2022, from the PA to the

applicant, the letter states that further information (unsolicited) was submitted on 7<sup>th</sup> January 2022, which was deemed 'Significant Further Information' and it was requested that it be re-advertised as such (letter to applicant included an advice note that drawing no. 6220PL3118 required more detail in relation to vehicle routes on site, concreted areas, drainage channels and an oil interceptor on drainage from areas with a high vehicular activity).

3.2.10. In a letter dated 29<sup>th</sup> April 2022, the PA acknowledged receipt of re-advertisement of 5<sup>th</sup> April stating that it was not in compliance with requirements as advertisement did not state the appropriate period for receipt of submissions and was requested to re-submit both newspaper and site notices. The development was re-advertised on 10<sup>th</sup> May 2022.

3.2.11. Permission subsequently GRANTED on 7<sup>th</sup> June 2022.

### 3.3. Other Technical Reports

#### **Roads Section**

- **Report Dated 15<sup>th</sup> March 2021** – Further Information requested to address services along the route of the gas line; folios for location of silage harvesting and where slurry is being generated/stored prior to delivery to the site; haul routes for fuel for the digester; weight, size, frequency of delivery trucks/tankers and weekly/yearly hours of operation and any other vehicle/delivery numbers; operation hours and number of staff; details of other similar operation in Ireland requested; query in relation to how sustainable will this plant be and decommissioning requirements; access locations and sight lines; details of frontage setbacks; final boundaries; construction timelines and associated vehicles; mitigation in relation to road disruption; any exclusion zones applicable to operational plant/site or gas delivery main or other as required; plans for disposal and use of digester by-products including weights and haul routes.

- **Report Dated 23<sup>rd</sup> November 2021** – Site access to be formally agreed; concern over R314 and works proposed including crossing of the road; HGV/supply deliveries to be coordinated so they do not interfere with traffic levels with deliveries to be concentrated through L1110.

#### **Water Services**

- **Report dated 29<sup>th</sup> March 2021** – Further information requested in relation to eight points, including inter alia: existing strategic water pipelines and potential for proposed pipeline to impact these; clarify requirement for 6400m<sup>3</sup> of soil deposition area over existing water main and impact of this load and construction on exiting pipelines; concern in relation to location of permanent entrance and impact of traffic movement on pipes underneath; require method statements and risk assessments; proposed for a new public water main connection – any extension or upgrade of the existing pumped main required as a result of this connection will be at the expense of the applicant/developer.

**Environment Section – Report dated 22<sup>nd</sup> March 2021** – Further information requested, including, inter alia, in relation to the following points: The gas pipelines element not considered in the NIS. In combination effects did not take account of large scale commercial renewable energy and industrial developments within a short distance. No indication of the likely spreadlands of the digestate material.

#### **Environmental Scientist**

- **Report Dated 29<sup>th</sup> March 2021** – Further information requested. The effect of the proposal on the wider environment, which extends to the source of the fuel to the disposal of by-products has not been discussed in the application. Nine headings under which FI requested, the headings being Supply of Raw Materials; Infrastructure; Nutrient Management and Landspread Areas; Minimisation of Soiled Water; Land spreading of liquid digestate; Oil and Chemical Spillage Controls; Green Gas Certification; Wastewater; Other Facilities.
- **Report Dated 26<sup>th</sup> November 2021** – Rationale given for screening out pipeline, however, disagree and consider it should have been included in NIS given the proximity of the trenching works to roadside ditches and bridge crossings and the high potential for discharge of sediment; AA should have been expanded to incorporate an assessment of any likely significant effects of the land bank associated with the production of the silage feed crop and use of digestate by products; Scope of EclA should also include the feed crop supplier landbanks to assess potential for any negative effects on biodiversity; clarification in relation to FI point 29 and unit of measurement and quantification of land required to ensure maximum feedstock available; clarification in relation to calculations for the pledged

supply of 12,065m<sup>3</sup> of slurry; clarification in relation to calculations for the pledged supply of raw materials. In relation to FI point 30 applicant's response is theoretical, require design and layout drawings to include provision of stage for digestate that ensure all soiled water and effluent from the digestate is minimised and stored for at least 18 weeks; require signed pledges for supply and acceptance of materials to and from the proposed development and full nutrient management plan for all farmers accepting or supplying materials to the facility; clarification of landbank pledges; provide clear drawings of details of soiled water minimisation and control on the access route to the facility and in the deposition and collection area of the facility; provide details of control of spillages from tractors and on site machinery, the risk of hydraulic fluid leakage must be mitigated; provide a lifecycle assessment including concrete usage at construction stage and vehicle movements at operational stage to demonstrate the point at which the development will be carbon neutral; CAP is not driven by results based agri-environmental sustainability – comment on this; applicant states there is no comparable enterprise in Ireland that accepts slurry and silage, request if there is an opportunity to pair with an educational institute to develop understanding and best practice in this new area.

- **Report Dated 1<sup>st</sup> February 2022** – revised Screening Report and NIS dated 7<sup>th</sup> January 2022 in response to FI incorporates the pipeline element of the development, and the landbanks for harvesting silage and spreading of digestate and soil conditioner and appropriate mitigation measures included. Project unlikely to have any significant effects on the conservation objectives of the Natura 2000 sites within the zone of influence.

#### **Senior Archaeologist Mayo Co. Co.**

- Report dated 15<sup>th</sup> March 2021: An archaeological assessment must be submitted, the first part of which should consist of a site visit and desk top study, following which further action may be required.

### **3.4. Prescribed Bodies**

**Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media** – Report dated 16<sup>th</sup> March 2021 – The following are the heritage related comments:

Nature Conservation:

- The EclA assesses the biogas plant but does not seem to assess in detail the pipeline element of the project.
- An invasive species survey should be conducted along the pipeline route.
- Badger Sett highlighted 7m from a proposed silage clamp. A section 23 licence must be applied for, detailing all surveys conducted, proposed mitigation measures, details of project ecologist responsible for ensuring all mitigation measures implemented and the toolbox talk they will give to the contractor prior to works within 50m of the badger sett.
- All conditions of the Section 23 licence must be incorporated into a planning condition, if granted, regarding the badger sett, including that a detailed derogation licence return report is issued to NPWS following works.
- All mitigation measures within the NIS and EclA must be incorporated into a planning condition, if granted.

**An Taisce** – Report dated 15<sup>th</sup> March 2021 – The report is summarised as follows:

- Functional Interdependence - Reference to legal case in relation to Edenderry Power Station in October 2015. In this application there is a functional interdependence between the feedstock sources and the proposed biogas plant – the plant relies entirely on the input of slurry and silage. An Taisce considers the application is deficient in evaluating the direct, indirect and cumulative impacts of all aspects of the proposed AD plant. The potential for environmental impact resulting from the sourcing and production of the feedstocks required assessment.
- Sustainability of Biomethane and Feedstocks – while the burning of biogas generated from biomass, slurry etc might be deemed carbon neutral, the emissions that contribute to the growth, harvesting and transport of the feedstock must also be considered. Fertiliser used to accelerate the growth of energy crops and feed cattle, which eventually produce slurry, produce emissions and contribute to water pollution. The emissions mitigation potential of biogas may therefore be negligible or non-existent.
- Anaerobic digestion predicated on increased grass/energy crop production should not be permitted in light of the increased levels of fertiliser input needed to



grow the grass and the associated water quality and climate impacts. The use of existing waste streams for energy provision are often a more sustainable option.

- With regard to slurry, intensive cattle farming is a major emitter of greenhouse gases. Any use of slurry for bioenergy production should not be reliant upon or drive further bovine agriculture intensification.
- Water Quality – increase in nitrate impacts on water quality. 50% of waters are failing to achieve a good status.
- Biogas production, contingent on an increase in silage production, as per this application, would likely require increased inputs of nitrogen fertiliser, thereby increasing the risk of water pollution.
- Environmental reports submitted have not assessed the potential impacts to water quality resulting from the feedstock production, particularly as a result of fertiliser use for growing the proposed crops as well as crops to feed the cattle. FI should be requested.
- Greenhouse Gas Emissions – Full calculations of the greenhouse gas emissions and emissions mitigation potential are required to establish the sustainability of the subject proposal and this must include an assessment of the feedstock production. This should also take account of methane slippage.
- Methane Slippage – substantial methane leakage can be lost through ‘slippage’ from AD plants through poor system inspection and uncontrolled releases, and from digestate storage.
- In light of scientific evidence (three reports referenced), An Taisce submits that the potential for and impacts of methane slippage at the proposed AD plant will require full assessment.
- Ammonia emissions arise from bovine agricultural processes including manure storage, slurry spreading and use of in-organic nitrogen fertilisers on fields. The ammonia emission associated with the proposal, including feedstock production, requires full assessment.
- The potential for adverse impacts to biodiversity as a result of the feedstock production (grass and slurry) requires assessment.

- Without assessing the impacts of silage production on other farms, it is considered that it is not possible to rule out adverse impacts to Natura 2000 sites in the area.
- The gas will be injected into the national grid and mixed with fossil gas. Supplying the biomethane to off-grid industrial users would be a more sustainable option, eg to power buses and delivery vehicles in urban areas or off-grid industrial users.

**Inland Fisheries Ireland** – Report received 5<sup>th</sup> November 2021 –

- Impacts on Killala Bay/Moy Estuary SAC and River Moy SAC should be assessed in NIS as they are hydrologically connected to the proposed biogas site and/or the proposed digestate spreading lands and within 15km of the biogas site.
- Toreen River, which was damaged in 2020, should be restored and these works implemented to ensure the recovery of the sensitive salmon spawning environment.
- 5m fenced off area required between digestate land spread areas and watercourses to prevent accidental discharge and ensure protection of the aquatic environment.
- 2m fenced off buffer zone required from proposed track to north of the site and the top of the adjacent stream bank. Surface water to discharge into on site attenuation system and road must chamber away from the stream.
- No discharge of surface water to tributary of Cloonaghmore River during construction and all other mitigation measures in NIS to be implemented.
- Details of clean water drainage system from silage clamp to be provided.
- Green infrastructure features such as open swale, pond or wetland area preferred over an attenuation tank.
- Silage leachate or effluent is a highly polluting liquid. Silage slabs and leachate drainage network must be tested regularly and maintenance plan. Request that the proposed biogas plant Supervisory Control and Data Acquisition system is extended to the silage effluent tank to monitor levels and ensure no uncontrolled losses or overflows from the tank occur. No overflow drain/drainage from the tank allowed.
- Emergency response management plan required.
- Measures required to prevent spread of invasive species.

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

Six third party observations were received. The issues raised are largely as set out in the grounds of appeal (see Section 6 hereunder).

### **4.0 Planning History**

None.

Following applications granted for existing farm buildings within the landholding, immediately south of the main body of the site and north of the existing farm access from the road to the south:

18/753 – Permission granted for calf shed and farmyard manure shed.

07/1634 – Permission granted for a milking parlour and associated facilities.

01/2759 – Permission granted for wind measuring pole not exceeding 40m high.

### **5.0 Policy Context**

#### **5.1. National Policy**

- Climate Action Plan 2023 (DECC) – Sets out a framework to guide the country towards decarbonisation, with sectoral strategies for agriculture, among others. A key action to deliver abatement in agriculture, includes increasing land use diversification options for livestock farmers, such as anaerobic digestion, and to expand our domestic biomethane industry through anaerobic digestion.
  - The Government is firmly committed to tripling its ambition from Climate Action Plan 2021, to now deliver up to 5.7 TWh of indigenously produced biomethane, based on agricultural feedstocks. This will provide both a diversification opportunity for farmers and a land-use alternative to livestock production.
  - DAFM in partnership with the Department of the Environment, Climate and Communications (DECC) is developing a National Biomethane Strategy that will identify all the necessary actions to deliver on this ambition. The strategy will be agri-led, farmer-centric and will contribute positively to the sectoral

emissions ceiling for agriculture as well as to the decarbonisation of the energy system. Initiating an AD/biomethane industry in Ireland will require intervention in order to build out the infrastructure required to meet up to 5.7 TWh by 2030. Delivering on such scale requires in the region of 150 to 200 AD plants. DAFM in partnership with DECC will assess available financial opportunities and mobilise funds where available. This renewable fuel will be essential to decarbonising other sectors of the economy, such as high-temperature industrial heat needs in manufacturing processes.

- National Planning Framework – Strategic outcomes include delivering 40% of electricity needs from renewables and increased uptake of anaerobic digestion.
- Regional Spatial and Economic Strategy (Northern and Western Regional Assembly) 2020-2032 – Supports the transition towards a low carbon economy and implementation of the Connaught Ulster Regional Waste Management Plan 2015-2021 –
  - RPO 4.20 supports the development of the bio-economy for energy production, heat and storage distribution.
  - RPO 4.27 supports the National Policy Statement on the Bioeconomy and opportunities for the circular resource-efficient economy.
  - RPO 4.28 supports the potential creation of appropriately scaled local multi-feedstock bio-refining hubs.
  - RPO 8.7 supports innovative partnerships extending the gas network in the region, including the potential for gas to grid injection facilities along with anaerobic digestion facilities.
  - RPO 8.10 states that the siting of waste infrastructure shall in urban areas generally be on lands zoned for industrial use and in non-urban areas shall accord with the principles of proper planning and sustainable development.

### Waste

- EU Waste Framework Directive (2008/98/EC) - The EC (Waste Directive) Regulations 2011 align Irish legislation with this Directive.

- Connaught Ulster Region Waste Management Plan 2015 – 2021 – Key measures in the Plan include to grow the biological treatment sector, in particular anaerobic digestion (and composting).
- National Policy Statement on the Bioeconomy (2018) - This statement recognises that potential benefits include a reduction in the effects of climate change and the promotion of rural employment and economic development, and highlights that Ireland has significant strengths and comparative advantages in the bioeconomy.
- The Waste Action Plan for a Circular Economy – National Waste Policy 2020-2025 (DECC) – This plan looks at how resources can be preserved by creating a circular economy and climate change targets realised. It aims to realise the food waste resource potential of Anaerobic Digestion (AD) and composting. It states that AD and composting provide opportunities for regional development with benefits for communities through sales of locally generated energy and compost.

#### Water

- EU Water Framework Directive - Member States are required to achieve 'good' status in all waters and must ensure that status does not deteriorate. The Directive has been given effect by the Surface Water and Groundwater Regulations.

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

### **Volume 1 Written Statement**

#### Chapter 4 Economic Development

- Green Economy Policy EDP69 To support and facilitate renewable energy initiatives that facilitate a low carbon transition.
- Rural Economy Objective EDO54 To facilitate rural enterprises, and resource development (such as agriculture, agri-food sector, agri-tourism, commercial fishing, aquaculture, rural tourism, forestry, bio-energy, the extractive industry, recreation, cultural heritage, marine enterprise sector, research and analysis) and renewable energy resources (such as wind/solar/ocean energy) that are dependent on their locality in rural locations, where it can be demonstrated that the development will not have significant adverse effects on the environment, including the integrity of the Natura 2000 network, residential amenity or visual amenity. Where proposals

demonstrate measures to promote environmental enhancement through improved ecological connectivity, such as measures in the Pollinator Plan, additional native species planting or blue and green infrastructure measures, these will be favourably considered.

#### Chapter 10 Natural Environment

- Water Quality Policies – NEP 23 To promote the construction of Anaerobic Digesters at appropriate locations in Mayo with a view to improving water quality while at the same time making a significant contribution to National Renewable Energy targets.

#### Chapter 11 Climate Action and Renewable Energy

- REO3 To encourage and facilitate, where possible, the production of energy from established and emerging renewable technologies.
- REO6 To ensure all renewable energy proposal comply with the provisions of the Mayo County Council Renewable Energy Strategy 2011-2022 (or as updated).

#### **Volume 4 Supporting Documentation:**

##### **Mayo County Council Renewable Energy Strategy 2011-2022**

- In Mayo the primary sources of biogas that have potential to generate electricity on a sufficient scale are agricultural and municipal wastes. It has been estimated that Mayo could generate approximately 24MW in a centralised anaerobic digestion unit from the 193,000 tonnes of organic waste material generated each year.
- Objective 1.2 It is an objective of the Council to encourage renewable energy production from wind, wave, tide, biomass, biofuel, biogas, solar power, tidal, hydro and geothermal sources in the County, particularly at locations set out in the Maps accompanying this Strategy and having regard to principles of proper planning and sustainable development.

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

The following European Sites and Natural Heritage Areas are within wider area:

- Killala Bay/Moy Estuary SPA (004036) - 3km to the north, overland / 7.5km downstream from the biogas facility; 1.5km at the nearest point to the pipeline; intersected by 8 farm holdings.
- Killala Bay/Moy Estuary SAC (000458) - 3km to north/northeast of the site of the biogas facility; 1.5km from the nearest point of the pipeline route; intersected by 8 farm landholdings
- River Moy SAC (002298) - 7km southwest of the biogas facility; c.6km from the pipeline route; intersected by 3 farm holdings.
- Lough Conn and Lough Cullin SPA (004228) - 9km southwest of the biogas facility; 7km from the pipeline; intersected by 1 farm landholding.
- Killala Esker proposed NHA – 1.6km to the northeast of the biogas facility.
- Killala Bay/Moy Estuary pNHA – c. 2.3km to the northeast of the biogas facility.
- Cloonagh Lough pNHA – 4.9km south of the biogas facility and 2.6km at its closest point to the gas pipeline proposed.
- Forrew Bog pNHA – 10km to the east of the biogas facility.

Given the distances of the site to the pNHAs, scale of works involved, and lack of an ecological connection, no impacts on the pNHAs are envisioned. Potential impacts on European Sites are considered further in Section 8 of this report hereunder.

## **5.4. EIA Screening**

- 5.4.1. The applicant has submitted an EIA Screening Report.
- 5.4.2. The Planning Authority issues a Screening Determination which concluded that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment report is not required.
- 5.4.3. Part 1 and Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended) set out classes of development which require environmental impact assessment under section 176 of the Planning and Development Act 2000 (as amended). Of relevance to the proposed development, Part 1 sets out the following:

- Pipelines with a diameter of more than 800mm and a length of more than 40km:  
— for the transport of gas, oil, chemicals.

The proposed pipeline will be 8.6km long with an internal pipe diameter of 180mm, operated at a 4 bar pressure. The proposal therefore is subthreshold.

5.4.4. Part 2 sets out the following classes of development:

- Class 11, Other projects: (b) Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.

5.4.5. The proposed development can be considered as falling within the Class 11: Other projects - (b) Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule. The proposed development will use c. 60,500 tonnes of feedstock per annum, c.42,500 tonnes per annum of grass silage and 18,000 tonnes of slurry per annum for the production of gas. The latter figure of 18,000 tonnes coming within the definition of waste, which is below the threshold of 25,000 tonnes for mandatory EIA.

5.4.6. I note that the applicant does not consider that the proposal involves waste. The applicant's documentation states that under Section 4 of the Waste Management Act there is no reference to silage or slurry as a waste under the definition for waste and the Nitrates Regulations defines slurry as an organic fertiliser, therefore it is not waste. A letter of approval from the Department of Agriculture, Food and the Marine accompanies the application, relating to EIA screening for restructuring of rural land holdings.

5.4.7. I note the proposal falls below the limit identified under Class 11, Part 2 for the purposes of EIA, however, I refer to Board to Section 7.10 of this report hereunder in relation to the question of whether the feedstock to be used, ie slurry and silage, constitutes waste.

5.4.8. With regard to consideration of subthreshold development and EIA, Schedule 7 and Schedule 7A of the Planning and Development Regulations 2001 (as amended) sets out criteria for determining whether a sub-threshold development should be subject to EIA. These include the characteristics of the proposed development, its location and the type and characteristics of potential impacts, a description of the aspects of the environment likely to be significantly affected by the proposed development and



a description of any likely significant effects, to the extent of the information available on such effects.

- 5.4.9. The proposed development is a substantial development however it is not out of scale with other large scale agricultural development in the area. It is removed from any sensitive site such as natural heritage areas, or landscapes or sites of historical or archaeological significance and is removed from densely populated areas. Environmental effects from anaerobic digesters can arise from noise, odour and traffic generated by the development, risk of accidents/to human health and the application of digestate to agricultural land. These matters are explored in the Assessment section of this report and in the appended EIA Screening Determination form. It is considered that the development is not likely to give rise to significant effects on the environment to warrant environmental impact assessment, due to the modest/short term nature of effects, and the application of digestate will be in accordance with and governed by European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017.
- 5.4.10. There is no real likelihood of significant effects on the environment therefore the need for EIA can be excluded under Article 109(2)(B) of the Planning and Development Regulations 2001.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. Two appeals have been lodged by Asahi Local Residents Association (comprises residents living in the surrounding townlands) and Gertie Gardiner (resides to the northwest of the site, c. 507m from the development).
- 6.1.2. The grounds of appeal are summarised as follows:

#### **Residential Amenity**

- There are no derelict houses to the north of the proposed development, as indicated by the applicant.
- Proximity of site to dwellings. Proximity of site to local cemetery.
- Working hours will interfere with the peace and quiet of local residents.

- The applicant has stated that operations will be on a 24 hour basis, but the council has by condition limited operation to 20:00 hours. This is a contradiction.
- No consultation with residents.
- Property values will be severely affected due to location of this industrial effluent processing plant.

### **Visual Impact**

- Industrial scale of development will impact negatively on the character of the rural landscape and gives no regard to local tourism and natural rural landscape. Greenway located close by.

### **Emissions – Noise, Traffic and Odours**

- Contrary to the Water Framework Directive which requires that the disposal and recovery of waste does not present a risk to water, air, soil, plants and animals.
- Impact of traffic and toxic smells on residential amenity.
- Risk to air quality, infringing on objectors right to health.
- Based on other AD plants of similar size, substantial amounts of water must be used to run this facility – where will this be sourced and how will waste water be disposed of and how will it be treated?
- Concern in relation to health impacts/endangering public health. Methane and hydrogen sulphide are harmful for humans and animals to inhale.
- Wording of condition 10 with ‘if deemed necessary’ is concerning.
- Storage of gas on site and lack of reference to COMAH. No emergency procedures in place.

### **Traffic**

- Impact on road network, including from those supplying the site and using secondary roads.
- Consideration has not been given to local farmers and agricultural contractors who are also using the local roads. Increased traffic will endanger public safety by reason of traffic hazard or obstruction of road users.

## **Water Environment**

- Local waters/drains are contaminating wells in the area. The proposed development will worsen this. Not all domestic wells were considered in the application (see map of wells not considered) and applicant's reference to well as 'relict' is inaccurate.
- Development is in breach of Water Framework Directive.
- Development is 550m from Lisglennon Water Treatment Plant which is at risk of pollution from the development.

## **Appropriate Assessment and EIA**

- Compliance with AA and Habitats Directive inadequate in relation of level of detail submitted, specifically inputs and outputs from the development.
- No proper screening exercise or EIA has been carried out, specifically in relation to pollution.
- Proposal fails to consider cumulative impacts on the environment both from the inputs and outputs to the process and related industrial developments situated and currently existing in the locality.
- Absence of meaningful consideration and assessment of the extent of the facility, in terms of collection and distribution of effluent material and to the land spreading activity.
- Proposal will endanger and cause irreparable damage to the delicate biodiverse ecosystems in the area and its hinterlands.

## **Other Matters - Compliance Planning Regulations**

- Application is substandard as drawings indicate that they are for planning purposes and not construction purposes.
- Application substandard in relation to detail required under the planning regulations, in particular articles 17, 18, 22 and 23.
- Inadequate particulars have been submitted and the extent and nature of the development remains unclear and unstated.
  - Flooding

- Nitrates Directive
- Palmerstown River, salmonoid river.

## **6.2. Applicant Response**

None received.

## **6.3. Planning Authority Response**

None received.

## **6.4. Observations**

None received.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. I have inspected the site, had regard to local and national policy and guidance, and examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal. Appropriate Assessment is addressed in Section 8.0 of this report hereunder.

7.1.2. I consider that the main issues in this appeal are as follows:

- Principle of Development
- Traffic
- Emissions – Noise and Air
- Water Services
- Ecology
- Visual Impact
- Health and Safety

- Sustainability
- Waste Licence – New Issue
- Other Matters

7.1.3. The following documents have been submitted with the application:

- Planning and Environmental Report (dated February 2021) - including biodiversity, hydrology and hydrogeology assessment, noise assessment, traffic and transport impact assessment, and in the appendices, EIA Screening Report, AA Screening Report, Ecological Impact Assessment, Flood Risk Assessment, Air Quality assessment, and Archaeological Assessment.
- Response Report for Request for Further Information (dated October 2021)
- Response Report for Clarifications on Request for Further Information (dated January 2022)
- Photomontages and Artist Impressions
- Ecological Impact Assessment (updated January 2022)
- AA Screening Report (updated January 2022)
- Natura Impact Statement (updated 14<sup>th</sup> January 2021 and updated 6<sup>th</sup> January 2022)
- Construction Method Statement in relation to the proposed gas pipeline.
- Report on Construction and Operational Phase Reporting Hierarchy

## **7.2. Principle of Development**

7.2.1. The applicant is Lisglennon AD Ltd, of which the promoter is stated to be John Gilvarry, a local dairy farmer, who owns the existing farm of 194 ha.

7.2.2. This project relates to the production of biogas and digestate from an anaerobic digestion facility utilising feedstock materials of grass silage and agricultural slurry, with a throughput of 60,500 tonnes of feedstock materials annually (split c.74% silage and 26% slurry / c.42,500 tonnes per annum of grass silage and 18,000 tonnes per annum of slurry). While the above maximum figure is given, it is stated the plant will typically handle an overall volume of 40,000 tonnes of feedstock

product, made up of 28,000 tonnes per annum of grass silage and 12,000 tonnes per annum of slurry. For clarity, I am assessing this application and associated impacts in terms of the upper figures provided as this is what the plant is designed to cater for and I note the assessments within the Planning and Environmental Report and other reports submitted refer to the capacity of the plant being for 60,500 tonnes. It is submitted in the documentation from the PA that the maximum operating capacity per day is 77 tonnes. The renewable gas generated will be upgraded/'conditioned' and injected into the Gas Networks Ireland national grid via a new gas pipeline from the site to national grid pipelines just north of Ballina. It is expected that the gas output could reach 421 m<sup>3</sup>/h of biogas, which is stated to be equivalent to 4.33MWh/h or 37.9 WH/annum.

- 7.2.3. An EIA is not required (see section 5.4 of this report above). An NIS has been submitted. A Planning and Environmental Report accompanies the application, which addresses potential effects of the development across topics of population, human health, biodiversity, soils and geology, water, air and emissions, noise, landscape and visual impact assessment, cultural heritage, and traffic and transport, as well as conclusion in relation to need, land use and nature conservation, development as a sustainable development, and material planning considerations. The Report addresses impacts during construction, operation and decommissioning under each topic and addresses potential cumulative impacts. This report has been updated via FI and clarification of FI submissions to the PA at application stage with revised documents included in the planning application documentation received.
- 7.2.4. The silage is to be sourced from Mr. Gilvarry's farm initially and then widened to other farms to facilitate feedstock sourcing and land spreading as required with the pledged farms locations detailed in the submitted documentation. The slurry is to be sourced predominantly from Mr. Gilvarry's farm, with other pledged farms identified.
- 7.2.5. Under the operative development plan, renewable energy generation is supported by policy and the agricultural sector has a role in this regard. At a national level the NPF seeks the delivery of 40% of electricity needs from renewables and identifies increased uptake of anaerobic digesters. The Climate Action Plan 2023 states the Government is firmly committed to tripling its ambition from Climate Action Plan 2021, to now deliver up to 5.7 TWh of indigenously produced biomethane, based on agricultural feedstocks.

- 7.2.6. I note that on-farm Anaerobic Digestion (AD) allows for recycling of waste organic matter into organic fertiliser, thus reducing costs and move away from chemical fertilisers, reducing CH<sub>4</sub> emissions (thereby mitigating climate change), and generating a low-carbon renewable energy source, lowering the organic pollution potential of slurries resulting in water quality benefits and the by-products (digestate) result in better quality fertilisers, omitting the need for artificial fertiliser use. I consider that the proposed in-farm anaerobic digestion facility would in principle be appropriate from a land use perspective and is supported by policy at local and national level.
- 7.2.7. In relation to concerns raised in submissions in relation to the ability of the farmer to provide the feedstock for the plant, it is noted that details have been submitted following FI and clarification of FI in relation to additional feedstock being available from farms in the area within a 20km radius. Details of all folios for silage harvesting and slurry generation have been submitted and farmers pledges for same have been submitted. 50 farmers in the area have pledged to supply silage/slurry or receive digestate, based on proximity to streams and other environmental factors, which have been factored into the assessment of lands to receive digestate. This is in accordance with the requirements of the Department of Agriculture, Food and the Marine and EU (Good Agricultural Practice for Protection of Waters) Regulations 2017 as applicable. Nutrient Management Plans for pledged farms have been prepared in accordance with the Nitrates Directive 2017 and submitted with the proposal. It is stated in the submitted documentation that 639 ha of land is required to supply the feedstock and 688 ha of land are available to supply such. I am satisfied that this agricultural based commercial enterprise is acceptable in principle at this location and based on information submitted I have no concerns in relation to availability of feedstock, and adequate information has been provided in this regard.
- 7.2.8. An Taisce has raised concerns in relation to the dependence of the proposal on grass and slurry production and considers that the proposal is deficient in evaluating the direct, indirect and cumulative impact of all aspects of the proposed AD plant. The sustainability of feedstocks used in the AD plant is questioned given the production of grass requires fertilisers and there are emissions from feeding cattle and producing slurry, and it is therefore contended that the emissions mitigation potential of biogas is potentially negligible or non-existent.

7.2.9. The proposed AD plant will handle up to 42,500 tonnes per annum of grass silage and 18,000 tonnes per annum of slurry. The applicant is committed to complying with the EU Renewable Energy Directive II (RED II), which includes a requirement for an emissions Lifecycle Assessment calculation, to ensure zero carbon requirement as set by the Directive are achieved. The applicant calculates that the proposed development will be carbon neutral in 1-2 years, on the basis of the Green Gas Certification Scheme, which will be applied by Gas Networks Ireland annually, and includes a calculation formula and methodology (see pg 14-18 of the submitted Response Report for Clarifications on Request for Further Information dated January 2022 and associated Appendix 5). I note that Gas Networks Ireland will be auditing the AD on an annual basis and the process in place for accreditation is the best practice approach researched and applied by Ireland following on from the requirements of EU RED II. I note from the pledged farmer submissions, that grass for silage production and slurry generation is already occurring on the farms identified for supplying the AD and that such farms, as required under the EU-Renewable Energy Directive II, will be taking back digestate as a sustainable by-product for use on lands, replacing more harmful fertilisers currently used. I note the applicant has submitted details of feedstock input on the basis of current grass production on other farms and current silage generated, which I consider reasonable. Any future change in intensification of grass production that the development may inspire in other farmers is not quantified, nor would it be possible to do so. I am satisfied that the sustainability of the proposal has been adequately addressed by the applicant in the submitted documentation. Further consideration of the EU-Renewable Energy Directive II and sustainability criteria is addressed in section 7.9 of this report hereunder.

7.2.10. Concerns were raised by third parties in relation to lack of consultation with the local community. I would note that the applicant is not obliged to carry out public consultations over and above the requirements for statutory notices. These notices resulted in the submission of the third-party comments on the proposed development. All issues raised in these third-party comments have been considered in this report.



### **7.3. Traffic**

- 7.3.1. Concerns are raised by third parties in relation to the level of traffic which will be generated by this facility, impacts on the local road network, increased hazard, and lack of consideration to local farmers and agricultural contractors who are also using the local roads.
- 7.3.2. Chapter 12 of the submitted Environmental Report addresses traffic generation during the construction and operational phases of the development. Section 12.5 of the submitted Environmental Report sets out proposed mitigation measures. The submitted FI and RFI documentation to the PA further elaborates on traffic generation and management measures to be put in place during the construction and operational phase.
- 7.3.3. Access to the site will be via an entrance to the south of the site from the L1110, with a secondary access point via the northern Mullafarry Road to facilitate silage deliveries from the north and alleviate traffic through use of the northern and southern entrances. I am satisfied that the required sightlines from the site entrances are in accordance with standards and the county council's road engineer has raised no issue in this regard.
- 7.3.4. In terms of construction, it is stated that the AD plant will take c. 15 months and the works to provide the pipeline will take c. 6-7 months. During the construction phase of the AD plant, it is calculated by the applicant that there will be 265 movements in the fifteen-month construction period, with the busiest period in months 1-5. This equates to 14 HGVs per day accessing the site, which equates to 4 HGV movements per hour, ie two deliveries per hour and in the peak will result in 14 trucks/HGVs per day. In terms of the construction of the pipeline, this will not commence until month 10 of the AD plant construction timeline when that construction traffic has lessened. The pipeline construction will generate 675 HGV movements over six months, with a peak of 183 deliveries in the first month, which is equivalent to 10 deliveries per day or up to 2 deliveries per hour.
- 7.3.5. In terms of construction mitigation, it is noted that stone can be sourced from Mullafarry Quarry to the north and the northern entrance will be used to mitigate impacts on the local road network. Further mitigation measures include, inter alia, scheduling bulk deliveries to avoid peak morning and evening traffic times; wheel

wash facilities will be used at the exit to the site; vehicle containers/loads will be covered to reduce dust emissions; and construction warning signs will be placed on the R314, the L1110, and on the Mullafarry Road.

- 7.3.6. While the construction phase will have an impact on traffic levels, overall such impacts are temporary and short term in nature and therefore will not have any long term or permanent amenity impacts on the area. A construction traffic management plan will further address the management of traffic and this can be addressed by way of condition, should the Board be minded to grant permission.
- 7.3.7. During the operational phase, it is expected that most traffic associated with grass deliveries will occur across three two-week periods between May, Mid July, and late August, with an estimated 68 trips per day to the facility / 7 trailers per hour (8am-9pm) required for 14 days for each of these three periods. Slurry will largely be transported during the normal working day in the winter months and so silage and slurry trips will not overlap. I note slurry will primarily be supplied from within the applicant's own farm landholding. Digestate removal (normally just after silage cutting) will be undertaken for 3 days over 2/3 weeks, with 32 tanker loads per day (4 movements per hr over an 8hr period), however this will not take place at the same time as silage or slurry movements. No spreading is permissible between mid-October to mid-January. No deliveries to or removals from the site are anticipated during the winter months. The plant will be staffed by two people during the winter and it will be unmanned at times, with the facility manned by four people split into shifts of two people during the summer.
- 7.3.8. In response to a PA request in relation to management of operational traffic, the applicant responded that each farmer will be given a timeslot for making deliveries to be managed by a staff member. It is also stated that a software programmes will be used in accordance with EPA licensing requirements which allows for a streamlined check in process and prevent the queuing of vehicles. Furthermore, the use of two entrances to the site will be of benefit in the overall management of local traffic.
- 7.3.9. As indicated above, the operational vehicular movements are seasonal and peak at times of crop harvesting and digestate applications. While I acknowledge that the level of traffic with the AD plant in place is not insignificant and it will contribute more farming traffic to the existing baseline, I would note that seasonal traffic movements

over a short intensive period relating to the production of silage is a feature of farming life and the rural road network, with the farms identified already generating traffic through the production of silage at present. I note the measures to be put in place by the applicant to manage traffic around the site via the one way system proposed and the dispersal of traffic in the wider area through the use of two accesses, one to the north and one to the south, will be managed by a system to be put in place by the applicant to mitigate impacts on the local road network.

- 7.3.10. Overall, I consider the road network has the capacity to accommodate the intensification in movement of agricultural vehicles over the periods of time indicated and will not in my opinion give rise to an increased traffic hazard or impact traffic flows to such a degree as to warrant a refusal. I consider this issue has been satisfactorily considered by the applicant and can be further addressed by way of condition, should the Board be minded to grant permission.
- 7.3.11. I note the digester will operate 24 hours a day 7 days a week, given anaerobic digestion is a biological process within enclosed containers associated with live micro-organisms. Under condition 8 of the permission from the PA, unless otherwise agreed in writing, the operating hours are restricted from 0700 to 2000 hours Monday to Friday and 0800 and 1800 on Saturdays, and truck loading activities shall only be undertaken between the hours specified. I consider such a condition should be reworded in the interests of clarity, to limit the hours of deliveries to the site, versus the working of the actual plant on site. The applicant proposed grass deliveries to the site over three two-week periods in May, July and August would result in 6 trailers per hour from 8am to 9pm over these two-week periods and that slurry delivery (which would be at a different time of year to grass/silage delivery) would take place between 10am and 6pm in winter months. The applicant in response to the appeal did not comment on the limitation of operating hours as imposed by the planning authority to 8pm. I consider a condition limiting the delivery hours is warranted and the times as proposed by the PA appear reasonable.
- 7.3.12. In the context of the proposed additional traffic, provision of a second access route to the site, outlined traffic management measures to be put in place for the operational phase, together with the fact that most of the feedstock used in the proposed anaerobic digester will be sourced from within a 20km radius, including moved within the existing landholding which lies adjacent to the subject site, I am generally

satisfied that the proposed development will not give rise to any significant increase in traffic hazards or impact to the existing road users in the area. I note the roads section of the council raises no objection subject to compliance with conditions. I am satisfied that the proposed the development is acceptable in terms of roads and traffic issues.

#### **7.4. Emissions – Noise and Air**

##### Overview

7.4.1. Consideration of emissions and potential impact on residential amenity is considered in the submitted Planning and Environmental Report under Chapters 8 (Air and Emissions) and Chapter 9 (Noise).

7.4.2. The site is set at a distance of c. 292m from the Mullafarry Road to the north, on the opposite side of which to the east and west are a small number of rural detached dwellings. From the submitted information there are eight dwellings, including farmsteads within 500m of the main body of the site (see page 149 of submitted Planning and Environmental Report February 2021). The closest house to the northeast is by my measurements c. 424m away. To the west of the main body of the site, there are two dwellings, c. 401 and 418m away. At the site entrance to the south there are two dwellings on the opposite side of the road, which are c. 194m from the main body of the site. To the east of the site entrance, c. 37.4m from the eastern boundary, is an occupied rural dwelling and unoccupied dwelling to the rear of it. I note that at the southern part of the site, where the above dwelling is c. 37.4m from the eastern boundary, it is proposed to provide for a spoil deposition area, with this dwelling c. 190m to the south of where the silage clamps are proposed. I note this dwelling is not indicated on the image on page 149 of the submitted Planning and Environmental Report. Notwithstanding this, I have fully considered it in my assessment.

##### Noise

7.4.3. Submissions raise concerns in relation to noise generation from the site and from additional traffic and concerns are raised in relation to the lack of consideration to the use of the road network by the existing quarries.

- 7.4.4. Chapter 9 of the submitted Planning and Environmental Report evaluates noise associated with the construction and operational phases of the development and a Noise Impact Assessment is included with the documentation. The methodology is set out, including baseline assessment of noise, identification of noise sensitive receptors and potential impacts assessed at construction, operation and decommissioning phases with consideration of cumulative impacts and cumulative measures. I note the noise baseline is taken from data gathered for the Killala Community Windfarm project, with it noted that the baseline is pre the windfarm therefore the baseline if anything is more onerous. I am satisfied with the methodology as set out.
- 7.4.5. During operation, the following noise sources are identified:
- Night time noise from operation of the plant: hydraulic power units; screw conveyors; pump room; agitators in the digester, post digester and storage tank; separator; emergency gas flare; pumps; standby generator; compressed air distribution.
  - Daytime noise sources: tractors, feedhopper, wheel loader, ie delivery of grass, periodic feeding of silage to the feedhopper, storage of slurry, pumping of any silage leachate.
- 7.4.6. The noise generators are assessed against the noise sensitive locations (see page 175 of submitted Planning and Environmental Report). I note the assumptions made in terms of timing of the various operations and impacts of the 1.7m berm as a noise barrier. It is predicted that the daytime and nighttime noises will be below EPA guideline values. No operational design mitigation measures are proposed or considered necessary in relation to the AD plant. Having reviewed the documentation submitted, I am satisfied that the plant will not be a significant noise generator by its nature and therefore the proposed development will not result in a significant adverse impact on the amenity of this rural area.
- 7.4.7. Noise nuisance may be associated with vehicle movements. The estimated number of vehicles and types using the site are calculated to determine the predicted change in noise levels and no significant increase in noise above guideline levels is anticipated. I note a condition by the PA limits the operating time of the development. I consider a condition in relation to delivery times would be warranted, noting the

more intense period for deliveries is during the grass harvesting period for silage, which cover three by two-week blocks during the summer months. Overall, I consider the noise generated from additional farm vehicles on the site will not be so significant or intrusive in this rural context as to warrant a refusal. While there will be an increased frequency of tractors/trailers visiting the site, I do not consider that the noise generated will be significant or out of character in this rural context, noting the mitigating effect of the proposed spoil deposition area on the noise generated from additional vehicles to the dwelling to the east.

- 7.4.8. Cumulative impacts are considered with regard to the two quarries to the north, the Killala Community Windfarm, and CHP Plant in the Killala Business Part. Impacts are considered to be negligible.
- 7.4.9. Having regard to the standard of the local road network in the vicinity of the site, overall and general agricultural nature of the area, I am generally satisfied that the proposed development is acceptable and is unlikely to have any significant negative impact on existing residential amenity with regard to noise.

#### Odours

- 7.4.10. Concerns are raised in submissions in relation to odour, toxic smells on residential amenity, risk to air quality and impact on health, risk of storing gas on site and risk from methane and hydrogen sulphide.
- 7.4.11. The submitted Planning and Environmental Report (Feb 2021) under Chapter 8 addresses Air and Emissions.
- 7.4.12. The following are the likely sources of odour emissions during the operational phase, as identified in the submitted Planning and Environmental Report:
- Silage Clamps
  - Slurry storage and transfer
  - Hot water boiler
  - Flare Stack (for use in an emergency and in the initial start up - its converts the CH<sub>4</sub> to CO<sub>2</sub> and water),
  - Emergency Generator
  - Biogas Conditioning Plant

- Pressure Relief Values on Digester and Storage Tanks
- Digestate Separation Unit

7.4.13. Chapter 8 sets out the methodology and standards used in the assessment of air quality. An air quality modelling study was undertaken including assessment of Nitrogen Dioxide (NO<sub>2</sub>) and Sulphur Dioxide SO<sub>2</sub> (from water boiler which uses raw biogas as fuel and from emergency flare) and in relation to site odour potential.

7.4.14. In relation to NO<sub>2</sub> and SO<sub>2</sub> values, no significant impact on the nearest dwellings was predicted from the application of the air modelling study. I note the location of the additional dwelling to the southeast relative to other existing dwellings and this dwelling will also not be impacted. Regarding odour from the AD plant, it is stated that the plant is designed to minimise fugitive emissions from the tanks (which are completely enclosed) and in the treatment of the biogas. With regard to the silage clamps, there are existing silage clamps on the farm which were used as a baseline to assess odours in December 2022. No significant odours or fumes from the surface of the silage when the cutting was taking place were noted and no significant levels of leachate were observed on the floor of the bays. I accept that silage does not create a significant odour and, subject to the cut grass being fermented and stored/cut in accordance with best agricultural practice, odours should not be a significant issue. In terms of slurry, this will be piped from the applicants slatted floor in the existing cattle sheds to the concrete buffer tank, which has capacity for 228 m<sup>3</sup>. Where slurry is sourced from local farms, this will be transported by tanker to the site and discharged via a closed cycle connection to the buffer tank, which is itself made from concrete and is completely sealed, with a secured inspection hatch in the roof of the tank. Such operation methods will limit odour emissions from the site.

7.4.15. There may be odours from the digestate where the solid element is stored and to be removed daily. If there is a delay in removal, decomposition and smells may occur, however, the potential for this is limited. The liquid digestate will be stored in an enclosed storage tank, with limited potential for smells, and movement will be via tanker and a quick coupling connection at the Digestate Removal Station, thereby minimising any odour. Any drips/spillages will be pumped from the concrete slab floor of the removal station and transferred back to the Buffer Tank. Overall, I note that solid digestate has a significantly reduced odour potential when compared to

slurry as well as having an increased nutrient value when compared with artificial fertilisers, which is accepted by the EPA and as such, the digestate used in land spreading is significantly less odorous than untreated slurry.

- 7.4.16. Air quality mitigation measures are set out in Chapter 8.8 of the Planning and Environmental Report to address potential construction phase impacts (dust) and in the operational phase, including use of advance Process Control system to monitor equipment and measurement systems to ensure no leaks and that gas systems are operating and stable. I consider the proposed management measures and alarm systems in place will mitigate concerns in relation to any leakage from the plant equipment. An Odour Management Plan will be put in place, as part of an overall Environmental Management Plan.
- 7.4.17. Given AD plant processes take place within a closed sealed system, with movement from one part of the system to another via sealed pipes, I am satisfied that significant odour issues will not arise and odours from fugitive emissions will be mitigated through best practice construction and operation methods, with monitoring systems in place.
- 7.4.18. Overall, I am generally satisfied that the proposed development, if permitted is not likely to have any significant impact on either noise or odour emissions. Given the rural nature of the site, together with the separation distances between the site and the nearest sensitive receptors, I am satisfied that the proposed development would have no significant negative impact on the existing residential amenity of properties in the area.

## **7.5. Water Services**

- 7.5.1. Concerns are raised in submissions in relation to potential for pollution of surface water and wells in the area. An Taisce raises concerns in relation to the risk of increasing water pollution and impact on Ireland meeting its obligations under the EU Water Framework Directive. An Taisce submits the application has not assessed the potential impacts to water quality from the use of fertiliser to grow the crops to feed the AD plant as well as used to support crops to feed the cattle.
- 7.5.2. Chapter 7 of the submitted Planning and Environmental Report addresses water. A hydrological and hydrogeological assessment of the site is included, setting out the



baseline of the existing water environment and assessment of likely negative impacts on surface water and groundwater during construction, operation and decommissioning. A Flood Risk Assessment is also included in the documentation, highlighting no significant risk of flooding.

- 7.5.3. The site drains from east to west via underground land drains (one encountered in a trial pit). A natural stream is present to the west of the site. This stream discharges to the north to Magherbrack Stream, 850m downstream of the site, which in turn discharges to the Cloonaghmore River 4.4km downstream of this confluence, or 5.2km downstream from the AD site itself. This river discharges to the Cloonaghmore Estuary (part of Killala Bay/Moy Estuary SPA) and to the outer estuary/inner Rathfran Bay (designated part of the Killala Bay/Moy Estuary SAC). The nearest point of the SAC to Cloonaghmore River outfall is c. 3km to the outer estuary. The rivers have a 'Good' WFD status, as do the coastal waters.
- 7.5.4. The site of the AD plant is located over a locally important aquifer which is moderately productive in local zones, with a High vulnerability rating and a section of Extreme vulnerability rating to the north east. Bedrock is also close to the surface on the site. There was no evidence of karstified features on the site or along the pipeline route. Given the characteristics of the site, there is considered to be a potential for pollution of subsurface and underground features.
- 7.5.5. The site is within an area of Geological Significance, however, impacts in this regard are considered to be minimal given the scale of the Killala Area feature relative to the scale of the development and limited disturbance to the geometry and configuration of the site and associated pipeline area. Having visited the site and reviewed all documentation, I am satisfied that this is the case.
- 7.5.6. A part of the gas pipeline route is located where an underlying aquifer is classified as regionally important and karstified in part at Coonealcauraun. The first 1km of the gas pipeline route has an underlying aquifer vulnerability rating of high, the next 2.4km is medium to extreme at Coonealcauraun and high to medium before joining the R314, where it is medium with high to extreme toward the end of the pipeline near Ballina. Limestone underlies the site. The submitted documentation states there was no evidence of any karst features in the limestone bedrock either from GSI data

or from a site walkover survey. There are a number of springs in the vicinity of the development site and wells.

- 7.5.7. The site is within the Cloonaghmore\_SC\_010 subcatchment. The farmholdings that will supply silage or slurry as raw material and will receive by-products for spreading are located within the following surface water catchments: The Moy; the Cloonaghmore; Coastal catchment 09; coastal catchment 14; Glenamoy-Ballinglen-Glencullen coastal catchment.
- 7.5.8. The proposed gas pipeline crosses three tributaries which flow in an easterly direction to the Moy Estuary.
- 7.5.9. In terms of wastewater at construction stage, this will discharge to an on-site holding tank and will be emptied via a tanker to a local wastewater treatment plant.
- 7.5.10. In terms of surface water, having regard to the nature of the development, it has the potential to generate surface water which may be contaminated with leachates from storage of feedstock and silage. Section 7.4.1.9.2 of the submitted Planning and Environmental Report addresses this issue, establishing construction stage mitigation measures and section 7.4.2.1.2 sets out operational phase mitigation measures which includes mitigation by way of the design of the scheme. I refer the Board to Section 8.0 of this report in relation to Appropriate Assessment. The submitted FI and RFI, which forms part of the application documentation, elaborates on the surface water drainage system to be put in place with additional drawings submitted. The following is a summary of the surface water management arrangements for the site:
- During construction, interceptor drains will be installed upstream of the site to divert clean surface water away from any excavations, construction areas and temporary storage areas, and discharge it via overland flow upstream of the watercourse.
  - Silt fencing will be provided between the proposed site track extension to the north and the watercourse with a 1m berm on the opposite side of the track. Silt bags will be used where required. Best practices in terms of on-site management to be implemented to prevent surface water contamination.

- Excavation of soil/rock is to be kept to a minimum with the silage clamps at a higher level to the plant area.
- Berms are proposed around the perimeter area of the tanks and associated plant, which will be 1.7m high, with a 4m high sealable gate which will normally be closed. Access tracks will be provided outside the berm which will accommodate delivery of feedstock and removal of by-products (digestate, fibrous solids) without the need to enter the area contained by the berm.
- The hardcore area between the tanks and the berm will be underlain by an impermeable plastic sheeting material where infrastructure is to be laid on top of bedrock and where the overburden is less than 0.6m. The berm will contain any liquids in the unlikely event of tank leakage.
- New drains will collect run off with potential to carry silt or sediment and nutrients and direct the run off towards a large settlement pond to the north of the site, prior to controlled diffuse release over vegetated surfaces to watercourses. There will be no direct discharging of surface water to water courses.
- Digestate loading area will incorporate a concrete apron sloping towards a gulley to collect any spillage so that it can be pumped back to the buffer tank.
- The silage clamps floors will incorporate drainage channels to collect leachate. The collection channel will terminate in an underground tank from which it will be pumped to the buffer tank for use in the biogas system. Rainwater from the polythene sheeting over the silage will drain towards the south-eastern ends of each clamp and will be collected in a filter drain prior to discharge to the overall drainage system.
- In relation to the circulation track on the outside of the berm/plant, water from the track on the eastern side of the site will be directed to the stormwater attenuation tank via two gravel catchpits and any overflow will be directed to two gravel catchpits and secondary oil interceptor on the north of the site prior to discharge via level spreaders or buffered outfalls (drwg no 6220-PL-322). Water from the track on the western side of the site will be directed to a 225mm open drain and directed northwards and flow off site via gravel catchpits and a secondary oil interceptor via a level spreader or buffered outfall. The northern site access track will have a drainage

swale and check weirs at 25mm intervals with a silt fence installed on the outside of the swale to prevent any silt laden runoff from the track dispersing from the track in an uncontrolled manner (drwg no 6220-PL-315).

- There will be no direct discharges to surface waters.
- A pipeline will be constructed to transfer slurry from the existing slatted units directly to the Buffer Tank, reducing the need to convey slurry via a tanker.
- A Drainage Maintenance Plan will be put in place at the commencement of the Operational Phase.
- A Construction Environmental Management Plan will be put in place for the construction and operation phase of the AD plant and the pipeline.

7.5.11. Drawings number 6220-PL-100, PL-101, PL-305 and PL-322 show surface water systems proposed, including a collector drain at the track at the clamps to divert runoff to the attenuation tank and six drainage channels at the silage clamp to direct leachate to a holding tank for feeding back into the system and provision for concrete apron and gulley/collection point where slurry and liquid digestate is removed to contain any spills and spoiled water.

7.5.12. Concerns are raised in the grounds of appeal in relation to potential of pollution of Lisglennon water treatment plant. In addition to mitigation measures proposed, it is noted that the site is not hydrologically linked to the Lisglennon Waterworks reservoir, therefore no impact is anticipated.

7.5.13. An Taisce submits the application has not assessed the potential impacts to water quality from the use of fertiliser to grow the crops to feed the AD plant as well as used to support crops to feed the cattle. I note the applicant has considered in the submitted NIS (see Section 8 of this report hereunder) the lands used for spreading of digestate as part of the proposed development. Consideration has been given to Nutrient Management Plans for each of the farms in question and consideration to the proximity to any streams of any of the lands spreading digestate. I would further highlight that the farms supplying silage and slurry to the proposed AD plant are currently in operation and governed by separate legislation in relation to land spreading and nitrates use, specifically the European Union (Good Agricultural Practices for the Protection of Waters) (Amendment) Regulations, 2017.

- 7.5.14. In relation to issues raised by third parties that not all operational wells were identified, I note the PA sought further information/clarification in this regard and is satisfied that all buffer zones from stream/wells/other watercourses have been demonstrated. I note that the buffer zones applied in relation to land spreading in accordance with EU (Good Agricultural Practice for Protection of Waters) Regulations 2017 will be met and I note that the proposed surface water management system will ensure no discharge of potentially silt laden or contaminated water to ground or surface water networks, with a number of silt fences, swales and gravel pits and other SUDS measures in place around the site.
- 7.5.15. I am satisfied that the proposed surface water drainage arrangements for the site would be satisfactory from operational and water quality perspectives and based on the design and mitigation measures proposed as well as the current status of identified water courses, I do not consider the proposed development will undermine Irelands obligations under the EU Water Framework Directive.

## **7.6. Ecology**

- 7.6.1. An Ecological Impact Assessment has been submitted with the application, which was updated to include consideration of the gas pipeline.
- 7.6.2. Concerns are raised by An Taisce in relation to the impact of the proposed use of additional agricultural farms for silage and slurry feedstocks on the overall biodiversity of the area and that a full assessment of the impact on the biodiversity of other farms has not been undertaken.
- 7.6.3. A submission from the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media (Report dated 16<sup>th</sup> March 2021) highlights that a Badger Sett is identified at a location 7m from a proposed silage clamp. It is stated that a section 23 licence must be applied for, detailing all surveys conducted, proposed mitigation measures, details of project ecologist responsible for ensuring all mitigation measures implemented and the toolbox talk they will give to the contractor prior to works within 50m of the badger sett. It is stated that all conditions of the Section 23 licence must be incorporated into a planning condition, if granted, regarding the badger sett, including that a detailed derogation licence return report is issued to NPWS following works.

- 7.6.4. The site is characterised by habitat and species normally associated with managed agricultural land. No habitat or bird species was identified on the site related to qualifying interests of European Sites in the wider area. No invasive species were observed during site investigations. There was no evidence of otters.
- 7.6.5. The loss of improved agricultural grassland to the site of the AD plant is not considered significant in biodiversity terms. The hedgerows on the site are proposed to be retained, with the exception of a 7m width section at the northern boundary to allow for a new vehicular access and is rated as being of imperceptible magnitude to the surrounding hedgerow network. There will be no loss of habitat during the laying of the pipeline which will take place within the road corridor.
- 7.6.6. One badger sett containing three entrances was recorded proximate to the western side of the existing farm access road, west of the proposed AD footprint, and deemed to be active. Having examined the sett in the context of the wider area, specifically a main badger sett discovered during surveys in 2017 relating to the development of the Killala Community Wind Farm, the badger sett at the site boundary is considered to be an outlier sett and less frequently used, however it may be damaged if there are tunnels found under the area of the proposed silage clamps.
- 7.6.7. With regard to badgers, section 6.7 of the Ecological Impact Assessment sets out mitigation measures to minimise potential for damage/impacts to the badger sett and any badgers that may use the sett. It is proposed to obtain a derogation licence prior to the commencement of development and this is required to permit works within 50m of the sett. A badger mitigation strategy is required and is set out in section 6.7 of the EclA, including inter alia the following measures: a preconstruction survey to be undertaken, utilisation of mammal camera traps for a period of 10 consecutive nights prior to the preconstruction survey; use of non-return badgers gates during construction; works to the silage clamp to be completed outside of badger breeding season which is from December to June inclusive; no security lighting with 50m of the nearest badger sett entrance; the project ecologist and derogation licence holder to supervise all works within 50m of the sett; should a tunnel or chamber be discovered then a replacement concrete tunnel and/or concrete chamber will be provided; a derogation licence return report will be issued to the NPWS; and monitoring of the sett will be completed during the first three months subsequent to the completion of the construction works. I am satisfied with the measures proposed

in relation to the outlier sett and subject to mitigation measures being followed I agree there will be no long term residual impact to the outlier sett.

- 7.6.8. Mitigation measures are proposed to reduce impacts on habitats including the use of low level lighting to mitigate any impact on bats in the area and existing trees/hedgerows will not be impacted during construction.
- 7.6.9. While concerns are raised by An Taisce in relation to the biodiversity impact of utilising other farms for feedstock, I note that the other pledged farms are currently operating in the area of silage and/or are generating slurry and it is not proposed that these farms alter or intensify their practices to supply feedstock to the AD plant. It is stated in the submitted documentation that 639 ha of land is required to supply the feedstock and 688 ha of land are available to supply such, therefore there would appear to be no requirement for any one farm in the area to intensify their production to support the AD farm. Furthermore these farms are subject to implementing separate legislation under the Department of Agriculture, Food and the Marine and EU (Good Agricultural Practice for Protection of Waters) Regulations 2017.
- 7.6.10. I do not consider the proposed AD plant would contribute to a degradation of biodiversity or the rural environment as a result of this development.
- 7.6.11. On balance I consider that adequate detail has been provided on the ecology of the site, proposed pipeline, and surrounding farmlands and I refer the Board also to Section 8 hereunder in relation to appropriate assessment and consideration of hydrological connections to the wider area. I am satisfied that the EclA is of sufficient scope and detail to assess the overall ecological impact of the proposal. Given the location of the site in an area characterised by similar lands and habitats and the mitigation measures to be incorporated along the route of the pipeline and in the spreading of digestate on associated lands, I consider that the impacts on the ecology of the site and the wider area would be acceptable.

## **7.7. Visual Impact**

- 7.7.1. Concerns have been raised in submissions in relation to the visual impact of the large scale of buildings proposed on this rural landscape, particularly from dwellings to the north. I have reviewed all submissions made and viewed the site from various locations.

- 7.7.2. The subject site is located within the character area 'Policy Area 4 – Drumlins and Inland Lowland', with development impact for this type of development characterised as 'low potential to create adverse impacts on the existing landscape character', subject to good siting and design.
- 7.7.3. The largest structures associated with the AD plant will include 2 no. digester tanks and 1 no. digestate storage tanks. The overall height of the digester is stated to have an internal height of 8m, with the tank recessed c. 1m below ground level, the post-digester tank will have an overall height to the top of the dome of 13.5m, and the digestate storage tank will have an overall height to the top of the dome of 16.5m above ground level. In terms of the other buildings on site, the main structures include the buffer tank which will have a height of 4.3m, the separator unit will be 4.4m high, the feedhopper will be 3m high, the biogas upgrading units will be 2.4m high, the silage clamps will have 4m high walls, and the administrative building will have an overall height of c. 5.2m. The emergency flare will be 9m high. Berms are proposed around the perimeter area of the tanks and associated plant, which will be 1.7m high, with a 4m high sealable gate which will normally be closed. It is proposed to retains boundaries comprising trees and hedgerows and to supplement these boundaries with additional trees to further screen the site from both the motorway to the south and the lands to the north. I refer the Board to the artists impressions submitted.
- 7.7.4. The subject site is located in a rural landscape and the surrounding land comprises agricultural fields with agricultural buildings, including the farm complex associated with the applicant's farm. To the north of the site there are two quarries, to the north east is a windfarm, Killala Business Park (formerly Asahi plant) and to the east is a wastewater treatment plant. The site is generally level, rising to the northeast away from the site. The site is not located along any scenic routes or routes with designated views. I note the level of tree/hedgerow planting in the immediate area of the site and the undulating nature of the topography in the wider area. While the Mullafarry Graveyard and church, which is located to the northeast of the site, is visible from the site given the church/graveyard's position on higher lands within the landscape, I do not consider the proposed development will have a significant negative impact on the setting of the church and graveyard.



7.7.5. While the proposed development comprises a significant development in terms of its scale and change from a greenfield site, I would also note the presence of large agricultural buildings and commercial structures in the wider area. The proposal in my opinion does not differ to such an extent from other agricultural type buildings to be expected in this rural area, and given the relatively flat topography and location of the buildings on the site away from the public road, I consider the proposal would not have a significant negative impact on the visual amenity of this landscape and is on balance acceptable.

## **7.8. Health & Safety**

7.8.1. The appellant raises concerns in terms of health and safety with regard to the production of gas and the potential for gas explosions.

7.8.2. Section 4 of the submitted Planning and Environmental Report addresses accidents/disasters under population and human health. I also note a Construction Method Statement for the Gas Pipeline has been submitted and a Report on Construction and Operational Phase Reporting Hierarchy which outlines procedures in place should an incident occur on site.

7.8.3. I note that if gas storage arising from the process would exceed 10 tonnes, it would result in the site being an 'establishment' for the purposes of the Major Accidents Directive. This is not the case in this proposed development.

7.8.4. The upgraded biomethane arising from the final stage of the proposed processes, will be collected at the AD plant and moved off site via a new pipeline which will connect into the gas grid north of Ballina. It is stated in the submitted documentation that gas will be kept at low pressure conditions at both the plant and associated pipeline. It is also noted that the proposed plant will come under the monitoring of Gas Networks Ireland as the regulatory authority, under the Gas Act 1976, and Gas Networks Ireland being the regulated entity will oversee the standards and quality of the design and operation of the proposed plant and will be the body in charge of constructing the pipeline. I am satisfied that matters relating to Health & Safety are adequately addressed within the submitted documentation and are furthermore regulated under separate legislation in relation to the operation of the plant, the principal legislation being the Safety and Welfare at Work Act 2005, whereby an

employer is required to carry out risk assessments and prepare a safety statement for all potentially hazardous activities to be undertaken by its employees or by third-party contractors working on site.

## **7.9. Sustainability**

- 7.9.1. Concern is raised by An Taisce in relation to the potential for the AD plant to generate greenhouse gases emissions via inputs of grass and from cattle generating slurry. It is contended that as per studies quoted from 2015, 2018 and 2020 in relation to methane gas slippage/leakage from AD plants, as well as consideration of methane feedstock, this can mean the lifecycle of an AD plant is climate intensive. It is indicated that slippage/leakage can occur from poor system inspection, uncontrolled releases and from digestate. An Taisce states that in light of scientific evidence, it is submitted that the potential for and impacts of methane slippage at the proposed AD plant require full assessment and that this should be requested as further information. It is stated that ammonia emissions from feedstock production requires full assessment and consideration of biodiversity loss as a result of feedstock production on other lands. It is submitted that injection of the gas into the national grid, mixing it with fossil gas, is ultimately unsustainable and it should be instead directed to supply off-grid industrial users or vehicles.
- 7.9.2. The applicant has submitted documentation with regard to the Renewable Energy Directive II (RED II), 2019. It is stated that RED II includes mandatory measures to ensure an EU wide common standard and measurement process to certify renewable gas and other renewable energy sources. The primary measure is a Life Cycle Assessment (LCA), whereby processes/systems that pass the LCA can be classified as renewable fuels with a GHG emission factor of zero. The question of the application of the EU-RED II to this development is referenced by the applicant within the Planning and Environmental Report (dated February 2021), in the Response Report for Request for Further Information submitted to the PA (dated October 2021) and in the Response Report to Clarification of Further Information as submitted to the PA (dated January 2022). In the latter report (pg 15) the report states that to achieve compliance with the new Sustainability Criteria LCA, account must be taken of the full production process and associated logistics, the land used, the harvesting, transporting processing/production, delivery to combustion by the

customer and the displacement of fossil fuel. The report further states that biomethane from animal slurry is recognised as one of the most sustainable fuels given GHG savings from mitigating methane. Gas Networks Ireland are responsible for the Green Gas Certification and access to the renewable gas register under which every AD plant will have to submit annual audits to comply. Appendix 5 of the Response Report to Clarification of Further Information (dated January 2022) includes a Green Gas Certification report and calculation methodology following guidelines produced by Gas Networks Ireland, which indicates that based on similar projects the proposed development will be carbon neutral after 1-2 years of operation. The applicant also quotes a report published in conjunction with Gas Networks Ireland, Devenish Nutrition and KMPG titled Sustainability Report on Agri-Methane in Ireland (2021). In relation to the issue of biodiversity, I note that the proposed development will be utilising feedstocks from existing farms where the feedstock in question is already being generated and the operation of such farms is furthermore governed under separate legislation. The submitted NIS has considered potential implications of applying digestate from the AD plant to the lands in question and how this could potentially affect European sites. The application of the digestate has been addressed in detail by the applicant and I am satisfied that the development will not result in increased loss of biodiversity. While an Taisce raises concerns over the ability of the proposal to be carbon neutral, I am satisfied based on all the information submitted and reports referenced, that best practice guidance in the design and operation of the AD plant has been followed and the applicant's ability to comply with EU-RED II has been demonstrated. I note a letter of support is included from IT Sligo indicating they wish to work with the developer going forward and setting out general support for such a project. In relation to emissions slippage through poor design and from digestate I consider the application documentation has adequately addressed such issues in the consideration of the design and layout of the proposal, with details submitted in relation to the topic of odour, the potential for fugitive emissions, and the overall design of the system to mitigate potential emissions and leakage. I note the liquid digestate tank is enclosed and that the solid digestate will be removed daily from the site. I note An Taisce considers it would be more sustainable for the biogas to be used in industry rather than injected into the national grid, however, that is not what the applicant is proposing and I can only

assess what is before me. The proposal to inject into the national gas grid is supported in the Climate Action Plan 2021 and by national policy. The proposal is in my opinion acceptable in this regard.

- 7.9.3. Overall, I am satisfied that the proposed development is being constructed and operated in accordance with best practice standards to support carbon neutral generation of energy as per RED II and anaerobic digestion is supported by local and national policy as a means to achieving climate targets.

## **7.10. Waste Licence – New Issue**

- 7.10.1. I note that the proposed development is not considered by the applicant to require a waste licence and the proposed development description does not reference licencing requirements. The applicant has ticked on the planning application form that the proposal does not relate to a development which comprises or is for the purpose of an activity requiring an IPPC licence or waste licence. The applicant has not indicated what type of waste authorisation is required for the facility.
- 7.10.2. The Board will note that it is not within the remit of the Board to determine whether an application requires a waste licence or not and that this is a matter for the EPA. However, I note the Planning and Development Regulations 2001 (as amended) require where a development requires an IPPC or Waste licence, that it is advertised as such in the public notices. The Board will note that it addressed a similar issue under a decision relating to planning application ABP-303466-19. I note that in planning terms, as assessed above, the proposed development is in my opinion acceptable, however, from an administrative perspective it is uncertain whether a positive decision in relation to this development can be issued if uncertainty exists as to whether a waste licence is required for a development. I consider the issue of a waste licence further hereunder. This is a new issue and the Board may wish to seek the views of the parties.
- 7.10.3. Waste disposal and recovery activities generally require waste authorisation. Which type of authorisation is required is dictated by the classes of waste activity listed in the Third Schedule of the Waste Management (Facility Permit and Registration) Regulations, 2007 (S.I. No. 821 of 2007), as amended. Authorisation comes in three forms:

- certificate of registration (for activities listed in Part II of the Third Schedule)
- waste facility permit (for activities listed in Part I of the Third Schedule); or
- waste licence or industrial emissions licence (all other activities).

7.10.4. Depending on the authorisation required these activities are controlled either by the EPA or by Local Authorities. Local Authority waste authorisations are regulated by the EPA.

7.10.5. I note Class 11.4(b)(i) of the First Schedule of the Environmental Protection Act 1992, as amended, requires an Industrial Emissions Licence for the anaerobic digestion of non-hazardous waste where the recovery activity has a capacity exceeding 100 tonnes per day (the threshold is stated in 11.4(c)). I note that it is referenced in the documentation from the PA that the proposed capacity of the facility is 77 tonnes per day. It would therefore appear that an IPPC licence is not required.

7.10.6. The Waste Framework Directive 2008/98/EC and Article 2(2)(b) states that ‘the following shall be excluded from the scope of this Directive to the extent that they are covered by other Community legislation:

2(2)(b) ...animal by-products including processed products covered by Regulation (EC) No 1774/2002, except those which are destined for incineration, landfilling or use in a biogas or composting plant.

7.10.7. The Waste Management Act 1996, as amended, (consolidated on 1<sup>st</sup> July 2023) states:

3(1) This Act shall not apply to—

(g) faecal matter, if not covered by subsection (2)(b), straw and other natural non-hazardous agricultural or forestry material used in farming, forestry or for the production of energy from such biomass through processes or methods which do not harm the environment or endanger human health.

3(2) This Act shall not apply to the following to the extent that they are covered by other Community acts:

(b) animal by-products, including processed products covered by Regulation (EC) No. 1069/2009 of the European Parliament and of the Council of 21

October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No. 1774/2002 (Animal by-products Regulation), except those which are destined for incineration, landfilling or use in a biogas or composting plant.

7.10.8. The European Communities (Waste Directive) Regulations 2011, SI no. 126 of 2011, states

The Act of 1996 is amended by substituting the following sections for sections 3 and 4: “Non-application of this Act. 3. (1) This Act shall not apply to –  
3 (g) faecal matter, if not covered by subsection (2)(b), straw and other natural non-hazardous agricultural or forestry material used in farming, forestry or for the production of energy from such biomass through processes or methods which do not harm the environment or endanger human health.

(2) This Act shall not apply to the following to the extent that they are covered by other Community acts:

(b) animal by-products, including processed products covered by Regulation (EC) No. 1069/2009, except those which are destined for incineration, landfilling or use in a biogas or composting plant).

7.10.9. Furthermore, Article 27 of the European Communities (Waste Directive) Regulations 2011 states in relation to by-products:

By-products

27. (1) A substance or object, resulting from a production process, the primary aim of which is not the production of that item, may be regarded as not being waste but as being a by-product only if the following conditions are met:

(a) further use of the substance or object is certain;

(b) the substance or object can be used directly without any further processing other than normal industrial practice;

(c) the substance or object is produced as an integral part of a production process; and

(d) further use is lawful in that the substance or object fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.

(2) (a) Where an economic operator makes a decision in accordance with paragraph (1) that a substance or object is to be regarded as a byproduct, he or she shall notify the Agency of the decision and the grounds for the decision.

(b) Where there is no notice given to the Agency under subparagraph (a) in respect of a substance or object and the substance or object, as the case may be, is discarded or otherwise dealt with as if it were waste, the substance or object, as the case may be, shall be presumed to be waste until the contrary is proved.

(3) The Agency—

(a) may determine, in consultation with the relevant local authority and the economic operator concerned, whether a substance or object notified to it as a by-product in accordance with paragraph (2)(a) should be considered as waste, and

(b) shall notify the local authority and the economic operator concerned in circumstances where a determination is made that a substance or object should be considered as waste and not as a by-product.

(4) Nothing in this Regulation shall relieve an economic operator from his or her responsibilities under the Act of 1992 or the Act of 1996.

(5) The Agency shall establish and maintain a register of by-products to record substances or objects notified to it as by-products under paragraph (2)(a).

(6) Where the Agency makes a determination in accordance with paragraph (3) that a substance or object should be considered as waste and not as a byproduct, the determination shall be final.

7.10.10. Under Article 5 of the Waste Framework Directive and Article 27 of the European Communities (Waste Directive) Regulations 2011, I consider that grass satisfies the test for “by-product” or “production residue” and is therefore not waste.

- 7.10.11. The applicant considers that slurry is not a waste, as under the Nitrates Regulations 2017 slurry is defined as an organic fertiliser and not as a waste. I note the Nitrates Directive also defines for the purposes of the directive 'livestock manure' (which is what slurry is) as a 'waste product excreted by livestock', which is in itself is an organic fertiliser. In my opinion slurry could be classified as a waste and as an animal by-product destined for use in a biogas plant and I therefore consider it could come within the scope of the Waste Directive.
- 7.10.12. I am satisfied that the above Article 27(2) requires that where an economic operator makes a decision that a substance or object is to be regarded as a by-product, he or she shall notify the Agency [ie the EPA] of the decision and the grounds for the decision. As the proposed biogas is intended to be upgraded to biomethane which is to be transported off site to market, there is a commercial element to the proposed development and therefore the applicant will be an "economic operator". There would appear to have been no communication with the EPA in this case.
- 7.10.13. According to EPA guidelines, a Waste Licence is normally required for the reception, storage and bio-treatment of >10,000tpa OR where >6000m<sup>3</sup> compost, digestate and biowaste stored at any one time.
- 7.10.14. In terms of annual intake (ie reception) of waste, the proposed facility would have an annual input of 18,000 tonnes of cattle slurry which appears to be above the threshold set out above relating to waste licences, in the event that slurry is classified as a waste.
- 7.10.15. In terms of 'compost, digestate and biowaste stored at any one time at the facility', I note the liquid digestate will be piped to a storage tank, which from the drawings has a stated capacity of 8,830m<sup>3</sup>. The volume of digestate is above the threshold of 6,000m<sup>3</sup> as per the EPA guidance, notwithstanding the submitted document 'Response Report for Clarifications on Request for Further Information' (report dated January 2022; page 5) states that this tank allows for spare capacity of approx. 40%. I would reiterate that it is a matter for the EPA to determine whether or not the activity is licensable under the EPA Act 1992, however, the issue of the volume of the tank raises doubt in my mind and this is relevant only with regard to the advertising requirements relating to the development, as per the Planning and



Development Regulations 2001 (as amended), which require that where a development requires an IPPC or Waste licence, that it is advertised as such in the public notices.

7.10.16. Article 11 of the Waste Management (Facility Permit and Registration) Regulations, S.I. No.821 of 2007 (as amended in 2008 by S.I. No. 86 of 2008), under the heading “Declarations on waste licences, waste permits or certificates of registration” and sub-section (1) states: If an applicant has doubts concerning whether a proposed activity or activities shall be regarded as a licensable activity under section 39(1) of the Act or as requiring a waste facility permit or certificate of registration under these Regulations, or as none of these, the applicant shall make a request to the Agency to determine the question in advance of the submission of an application for a waste facility permit or a certificate of registration under these Regulations. I note an Article 11 request to the EPA can only be made by an applicant who is proposing a waste related activity or a Planning Authority that has received an application for a waste authorisation.

7.10.17. This is a new issue and the Board may wish to seek the views of the parties, as it sees fit, including the possibility of a readvertisement of the proposed development to address the matter in the event that a waste licence is required.

## **7.11. Other Matters**

### Details on Drawings

7.11.1. I note concerns raised that the drawings are not for construction purposes and do not accord with the articles 17, 18, 22 and 23 of the regulations.

7.11.2. I have reviewed the drawings submitted and I consider the level of detailed provided is in accordance with the requirements of the Planning and Development Regulations 2001 (as amended). I note the PA raised no validation issues in this regard. I consider the extent and nature of the development has been clearly set out.

### Devaluation of Property

7.11.3. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously

injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

## **8.0 Appropriate Assessment**

### **8.1. Description of the Proposed Development**

8.1.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate assessment of implications of the proposed development on the integrity each European site

8.1.2. The proposed development comprises a renewable energy project consisting of an Anaerobic Digestion (AD) Biogas facility and 8.6km gasline to export biogas to the national grid with residual digestate being available for use locally as a bio-fertiliser. The proposed development is as described in Section 2 of this report above. The water environment is as described in Section 7.5 above.

8.1.3. There is a stream bounding the northwest part of the site relating to the AD plant, which ultimately discharges to the Cloonaghmore Estuary (part of Killala Bay/Moy Estuary SPA) 6.05km from the site and to the outer estuary/inner Rathfran Bay (designated part of the Killala Bay/Moy Estuary SAC). The nearest point of the SAC to Cloonahgmore River outfall is c. 3km to the outer estuary. The rivers in the area have a 'Good' WFD status, as do the coastal waters. It is noted that the proposed 8.6km gas pipeline crosses watercourses that drain to the Moy catchment, and ultimately discharge to the Killala Bay/Moy Estuary SAC and SPA and River Moy SAC. The farmlands that will supply feed material and receive by-product for land spreading are spread across five different surface water catchments. Some of these landholdings intersect with European sites (see figure 5.3 of AA Report).

- 8.1.4. With regard to the gas pipeline, it is to be laid within the existing road, or road verge if available. It is noted that one culvert will need to be crossed on the L1110 road c. 100m from the R314 junction, with space for the pipeline to be constructed above the culvert and within the road verge. At watercourse crossings the pipeline will be installed into the formation of existing bridges using a trench and backfilling approach, which is stated to eliminate the potential for interactions between works for the installation of the pipeline and watercourses flowing under existing bridges. No instream works are permitted.
- 8.1.5. The applicant submitted an Appropriate Assessment Screening Report, dated 17<sup>th</sup> December 2020 by Doherty Environmental. Following a request for further information and clarification of further information the applicant submitted an updated AA Screening Report and Natura Impact Statement, dated 6<sup>th</sup> January 2022 by Doherty Environmental.
- 8.1.6. The applicant's Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible Zone of Influence of the development.
- 8.1.7. The applicants AA Screening Report concluded that:
- '...the potential for likely significant effects to European sites cannot be ruled out at the screening stage and that an Appropriate Assessment of the project is required. Based on this conclusion an NIS has been prepared...'
- 8.1.8. Having reviewed the documents, and submissions, I am satisfied that the information submitted allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

#### Consultation and Submissions

- 8.1.9. An observation has been received from An Taisce. Concerns are raised in relation to the potential indirect and cumulative impact of the proposal, specifically consideration of impact of the production of the feedstocks (grass/silage and slurry) in terms of biodiversity, greenhouse gas emissions (including methane slippage), air quality (ammonia) and impact on water quality, therefore it is contended that it is not possible to rule out adverse impacts to Natura 2000 sites in the area.

## 8.2. European Sites

8.2.1. A potential zone of influence has been established having regard to the location of a European site, the Qualifying Interests (QIs) of the site and their potential mobility outside that European site, the source-pathway-receptor model and potential environment effects of the proposed project site, pipeline, and associated farmlands supplying the AD plant and receiving by-products for land spreading. The four European sites identified within the zone of influence are as follows:

- Killala Bay/Moy Estuary SPA
- Killala Bay/Moy Estuary SAC (000458)
- River Moy SAC (002298)
- Lough Conn and Lough Cullin SPA (004228)

8.2.2. I note that the applicant included a greater number of European sites in their initial screening consideration. I am satisfied that these can be excluded from further assessment on the basis of scale of the works proposed, separation distance and lack of substantive ecological or hydrological linkages between the proposed works and the European sites. I have included only those sites with any possible ecological connection or pathway in this screening determination, ie the four sites in the table below.

**Table 1: Screening Summary Matrix and possibility of significant effects:**

| European Site                        | Qualifying Interests  | Distance   | Screening Comment   |
|--------------------------------------|---|--|---|
| Killala Bay/Moy Estuary SPA (004036) | Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137]<br>Golden Plover ( <i>Pluvialis apricaria</i> ) [A140]<br>Grey Plover ( <i>Pluvialis squatarola</i> ) [A141]<br>Sanderling ( <i>Calidris alba</i> ) [A144]<br>Dunlin ( <i>Calidris alpina</i> ) [A149] | 3km overland / 7.5km downstream from the biogas facility; 1.5km at the nearest point to the pipeline; intersected by | Indirect hydrological connection from Medown Stream to the north of the site, which discharges to the Magherbrack stream and the Cloonaghmore River to the west, which drains into the Killala Cloonaghmore Estuary |

|                                      |   |  |   |
|--------------------------------------|---|--|---|
|                                      | <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p> <p>www.npws.ie lists the specified conservation objection in relation to each of the qualifying interests, which is to maintain the favourable conservation condition of the QI in question.</p>   | 8 farm holdings.   | <p>section of the Killala Bay/Moy Estuary SPA.</p> <p>Survey of the site in winter indicated no presence of overwintering birds on the site and the habitat of the site does not support wetland birds.</p>   |
| Killala Bay/Moy Estuary SAC (000458) | <p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> | 3km to north of the site of the biogas facility; 1.5km from the nearest point of the pipeline route; intersected by 8 farm landholdings. | Indirect hydrological pathway from the laying of the pipeline to the SAC given the pipeline crosses three crossings of the Rosserk River or other minor tributaries and crossing of the Sruffaunbrogue Stream, which drain into the Killala Bay/Moy Estuary SAC and/or SPA. The SAC is 3.5km from the outfall at Cloonaghmore Estuary, which is a significant buffer of coastal water which would have a diluting effect of the water, noting also the volume of water arising from the |

|                               |  |   |                                       |
|-------------------------------|--|---|---------------------------------------|
|                               | <p>Vertigo angustior (Narrow-mouthed Whorl Snail) [1014]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Phoca vitulina (Harbour Seal) [1365]</p> <p>www.npws.ie lists the specified conservation objection in relation to each of the qualifying interests, which is to maintain the favourable conservation condition of the QI in question.</p>   |   | <p>biogas facility would be low.</p>  |
| <p>River Moy SAC (002298)</p> | <p>Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510]</p> <p>Active raised bogs [7110]</p> <p>Degraded raised bogs still capable of natural regeneration [7120]</p> <p>Depressions on peat substrates of the Rhynchosporion [7150]</p> <p>Alkaline fens [7230]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> | <p>7km from the biogas facility; 2km from the pipeline route; intersected by 3 farm holdings.</p> | <p>Indirect hydrological pathway.</p> |

|                                 |  |  |  |
|---------------------------------|--|--|--|
|                                 | <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Lutra lutra (Otter) [1355]</p> <p>www.npws.ie lists the specified conservation objection in relation to each of the qualifying interests, where available, which is to maintain the favourable conservation condition of the QI in question.</p>  |  |  |
| Lough Conn and Lough Cullin SPA | <p>Tufted Duck (Aythya fuligula) [A061]</p> <p>Common Scoter (Melanitta nigra) [A065]</p> <p>Common Gull (Larus canus) [A182]</p> <p>Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]</p> <p>Wetland and Waterbirds [A999]</p> <p>www.npws.ie lists the specified conservation objection in relation to each of the qualifying interests, which is to maintain the favourable conservation condition of the QI in question.</p> | <p>9km from the biogas facility;</p> <p>7km from the pipeline;</p> <p>intersected by 1 farm landholding.</p> | <p>No hydrological connection to the biogas facility or pipeline.</p> <p>However, there is an intersection of farm landholdings with this SAC.</p> |

### Potential Significant Effects

- 8.2.3. The proposed development will not result in any direct effects on any of the SACs or SPAs listed in table 1 above.
- 8.2.4. However, there is a stream to the northwest of the appeal site, which carries water from land and field drains downstream, which ultimately discharges to the to the Cloonaghmore Estuary (part of Killala Bay/Moy Estuary SPA) and to the outer

estuary/inner Rathfran Bay (designated part of the Killala Bay/Moy Estuary SAC), therefore as a consequence of the proposed development indirect effects may arise by reason of a hydrological connection due to construction or operational emissions. Furthermore due to the scale of the pipeline and associated crossings of a number of streams/tributaries which outfall to the Killala Bay/Moy Estuary SPA, in addition to the intersection of farm holdings (to be used for land spreading) with European sites, indirect impacts generated by the construction and operation of the biogas facility and pipeline require further consideration.

### **8.3. Overall Conclusion – Screening Determination**

- 8.3.1. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on the Killala Bay/Moy Estuary SPA, Killala Bay/Moy Estuary SAC, River Moy SAC and Lough Conn and Lough Cullin SPA in view of the conservation objectives of a number of qualifying interest features of those sites.
- 8.3.2. It is therefore determined that Appropriate Assessment (stage 2), under Section 177V of the Planning and Development Act 2000 (as amended), of the proposed development is required.

### **8.4. The Natura Impact Statement**

- 8.4.1. The application is accompanied by an NIS, dated 6<sup>th</sup> January 2022, which examines and assesses the potential adverse effects of the proposed development on European Sites of Killala Bay/Moy Estuary SPA (004036), Killala Bay/Moy Estuary SAC (000458), River Moy SAC (002298), and Lough Conn and Lough Cullin SPA (004228).
- 8.4.2. The NIS was informed by the following studies, surveys and consultations:
- Desk top study
  - Ecological Impact Assessment, including pipeline route – habitat survey undertaken in November 2020, including survey for invasive species and fauna surveys (including mammals, birds, badgers)



- Hydrology and hydrogeology report
- Noise Assessment and Odour Assessment
- Traffic Impact Assessment
- A Construction and Environmental Management Plan will be prepared and implemented, including mitigation and monitoring measures. It is stated that an Environmental Manager will be appointed for the duration of the construction phase to ensure the CEMP is fully developed and effectively implemented.

8.4.3. The applicant's NIS was prepared in line with current best practice guidance and provides a description of the development.

8.4.4. The NIS under Section 4 and Section 5 identifies and assesses possible adverse effects of the proposed development on the identified European Sites. In combination effects with other plans and projects on this European site in view of the site's conservation objectives are considered in Section 4.2. Mitigation measures are set out within Section 7 under the headings of Construction Phase Measures at the Biogas Site to Protect Surface Water; Construction Phase Measures along the Gas Pipeline Route to Protect Surface Waters; Measures to Prevent the Release of Cement-Based Pollutants During Construction Works; Operation al Phase; Measures to Eliminate the Release of Feedstock to the Environment; and Measures to Minimise the Effects of Landspreading.

8.4.5. The applicant's NIS concluded:

This NIS presents an analysis of the potential for the project to result in adverse impacts to the Killala Bay/Moy Estuary SPA; Killala Bay/Moy Estuary SAC; River Moy SAC and the Lough Conn and Lough Cullin SPA...Impacts to the Killala Bay/Moy Estuary SPA, Killala Bay/Moy Estuary SAC, and River Moy SAC relate to the project's potential to result in the emissions of pollution to surface waters....Mitigation measures have been outlined in the NIS that aim to eliminate the potential for the construction phase or operation phase of the project to release nutrient enriched or otherwise contaminated surface water from the project site to these European Sites. With the implementation of these measures, the potential for the release of such emissions to the

estuary will be avoided....the project alone or in-combination with other plans or projects will not result in significant adverse effects to the integrity and conservation status of European Sites in view of their Conservation Objectives and on the basis of best scientific evidence and there is no reasonable doubt as to that conclusion.

#### Submissions

- 8.4.6. Submissions were received from the prescribed bodies of An Taisce and Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media and two appeals from local residents (see section 3.3 and section 6.0 above for details in relation to submissions).
- 8.4.7. Having reviewed the documentation available to me, submissions and consultations, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the European sites Killala Bay/Moy Estuary SPA (004036), Killala Bay/Moy Estuary SAC (000458), River Moy SAC (002298), and Lough Conn and Lough Cullin SPA (004228), alone or in combination with other plans and projects.

### **8.5. Appropriate Assessment of implications of the proposed development**

- 8.5.1. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European site using the best scientific knowledge in the field. 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.
- 8.5.2. I have relied on the following guidance: Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009); Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002); Guidelines on the implementation of the Birds and Habitats Directives in Estuaries and coastal zones, EC (2011); Managing Natura 2000 sites, and the provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).
- 8.5.3. The following sites are subject to appropriate assessment:

- Killala Bay/Moy Estuary SPA (004036),
- Killala Bay/Moy Estuary SAC (000458),
- River Moy SAC (002298), and
- Lough Conn and Lough Cullin SPA (004228)

8.5.4. A description of Killala Bay/Moy Estuary SPA (004036), Killala Bay/Moy Estuary SAC (000458), River Moy SAC (002298), and Lough Conn and Lough Cullin SPA (004228) and their Conservation Objectives and Qualifying Interests are set out in the NIS under section 3 and outlined in table 1 above as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

#### Aspects of the Proposed Development

8.5.5. The main aspects of the proposed development that could adversely affect the conservation objectives of European Sites are examined in section 4.0 of the submitted NIS and are broken down into potential impacts related to the biogas facility and potential impacts related to the gas pipeline.

8.5.6. The potential impacts assessed include the following:

- Construction phase of the biogas facility - Surface water emissions to local stream from the construction stage, with potentially contaminating materials such as hydrocarbons, cement-based materials, other construction related solutions and silt.
- Construction phase of the gas pipeline - Surface water emissions from the construction stage to streams proximate to construction works, with potentially contaminating materials such as hydrocarbons, cement-based materials, other construction related solutions and silt.
- Operation stage of the biogas facility - Emissions to surface water from inappropriate handling or storage of feedstock materials, particularly slurry; Emissions to surface water due to inappropriate safeguards relating to the landspreading of residual digestate from the anaerobic digester; Ongoing release of nutrient runoff to wetland habitats associated with European sites which could in turn

affect the SPA and SACs, due to the inappropriate handling of feedstock material or the landspreading of digestate.

Killala Bay/Moy Estuary SPA (004036)

- 8.6. There is no potential for direct impacts on the SPA in terms of disturbance or displacement of bird species or the permanent removal of habitat supporting qualifying interests, as the biogas site and pipeline is not located within or directly adjacent this SPA and is sufficiently removed not to cause impacts in terms of noise or anthropogenic disturbance.
- 8.7. There is an indirect surface water link from the site which discharges to the Cloonaghmore Estuary (c. 6km downstream of the site), which is part of the SPA. One of the threats associated with the SPA, as per the NPWS data, relates to fertilisation, which is a relevant consideration in relation to the proposed development. Any emissions to the surface water network as a result of mishandling of slurry or from land spreading of digestate could contribute to this threat to the SPA, as could any emissions during the construction phase.

Killala Bay/Moy Estuary SAC (000458)

- 8.8. There is no potential for direct impacts on Killala Bay/Moy Estuary SAC i.e. no displacement of species, or the permanent removal of habitat supporting qualifying interest and ecological features of the designated site, as the biogas facility and pipeline is not located within or directly adjacent this SAC.
- 8.9. An indirect effect may arise via contaminated surface water emissions during construction and operation of the AD plant.
- 8.10. In addition, there are two farm landholdings that will receive soil conditioner for landspreading adjoining or in close proximity to qualifying habitats of tidal mudflats and sandflats and estuary habitats, and one farmholding that will receive digestate for landspreading which is in close proximity to Mediterranean salt meadows, tidal mudflats and sandflats, and estuary habitat of the SAC. Harbour seal and sea lamprey are known to occur within the Moy Estuary downstream of the outfall to the estuary therefore these also require further consideration in terms of potential for contaminated or silt laden surface water to discharge to the estuary, however, it is noted there would be significant dilution from the intervening 3km water area

between the discharge point and the SAC. No potential for impact on any of the other qualifying interests of the SAC have been identified based on location of such QIs and distance from outfall to the estuary.

#### River Moy SAC

- 8.11. The pipeline proposed as part of this development crosses four watercourses within the River Moy SAC, namely the Gestaun River, a minor un-named stream that flows into the Glore River, and the Trimoge River, and the Moy itself.
- 8.12. None of the qualifying interests of the SAC occur downstream of the proposed biogas facility or the gas pipeline route. One farm landholding that will receive soil conditioner does intersect with the SAC with the Ballaghmuck Stream flowing through this farm. The stream is identified as supporting white-clawed crayfish and provides habitat for the freshwater lamprey species, Atlantic salmon, and other populations of the SAC. Surface water pollution/silt laden surface water from construction stage is a risk to the SAC, as is inappropriate landspreading of digestate or soil conditioner during the operational phase.
- 8.13. Another farm landholding that will supply silage is located adjacent to the River Moy SAC, however this farm currently manages grassland for silage production and no qualifying habitats occur within this farm landholding.
- 8.14. No impacts on the other QIs related to this SAC are identified.
- 8.15. Identified threats to this SAC, as per NPWS data, which is relevant to this development relates to the use of fertilisers.

#### Lough Conn and Lough Cullin SPA

- 8.16. There is no potential for direct impacts on the SPA in terms of disturbance or displacement of bird species or the permanent removal of habitat supporting qualifying interests, as the biogas site and pipeline is not located within or directly adjacent this SPA and is sufficiently removed not to cause impacts in terms of noise or anthropogenic disturbance.
- 8.17. However, there is one farm landholding located adjacent to this SPA which will supply silage to the biogas facility. It is noted that there is no wetland habitats within this farm and the lands are currently managed for silage production and the continuation of this activity will not result in adverse effects on the SPA. No

landspreading will be undertaken at this farm holding given its location relative to the SPA. No further examination of this SPA is therefore required.

### **Mitigation**

- 8.18. Mitigation measures to prevent possible impacts arising from the proposed project are set out in section 7 of the submitted NIS and are summarised hereunder.
- 8.19. Construction phase measures are proposed to protect surface waters at the biogas site and measures to protect surface water along the gas pipeline route. Construction phase measures are also proposed to prevent the release of cement-based pollutants. Measures include, inter alia, implementation of drainage and associated pollution control measures on the site prior to the commencement of construction; use of silt fences downstream of construction areas along the western boundary to prevent discharge of silt-laden surface water run-off; use of silt bags; application at the site of the AD plant of a geosynthetic clay liner where infrastructure is proposed on top of bedrock or where thickness of over-burden is less than 0.6m; location of temporary storage of any spoil away from land drains; and best practice construction measures in relation to cement products and works. There will be no direct discharge of surface water to any surface water stream/network.
- 8.20. Measures relating to the proposed gas pipeline, include inter alia a stipulation that no instream works will be permitted; no plant or machinery within 15m of any stream; trenching work shall not take place during periods of high rainfall; floating hydrocarbon boom and spill kits to be employed; silt fencing to be erected between the works areas and watercourse crossing locations; use of silt traps; no re-fuelling within 50m of any watercourse; and all construction workers to be given a tool box talk addressing the environmental topics concerning the River Moy SAC, Killala Bay/Moy Estuary SPA, and Killala Bay/Moy Estuary SAC prior to commencement of construction. I note the application documentation is accompanied by Construction Method Statement for Gas Pipeline (dated September 2021) which includes construction and associated mitigation measures.
- 8.21. During the operational phase proposals including, inter alia, specific designated areas to be identified for oil storage and refuelling; bunded storage tanks to be used; Environmental Management Plan to be put in place for the operational phase which will include an emergency plan and spill kits; and SUDS measures to be

incorporated into the sites drainage layout including to capture runoff during major rainfall events and release excess water gradually.

- 8.22. In relation to the risk from feedstock at the site being mis-handled and entering the surface water system, mitigation measures included in the design are listed including inter alia: the silage clamps will be covered; slurry tanks are designed in accordance with guidance; buffer tank will be bunded; tanks to be integrity tested prior to use; slurry to be pumped from existing adjoining slatted tanks to the feedhopper (ie in a closed system reducing potential for emissions to air); and leachate arising from the clamps/silage pits will be collected and fed back into the process via buffer tank and feedhopper. I note in terms of the design, the area of the plant machinery will be surrounded by a 1.7m high berm and the area underlain by an impermeable plastic sheeting material, such that any accidental spills will be contained within the area. A 4m high sealable gate will allow for occasional access to the area of the machinery but will normally be closed. Access tracks will be provided outside the berm which will accommodate delivery of feedstock and removal of by-products (digestate, fibrous solids) without the need to enter the area contained by the berm. SUDS measures in place outside the inner area will mitigate potential for contaminated runoff. Rainwater will be diverted away from the construction area and water will be filtered and treated to prevent sediment from entering ditches and water streams. There will be no direct discharges to any natural watercourses, with all drainage waters being managed including the use of a stormwater attenuation tank and dispersed overland flows. In the event that a spill were to occur and contaminants entered the stream, it is noted that the volume of water between the site and the SAC is such that any spill would be diluted.
- 8.23. In terms of potential for problems arising from landspreading, it is noted that the Good Agricultural Practices Regulations 2014 also apply which will ensure fertiliser application to agricultural lands does not result in pollution, including the establishment of buffer distances of 5-10m from surface waters and the submitted plans address each land bank where application of digestate will occur. Details of measures relating to lands used for digestate are set out within the Nutrient Management Plans for the lands in question, as submitted with the application documentation.

8.23.1. Overall, I consider that the proposed mitigation measures, which are set out in section 7 of the NIS and summarised above, are clearly described, and precise, and definitive conclusions can be reached in terms of adverse effects on the integrity of European sites based on the mitigation measures submitted.

#### In-Combination Effects

8.23.2. Section 4.2 of the NIS considers the potential for in-combination effects on European sites in combination of this development and other plans or project in the area of the site, including a permission for a biomass facility in Killala Business Park; gasoil electricity generation station at Killala Business Park and permission related to a limestone quarry.

8.23.3. I note projects listed were in themselves subject to appropriate assessment and would not lead to significant effects on European sites that would, in combination with the proposed development, have adverse implications for the achievement of their conservation objectives. Overall, cumulative impacts are not anticipated.

#### Appropriate Assessment Conclusion

8.23.4. The proposed development of an anaerobic digester and gas pipeline has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

8.23.5. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on European Site No. 004036 (Killala Bay/Moy Estuary SPA), 000458 (Killala Bay/Moy Estuary SAC), 002298 (River Moy SAC), and 004228 (Lough Conn and Lough Cullin SPA).

8.23.6. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

8.23.7. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No. 004036 (Killala Bay/Moy Estuary SPA), 000458 (Killala Bay/Moy Estuary SAC), 002298 (River Moy SAC), and 004228 (Lough Conn and Lough Cullin SPA), or any other European site, in view of the sites Conservation Objectives.



8.23.8. 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 Killala Bay/Moy Estuary SPA (004036), Killala Bay/Moy Estuary SAC (000458), River Moy SAC (002298), and Lough Conn and Lough Cullin SPA (004228).
- 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 Killala Bay/Moy Estuary SPA (004036), Killala Bay/Moy Estuary SAC (000458), River Moy SAC (002298), and Lough Conn and Lough Cullin SPA (004228).

## 9.0 Recommendation

9.1. Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

## 10.0 Reasons and Considerations

Having regard to:

- national and regional policy objectives in relation to renewable energy,
- the provisions of the Mayo County Development Plan 2022 – 2028,
- the nature, scale, extent and layout of the proposed development,
- the topography of the area,
- the existing hedging and screening on the site,
- the pattern of development in the area,

it is considered that, subject to compliance with the conditions set out below, the proposed development would support national and regional renewable energy policy objectives, would not conflict with the provisions of the operative Development Plan, would not seriously injure the visual amenities of the area or the residential amenities

of property in the vicinity, would not be likely to have significant effects on the environment, or the ecology of the area, would be acceptable in terms of traffic and safety, would be acceptable in terms of archaeology, and would not give rise to increased risk of flooding of the site or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

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| 1. | <p>The development shall be carried out and completed in accordance with the plans and as amended by the further plans and particulars submitted to the planning authority on the 6<sup>th</sup> day of October 2021 and on the 7<sup>th</sup> day of January 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p> |
| 2. | <p>The developer shall ensure that all mitigation measures, as set out in the Natura Impact Statement (dated 6<sup>th</sup> January 2021), Planning and Environmental Report (dated February 2021), Ecological Impact Assessment (dated January 2022) and other particulars submitted with the application, shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this Order.</p> <p><b>Reason:</b> In the interests of clarity and of the protection of the environment during the construction and operational phases of the development.</p>   |
| 3. | <p>The following limits and requirements shall be complied with in the anaerobic digestion process:</p>  |

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|    | <p>(a) a maximum of 60,500 tonnes per annum of a mix of feedstock of silage and slurry shall be treated in the anaerobic digester.</p> <p><b>Reason:</b> In the interest of clarity.</p>   |
| 4. | <p>Feedstock deliveries to the site and the transport of digestate from the site shall be confined to between the hours of 0700 to to 2000 Monday to Friday and 0800 and 1800 on Saturdays, unless otherwise agreed in writing with the Planning Authority.</p> <p><b>Reason:</b> In the interests of orderly development and the residential amenity of surrounding dwellings.</p>  |
| 5. | <p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Surface water from the site shall not be permitted to drain onto the adjoining public road or adjoining properties.</p> <p><b>Reason:</b> In the interest of environmental protection and public health.</p>   |
| 6. | <p>The following wildlife protection measures shall be complied with:</p> <p>(a) The developer shall comply in full with the methodologies and mitigation measures in relation to badgers included in the Ecological Impact Assessment dated January 2022.</p> <p>(b) No trees or hedgerows shall be cleared between the months of March to August (inclusive).</p> <p>(c) All trees and hedgerows to be retained on the site shall be adequately protected during the period of construction in accordance with BS: 5837. Such measures shall include a protection fence which shall be erected beyond the branch spread, and no construction work or storage shall be carried out within the protective barrier.</p> <p><b>Reason:</b> In the interest of wildlife protection.</p> |
| 7. | <p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing</p>  |

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|    | <p>with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <ul style="list-style-type: none"> <li>(a) A plan to scale of not less than 1:500 showing the species, variety, number, size and locations of all proposed trees and hedgerows (which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder).</li> <li>(b) Specifications for mounding, levelling, cultivation and other operations associated with grass establishment.</li> <li>(c) A timescale for implementation.</li> </ul> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p><b>Reason:</b> In the interest of visual amenity.</p> |
| 8. | <p>All road surfaces, culverts, watercourses, verges and public lands shall be protected during construction and, in the case of any damage occurring, shall be reinstated to the satisfaction of the planning authority.</p> <p><b>Reason:</b> In order to ensure a satisfactory standard of development.</p>   |
| 9. | <p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>  |

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| 10. | <p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall include inter alia:</p> <ul style="list-style-type: none"> <li>(a) All mitigation and control measures outlined in the Planning and Environmental Report (February 2021), NIS (January 2022), Ecological Impact Assessment (dated January 2022) and all other particulars submitted with the application.</li> <li>(b) Details of all archaeological or cultural heritage constraints as may be identified during pre-development archaeological testing and monitoring.</li> <li>(c) Details in relation to site access and traffic management.</li> <li>(d) Construction method statement in relation to the proposed gas pipeline.</li> <li>(e) Details of intended construction practice for the development, including hours of working, noise management measures, and on-site management and off-site disposal of construction/demolition waste.</li> <li>(f) Details of the appointed Ecological Clerk of Works. The ecologist shall be present during site construction works. Ecological monitoring reports detailing all monitoring of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.</li> </ul> <p><b>Reason:</b> To safeguard the amenities of the area.</p> |
| 11. | <p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –</p> <ul style="list-style-type: none"> <li>(a) Notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</li> </ul>   |

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|     | <p>(b) Employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(c) Development of the pipeline will travel within the zone of the notification surrounding enclosure MA030-010. Archaeological testing shall be undertaken at this location in advance of any excavation works and a report on the findings forwarded to all relevant authorities.</p> <p>(d) Provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>  |
| 12. | <p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p> |

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.

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Una O'Neill  
Senior Planning Inspector

31<sup>st</sup> July 2023