



An
Bord
Pleanála

Inspector's Report ABP-314030-22

Development

Construction of a tourist campsite, including new access and internal routes, storage and facilities buildings, on-site wastewater treatment system, formation of floating marina within Lough Sheelin and associated site works

Location

Tonagh, Mountnugent, Co. Cavan.

Planning Authority

Cavan County Council

Planning Authority Reg. Ref.

21264

Applicant(s)

Garvan Hanley.

Type of Application

Permission.

Planning Authority Decision

Type of Appeal

Third Party

Appellant(s)

Tonagh and District Residents' Association and
John Lovatt.

Observer(s)

None.

Date of Site Inspection

2nd May 2023.

Inspector

Barry O'Donnell

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1.0 Site Location and Description

- 1.1. The subject site has a stated area of 5.4ha and is located in the townland of Tonagh, approx. 3km south of Mountnugent in south County Cavan. The site encompasses improved grassland, woodland and open water, as it extends from an agricultural field out onto Lough Sheelin. The open part of the site is currently in used for livestock grazing.
- 1.2. There is an informal route through the site, through the woodland, to a slipway onto the Lough at the northern-most point. The woodland area in the area of the woodland also contains a caravan and sleeping pod.
- 1.3. Tonagh is a rural area that is characterised primarily by farmland and the southern shore of the Lough. There is a slipway onto the Lough further to the east of the site. There is also an airfield, Sheelin Airfield, to the south-west.
- 1.4. The site is accessed from the L-7082, a narrow, single lane cul-de-sac that leads up to the L-7081.

2.0 Proposed Development

- 2.1. The proposed development entailed within the public notices comprises the construction of tourist campsite, including vehicular access and internal routes, single storey cabin, winter storage and toilets/shower/laundry buildings, on-site WWTP, formation of floating marina and associated site works.
- 2.2. The application also included the following supporting documents: -
 - Natura Impact Statement,
 - Project Justification,
 - Traffic and Transport Assessment,
 - Flood Risk Assessment,
 - Arboricultural Assessment & Impact Report,
 - Site Characterisation and Site Suitability Assessment Report,
 - Winter Bird Survey Report, and

- Construction Management Environmental Plan.

2.3. The proposed layout was amended at the AI stage in relation to the location of the proposed WWTP, the location of the storage and facilities buildings, the omission of proposed camping pitches and alterations to the number and location of the proposed caravan/yurt/shepherd hut units (overall number reduced from 26 to 20). The red line site area was also revised at this stage.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority granted permission on 14th June 2022, subject to 22 No. conditions.

- Condition No. 2 required payment of a financial contribution of €7,200 under the S48 development contribution scheme.
- Condition No. 3 restricted occupation of units to April-September and requires that no tents, caravans or demountable structures shall remain on the open site outside of this period.
- Condition No. 4 states that the site should provide a maximum of 6 No. camping pitches, 5 No. yurts, 6 No. shepherd huts and 12 No. RVs at any one time.
- Condition No. 5 required the applicant to provide 2 No. passing bays along the L-7082 as shown on site layout drawing No. 10318-602 dated 5th April 2022.
- Condition No. 11 required submission of a noise monitoring plan.
- Condition No. 17 required implementation of mitigation measures contained within the NIS.
- Condition No. 19 prohibited the use of motorised watercraft or similar at the site.
- Condition No. 21 restricted occupation of the site to short-term tourist accommodation only, with no occupancy period in excess of 30 days.

3.2. Planning Authority Reports

3.2.1. Planning Reports dated 29th June 2021 and 13th June 2022 have been provided, which together reflect the decision to grant permission. The first report requests additional information regarding: -

- Foul and surface water drainage,
- External lighting,
- Flood risk,
- Noise,
- Sightlines,
- Traffic and transport,
- Trees, and
- Appropriate assessment.

3.2.2. The second report followed receipt of the AI response and followed a period of further public consultation, following the submission of significant AI. It summarises and responds to the individual AI response items and expresses satisfaction that issues raised within the AI were addressed. The report recommends that permission be granted, subject to 22 No. conditions, which are consistent with those attached to the Planning Authority's decision.

3.2.3. Other Technical Reports

A **Municipal District Engineer** report dated 24th June 2021 has been provided, which advises that improvement works are required in order to provide adequate sightlines and also expresses concern regarding the impact of additional traffic on the L-70813.

An **Environment** section report dated 27th May 2021 has been provided, which requests additional information be sought regarding surface water drainage proposals, flood risk, foul drainage, noise and lighting. The report also advises that the development will require a discharge licence.

3.3. Prescribed Bodies

- 3.3.1. Inland Fisheries Ireland made a submission dated 11th June 2021, requesting that a 50m buffer from the edge of the lake shore should be put in place and maintained free from development. Regarding the WWTP, the submission recommended that a minimum separation distance of 50m between the WWTP and shoreline should be observed and questioned whether the proposed system would adequately treat wastewater to avoid pollution of Lough Sheelin. The submission also made recommendations regarding measures to protect Lough Sheelin from potential sources of pollution.
- 3.3.2. Meath County Council made a submission on 26th May 2021, advising that it had no comments on the application.

3.4. Third Party Observations

- 3.4.1. A number of third-party submissions were received, the issues raised in which can be summarised as follows: -
- Nature of development proposed,
 - Site suitability,
 - Noise and light pollution,
 - Development has not been allowed on the shoreline since the 1964 Planning Act was introduced.
 - Permission previously refused for housing on the site,
 - Impact on the character of the area,
 - Foul drainage,
 - Traffic and road safety,
 - Appropriate assessment.
- 3.4.2. A number of additional submissions were received as part of period of further consultation, following the submission on significant AI. New issues raised in the submissions can be summarised as follows: -

- The development of a jetty on Lough Sheelin is out of character and will result in damage to boats due to the prevailing wind,
- Inconsistencies between application drawings,
- Comments and advice provided by Inland Fisheries Ireland were endorsed.

4.0 Planning History

19398: Permission refused by the Planning Authority for the development of a tourist campsite, including vehicular access and internal routes, single storey cabin, winter storage and toilets/shower/laundry buildings, on-site WWTP, formation of floating marina and associated site works.

Relevant Nearby Planning Records

17/112 (ABP-300956-18): Permission was refused by the Board on 4th October 2018 for a boathouse facility with associated training and changing rooms, on site WWTP and associated site works. Permission was refused for 1 reason as follows: -

1. *Having regard to the location of the site, adjoining the Lough Sheelin Special Protection Area (Site Code 004065), and to the location of the proposed waste water treatment system within close proximity to the lake shore and within a location which is prone to flooding, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and appeal, that effluent from the development can be satisfactorily treated on site. The proposed development would, therefore, be prejudicial to public health and likely to have a significant effect, both individually and in combination with other plans or projects on the conservation objectives of the Lough Sheelin Special Protection Area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

5.0 Policy Context

5.1. Cavan County Development Plan 2022 - 2028

- 5.1.1. The site is located in a rural, unzoned part of County Cavan.

5.1.2. Chapter 9 relates to Tourism. It states that the overarching policy is to provide for the continued expansion of the tourism sector, with a focus on creating strong visitor towns and sufficient high-quality visitor services and the continued development and enhancement of visitor attractions and activities to provide memorable, immersive visitor experiences, capitalising on our natural and cultural heritage assets, whilst safeguarding these resources for future generations. Relevant tourism development objectives include: -

T 01: Promote the development and strengthening of the overall value of Cavan as a tourist destination by encouraging the enhancement and development of sustainable and high-quality visitor attractions, activities and infrastructure, enabling an increase in the overall capacity and long-term development of the county's tourism industry, subject to appropriate siting and design criteria and the protection of environmentally sensitive areas.

T 03: Support the implementation of the County's Tourism Strategy in line with national and regional policy, tourism trends and identified challenges, in collaboration with Fáilte Ireland, Waterways Ireland, tourism businesses and communities and other supporting agencies.

T 04: Continue to work closely with Fáilte Ireland to maximise the benefit of national and regional initiatives/plans/strategies for the county, with a particular emphasis on initiatives which will increase the economic benefit from tourism, support local business development and encourage new enterprise opportunities.

T 05: Utilise the county's natural and heritage resources to foster the development of tourism as a viable sector of the economy in a sustainable manner which complements the scale, quality and unique features of the location and county.

T 06: Protect and conserve the natural, built and cultural heritage features which add value to the visitor experience in Cavan and seek to restrict developments which would damage or detract from the quality of scenic areas and identified natural and cultural heritage assets.

T 07: Support actions to increase access to state and semi-state lands such as National Parks, Forest Parks, Waterways, together with Monuments and Historic Properties, for recreation and tourism purposes, subject to the requirements of the Habitats Directive, National Monuments Act and other provisions and policies to

protect and safeguard these resources and subject to the ability of local infrastructure to support the resulting increased tourism.

T 08: Support the development and expansion of tourism-related enterprise including visitor attractions, services and accommodation and food and craft businesses, particularly those offering a visitor experience, such as tastings, tours and demonstrations.

T 09: Ensure all tourism developments shall integrate climate change adaptation, the enhancement of nature and biodiversity measures into their activities, plans and proposals.

T 10: Monitor and manage any increase in visitor numbers and/or any change in visitor behaviour in order to avoid significant effects, including loss of habitat and disturbance. Visitor/Habitat Management Plans will be required for proposed projects as relevant and appropriate.

T 13: It is an objective of the Council to support the provision of accessible tourism.

TV 02: Facilitate the development of high-quality tourist accommodation such as hotels, hostels, B&B's / guesthouses, camping and glamping at suitable locations, in both urban and rural settings throughout the county, subject to ensuring a high standard of design, layout, landscape and environmental protection and the provision of adequate infrastructure.

TV 04: Facilitate the development of visitor infrastructure linked to natural and heritage environments, while ensuring that it does not detract from the status, quality and value of these environments.

TV 05: Support, implement and require best-practice environmental management and climate proofing of tourism related developments and activities, such as accommodation, restaurants, activity providers, festivals, events and tourism enterprises, to include zero climate impact, energy efficiency, waste management, and recycling.

TV 09: Support rural tourism initiatives such as agri-farm tourism, health and wellbeing centres, glamping, trekking and trails together with new opportunities to promote food and nature tourism, in order to sustain employment in rural areas.

5.1.3. Other relevant policies include: -

LC3: Resist development such as houses, forestry, masts, extractive operations, landfills, caravan parks and large agricultural /horticulture units which would interfere with the character of highly sensitive areas or with a view or prospect of special amenity value.

LW 05: Support the provision of infrastructure to enable increased tourism activity associated with Cavan's waterways, including boating, marina/berthing, kayaking, angling, blueways and harbour amenities while ensuring that such provision does not negatively impact on sensitive environments and subject to the requirements of the Birds and Habitats Directives.

MSO 08: Support the potential development of Lough Sheelin as a location for outdoor amenity spaces and recreation and as a brown trout fishery.

5.2. National Planning Framework

NPO22: Facilitate tourism development and in particular a National Greenways, Blueways and Peatways Strategy, which prioritises projects on the basis of achieving maximum impact and connectivity at national and regional level.

NPO23: Facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.

5.3. Natural Heritage Designations

- 5.3.1. The site lies partly within Lough Sheelin SPA (Site Code 004065).
- 5.3.2. Lough Sheelin is also designated as a proposed Natural Heritage Area (Site Code 000987), the designation for which encroaches further onto the site, encompassing the woodland area.

5.4. EIA Screening

- 5.4.1. An Environmental Impact Assessment Screening report was not submitted with the application.

5.4.2. Class 12(d) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Permanent camp sites and caravan sites where the number of pitches would be greater than 100.

5.4.3. The proposed development comprises a mix of 20 No. temporary accommodation units (9 No. caravan pitches, 6 No. shepherd huts and 5 No. yurt pitches and camping pitches. The proposed development falls well below the development threshold and mandatory EIA is therefore not required.

5.4.4. In respect of sub-threshold EIA, having regard to the nature and scale of the proposed development, it is considered that there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Separate third party appeals have been received from Tonagh and District Residents' Association and John Lovatt. The grounds of appeal are summarised separately as follows: -

Appeal by John Lovatt

- There is adequate accommodation in the area to accommodate tourists and there is no need for this development.
- Lough Sheelin is a managed fishery for trout and ongoing efforts are in place to improve water quality, but nitrate and phosphate run-off is an issue, promoting aquatic plant growth and reducing water quality.
 - Water quality monitoring under the Water Framework Directive is inadequate.
- The site is unsuitable for this development as it is adjacent to an SPA and pNHA.

- Site suitability testing was undertaken away from the proposed WWTP location and after a period of reduced rainfall. It is thus unrepresentative of normal conditions. The site becomes wet in Winter.
- There is no other floating jetty on Lough Sheelin, as is proposed. In the proposed location it is exposed to the prevailing winds and is liable to damage. This feature of the development is not required, where the lake is to be used by non-motorised vessels.
- The development involves the loss of hedgerow and trees along the L-7081, contrary to Government policy targeting carbon emissions reductions.
- Appropriate assessment/biodiversity
 - It is incorrect to state there is no hydrological connectivity to Loughs Kinale/Derragh SPA (Site Code 004061) as the River Inny, which is connected to Lough Sheelin, flows into Loughs Kinsale/Derragh.
 - Bird information provided with the application only relates to winter birds. A Summer/early Autumn study from 2012-2017 identified nationally important populations of Little Grebe and Mute Swan. Breeding grounds for these species are to the south of the site and the population of breeding birds reduced by 70% due to activity associated with the air strip.
 - Activity associated with the proposal will further affect breeding birds in the area.
 - Other red listed species (White-tailed Eagle, Black-headed Gull and Grey Wagtail) have been observed on or over the site in the last year. Black-headed Gull and Grey Wagtail breed in the area.
 - Other species are identified as losing breeding and feeding habitat.
 - Bats have been recorded on the road and are likely to be affected by habitat loss.
 - A variety of species of butterfly are also likely to be present but are not addressed by the application.

Appeal by Tonagh and District Residents' Association

- Application validity

- The site area was materially increased at the AI stage and inadequate/conflicting drawings were provided.
- The applicant has not adequately justified the development and subject site, as is required by the development plan.
 - The development would be better located within or adjacent to an existing settlement.
- The site encroaches into Lough Sheelin SPA and pNHA, which itself provides adequate reasons for refusal, in view of the Planning Authority's obligation to protect the SPA and the importance of compliance with the Water Framework Directive.
 - As the competent authority for the appeal, the Board has a statutory obligation to establish that the development will not have any significant effect on the integrity of a European site before it can consider a grant of permission.
 - The Natura Impact Statement does not address the likelihood of nutrients in discharged foul water being discharged to the SPA.
 - Species of Conservation Interest for the SPA have been spotted in the area of the shoreline of the site.
 - The winter bird surveys undertaken are inadequate as they did not extend over the entire winter period.
 - The NIS identifies an extensive range of issues, which is indicative of the unsuitability of the site for this development.
- Permission has previously been refused by both the Planning Authority and Board for development similarly close to the SPA and pNHA, which is indicative of the unsuitability of the area for this type of development.
- The development gives rise to a risk to the integrity and conservation of wetland habitat bounding Lough Sheelin, contrary to the provisions of the development plan.
- Wastewater treatment

- The location of the proposed raised percolation was revised during the application and it is not clear whether the new proposed location can adequately treat foul water.
- The proposed system is in any case too close to the SPA and creates a risk to water quality within in.
- The WWTP will remove COD, BOD, suspended solids and ammonia but will not remove nutrients (dissolved nitrogen and phosphorus), which are a principal threat to water quality within the SPA.
- No details of how or where ferric sulphate would be added to the system. Ferric sulphate is also unsuitable for a WWTP that only operates for half of the year.
- The traffic and transport assessment does not address the adequacy of the access road to accommodate development traffic or the impact on other road users. It is incapable of accommodating development traffic.
- The provision of passing bays requires the removal of hedgerow, contrary to the provisions of the development plan.
- The development will intensify the recreational use of the Tonagh lakeside amenity area.
- The development will result in visual intrusion, light pollution and noise/disturbance issues for nearby residents.
- Development plan requirements in respect of climate change adaptation have not been addressed/incorporated.

6.2. Applicant Response

6.2.1. The applicant made a submission on the appeal on 5th August 2022, the contents of which can be summarised as follows: -

- Lough Sheelin aquatic ecology
 - All surfaces will be permeable and run-off from roofs will discharge to a watercourse or, if required, can discharge to a soakaway. Surface water

during construction is dealt with by the CEMP and NIS submitted with the application.

- Environmental concerns relating to wastewater treatment were addressed in the AI submission provided by Traynor Environmental Ltd. It should also be noted that a discharge licence will be required, which will require sampling and monitoring.
- Biodiversity
 - Whilst 2 trees and 78m of hedgerow will be lost, the development includes 133m of new trees along the site boundary and hedgerow lost will be replaced. The development provides for an increase of more than 200% of the current number of trees on the site.
 - The development will allow for ungrazed and unmanicured management of the lands, with particular emphasis on the 50m buffer zone adjacent to the lake, to protect and enhance insect life adjacent to the Lough.
 - Landscaping will comprise native species and the Board can require revisions if it is deemed necessary.
 - Regarding birds, there will be no significant habitat loss as the development is primarily located in a field. The site will have the character of a garden-like habitat.
 - Trees to be felled will be checked for roosting bats and will be removed outside the nesting season.
- Impact on Lough Sheelin SPA/pNHA
 - The development is located outside of the SPA, except for the marina. There is marginal overlap with the pNHA designation.
 - There is a 50m buffer between the development and shoreline and mitigation measures are proposed within the application, in order to protect the sites.
 - The site has a history of unregulated camping, with no control of noise and littering. The proposal offers a better management solution.
 - Winter bird surveys were undertaken at peak time and are adequate.
- Marina

- This aspect of the proposal was promoted by Inland Fisheries Ireland. There is currently no adequate disabled access to boats on Lough Sheelin
- The pier at Tonagh does not allow for launching and mooring of boats in Summer as the water depth is insufficient and overgrown.
- The marina structure allows for protection of boats from winds and provides for safe mooring in Summer. There are examples of similar marina structures at Lough Ramor.
- The development is supported by the new development plan, with reference to specified sections.
- Justification
 - There is insufficient visitor accommodation around Lough Sheelin to meet demand, particularly along the southern shores, and the proposal will reduce the amount of unregulated accommodation, which presents risks to natural heritage.
 - The Board will note that one of the appellants provides high-end visitor accommodation in the area.
 - The development cannot be located within a settlement as there is no settlement within walking distance of the southern shore of the lake.
- Increased site area
 - The site area was increased at the AI stage, connected with the incorporation of a 50m buffer, but the net usable area of the development was decreased from 14,900sqm to 10,700sqm.
 - It remains the applicant's intent to fence the WWTP and percolation area and a revised plan is provided to reflect this.
 - Regarding the omission of the reception area, it is considered that a more mobile arrangement offers a better arrangement for the site and reduces the need for a building.
- External lighting will be operated by motion sensor and height, quantity, type and direction of light will ensure no issues arise for neighbouring property. It will also be noted that the site will operate from April-September.

- Concerns regarding traffic are addressed by the traffic and transport assessment provided with the application.
- References by the appellants to precedent examples of refusals in the area are not relevant as they primarily relate to housing and were considered under the previous development plan. There are also examples of grants of permission for tourist accommodation, with reference to ABP-311150-21 at Killykeen, Co. Cavan.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority made a submission on the appeal on 21st July 2022, advising that matters raised within the appeals were considered by its assessment of the application. The Board is requested to uphold the decision to grant permission.

6.4. Observations

- 6.4.1. A submission has been received from John Lovatt, the contents of which can be summarised as follows: -
- It is not accepted that there are no appropriate facilities for visitors on the southern shore of Lough Sheelin. Finnea and Derrysheridan both provide visitor accommodation.
 - Statements that there is a problem with unregulated accommodation in the area are not accepted.
 - There is no watercourse on the site, to which surface water can be discharged.
 - The site is not suitable for the installation of a WWTP.
 - The loss of trees and hedgerow is contrary to efforts at promoting biodiversity and reducing carbon emissions.
 - The Lough has water pollution issues, which are highlighted by signage erected by Westmeath Co. Co.
 - It is unreasonable to compare an existing jetty at Lough Ramor with the proposed jetty, in view of the different site contexts. Wind speeds at this part of Lough

Sheelin will affect the proposed jetty. There are also other jetties on the Lough, which allow for boat launching.

- The applicant has not considered aquatic/submerged vegetation within the Lough, which may impact usage of the jetty.
- It is unclear where the potable water supply will be taken from.
- The impact of proposed external lighting on wildlife has not been considered.
- A breeding bird survey should have been undertaken in view of the April-September operational season proposed.
- Habitat on and surrounding the Lough is important for insects, which are themselves an important food source for birds in the area.
- Proposed landscaping should be itemised.

6.5. Further Responses

- 6.5.1. Further submissions were made by the Planning Authority, dated 30th August 2022, and the appellants, dated 6th September 2022 and 10th August 2022. The issues raised within each submission are summarised separately below: -

Further submission by the Planning Authority

- The submission concerns the first party appeal submission.
- The development is not at variance with the policies and objectives on natural heritage and tourism-related development contained within the new development plan.

Further submission by Tonagh and District Residents Association dated 10th August 2022

- The submission concerns the appeal by John Lovatt and endorses each of the grounds of appeal raised in his separate appeal.

Further submission by Tonagh and District Residents Association dated 6th September 2022

- The applicant has not demonstrated any demand or need for the development.

- The applicant's claims that biodiversity will be increased and that no adverse effects on the SPA pNHA will arise are contested. No information has been provided as to how the proposed marina will be constructed.
- Comparisons with a marina constructed at Lough Ramor are inappropriate, in view of the different site contexts.
- There are other harbours and mooring areas for boats, at Rusheen Bay and Sailor's Garden.
- References to other cases of planning refusals are relevant as a key point in each instance was the proximity of the site to Lough Sheelin and risks to water quality.
- The applicant's references to development at Lough Oughter are not comparable, as they comprised an extension of an established business.

7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the third-party appeal in detail, the main planning issues in the assessment of the proposed development are as follows:

- Application validity;
- Principle of development;
- Impact on public amenity area;
- Drainage;
- Access and Parking;
- Biodiversity;
- Other issues; and
- Appropriate Assessment.

7.2. **Application Validity**

7.2.1. The appellant, Tonagh and District Residents Association, submit that an increase in the site area that arose at the AI response stage should have required a

separate/new planning application and it was inappropriate of the Planning Authority to accept the enlarged site area as part of the AI response. The appellant submits that the application should be refused on this basis.

7.2.2. In responding to the appeal, the applicant acknowledges that the site area was increased at the AI stage, connected with the incorporation of a 50m buffer around Lough Sheelin, but states that the net usable area of the development was decreased.

7.2.3. Application validity is a matter for the Planning Authority, which in this instance accepted the AI response and, in view of its contents, required the applicant to publish further public notices and to undergo a period of further public consultation. This reflected the significant nature of the AI response.

7.2.4. It is my view that the appellant, or other third parties, was not disadvantaged by the nature or content of the applicant's AI response and were provided with an opportunity to make submissions on same. In this regard, the Board will note that a number of third-party submissions were received as part of the period of further public consultation, which suggests that the public was well-informed of the substance of the AI response.

7.3. Principle of Development

7.3.1. The proposed development comprises a tourist campsite, which includes a mix of caravan/yurt/shepherd huts and camping pitches, vehicular and circulation routes, storage and facilities buildings and an on-site wastewater treatment plant. The development also includes a floating marina within Lough Sheelin and associated site works.

7.3.2. Both of the appellants have questioned the need for the proposed development and the appellant, Tonagh and District Residents' Association, make the case that the development would be better located within or adjacent to an existing settlement.

7.3.3. The overarching approach taken by the Cavan County Development Plan 2022 – 2028 to tourism development is to support development that enhances the county's tourism offering but at the same time safeguards resources for future generations. Of particular relevance to the current appeal, objective TV 02 supports the provision of tourist accommodation in suitable locations and objective LW 05 supports the

provision of infrastructure to enable increased tourism activity, including marina/berthing infrastructure. The Board will note that both objectives include the caveat that supports are subject to protection of the environment.

- 7.3.4. Regarding the appellant concerns that the site has not be justified and that the development would be better located within or adjacent to an existing settlement, the Board will note that the above-mentioned development plan policies do not impose any locational restriction or require specific site justification for this type of development. Further, while I accept that locating a tourism development in or adjoining an urban area is beneficial in terms of access to services and amenities, there are other factors, in particular land values and pressure for other forms of development, that in practice are likely to make it difficult to locate this type of development in urban, built-up locations. In this instance, the site is closely associated with a popular natural amenity, Lough Sheelin, and I consider it would complement other visitor accommodation offering in the area.
- 7.3.5. To conclude, I am satisfied that the development is consistent with the development plan strategy for tourism development, including objectives TV 02 and LW 05, and is acceptable in principle, subject to consideration of other relevant factors below.

7.4. Impact on Public Amenity Area

- 7.4.1. The appellant, Tonagh and District Residents Association, submits that the development will intensify the recreational use of the area and would be in conflict with the Tonagh Lakeside Amenity Site.
- 7.4.2. The subject site is greenfield in nature, comprising part of an agricultural field of improved grassland and also part of a woodland area that bounds the field to the west. It is heavily screened from public view by a tall roadside boundary hedge. The open part of the site contains the internal circulation routes, caravan pitches, car parking area, WWTP and percolation area and waste storage area. The winter storage and facilities buildings are partly located within the woodland. The Arboricultural Assessment and Impact drawing identifies that some tree felling will take place in the area of the facilities building (the drawing also identifies felling within the woodland, as part of the provision of pitches and circulation routes, but this is no longer required as all development within the woodland was omitted at the AI stage).

- 7.4.3. The seasonal presence of tourists at the site is likely to increase the intensity of use of the area but I do not consider that such impact would be unacceptable for other recreational visitors to the area. The development includes adequate parking and waste disposal/storage facilities within the site and will not affect the size or layout of the public amenity area.
- 7.4.4. Regarding concerns over noise, I acknowledge that some noise is an inevitability associated with the development of the site and the presence of people in the area. Noise arising is likely to be associated with vehicle movements and human activity, which is likely to be similar to existing noise sources/levels in the area. The applicant states that there will be no use of jet skis or power boats by visitors to the site. In view of the above, I do not consider the effect of the development would be of such a degree that a refusal of permission would be justified.
- 7.4.5. Should the Board decide to grant permission, I recommend a condition be attached requiring that no amplified music, public announcement system or similar shall be deployed on the site.
- 7.4.6. Concerns relating to lightspill can be addressed by appropriate design measures and I note in this respect that the site layout drawing includes details of external lighting and measures that will be incorporated to minimise disruption to the wider area. I am satisfied that this aspect of the development can be controlled by condition and will not give rise to any unacceptable impacts.
- 7.4.7. To conclude, the development of the site will provide for a more intense human presence in the area during the operational season but, I consider a balance needs to be struck between the limited impact of this increased presence and the benefits that accrue from the development, in terms of additional and improved visitor accommodation for lake-users. I do not consider the limited impacts identified in my assessment would be sufficient to justify a refusal of permission.

7.5. Drainage

Foul Drainage

- 7.5.1. The development includes the provision of a proprietary wastewater treatment system and percolation area, with treated waters thereafter discharging to groundwater. The Site Suitability Assessment Report submitted with the application

identifies the category of aquifer as 'Locally important', with a vulnerability classification of 'Extreme'. The EPA Wastewater Treatment Manuals Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (1999) does not contain a site suitability response matrix but, with reference to the EPA Code of Practice Domestic Wastewater Treatment Systems, the Report concludes that the site is suitable for the installation of a WWTP.

- 7.5.2. The Report indicates that a trial hole with a depth of 2.1m recorded 300mm of silt/clay, 500mm of clay intermixed with stone and 1300mm of gravel. Bedrock and the water table were stated to have not been encountered in the trial hole. In relation to the percolation characteristics of the soil, the assessment includes 2 x subsurface and 2 x surface test results. An average subsurface percolation test result 20.44 min/25mm was returned. An average surface percolation test result of 10.21 min/25mm was returned. The report concludes that the soil has good percolation characteristics and indicates that it is suitable for the provision of a primary or secondary treatment system.
- 7.5.3. Both appeals question whether it has been adequately demonstrated that the site is suitable for the treatment of wastewater, with reference to the location of the trial holes, and both express concerns regarding potential impacts on water quality within Lough Sheelin. The appellant, John Lovatt, outlines that Lough Sheelin is a managed fishery for trout and that ongoing efforts are in place to improve water quality but, nitrate and phosphate run-off is an issue, promoting aquatic plant growth and reducing water quality. The appellant, Tonagh and District Residents Association, state that no details of the proposal to add ferric sulphate to the WWTP have been provided and that it is an unsuitable addition to a WWTP that only operates for half of the year.
- 7.5.4. Regarding the location of the trial holes, the photographs provided with the Site Suitability Assessment Report indicate that they are located in the open part of the site, but their exact location is not identified (the report incorrectly indicates that they are located in the woodland). Section 5.4.2 of the EPA Code of Practice advises that trial holes should be located adjacent to and not within the percolation area, as disturbed topsoil may provide a preferential flow path. The WWTP and percolation area are located in the open part of the site and I am satisfied that the trial hole

locations are likely to be representative of the soil conditions on the open part of the site, in view of limited area.

- 7.5.5. Inland Fisheries Ireland made a submission on the application advising that Lough Sheelin is a substantial resource for wild brown trout, which is attributable to the high pH of the lake and its low average depth profile. The submission states that the Lough has shown signs of eutrophication since the 1970s and questions the acceptability of a private WWTP to service a development of the proposed scale. The submission also requests that in the event of a grant of permission, a minimum separation distance of 50m between the WWTP and shoreline should be observed.
- 7.5.6. Whilst the site suitability assessment may have indicated that the site displays good percolation characteristics, I have concerns regarding the proposal to serve a development of the proposed scale on this site with a private WWTP. Available EPA Lake Water Quality records state that Lough Sheelin has a 'Moderate' ecological status and that it is 'At risk' of not achieving its Water Framework Directive water quality status objective. Whilst the WWTP will treat effluent to a specified level, on-site treatment will inevitably result in the discharge of nutrient enriched waters to groundwater which, in view of the close proximity of the site to Lough Sheelin, are likely to be ultimately discharged into the Lough.
- 7.5.7. As the appellant points out, the WWTP includes the use of Ferric sulphate, which was requested by the Planning Authority at the AI stage as a means of reducing Phosphorous discharges to groundwater. Details of the proposed usage of this additive have not been provided but the fact that it was required to be incorporated can be seen as an acknowledgement of the issue of nutrient enrichment of ground and surface waters in the area. The specific suitability of ferric sulphate to a seasonal development such as this has not been addressed by the application.
- 7.5.8. Further, as a seasonal operation that will only be open in the period April-September annually, the WWTP will not be in use for 6 months of the year. Such a pattern of usage is likely to affect the operation of the system, for example media present within the system as part of the treatment process are very likely to be affected by such long periods of non-usage. Any failure in the system, whether related to the treatment process or the overarching system itself, is likely to lead to inefficient

treatment of effluent and is likely to lead to the discharge of pollutants to groundwater and, ultimately, to Lough Sheelin.

- 7.5.9. Thus, based on the information submitted with the application and my assessment, I am not satisfied that wastewater can be dealt with effectively on site and I consider the development poses an unacceptable risk of environmental pollution. I recommend that permission should be refused on this basis.
- 7.5.10. The treatment of wastewater on the site also gives rise to issues in respect of Appropriate Assessment, as is discussed in detail below.

Surface Water Drainage

- 7.6. As part of the AI response, the applicant confirmed that surface water from the roofs of the storage and facilities buildings will discharge to Lough Sheelin and water from the other permeable areas of the site will be drained by infiltration. Small impermeable surfaces associated with the site access and passing bays will be drained by gullies. No further details of the proposed system have been provided.
- 7.6.1. The site layout drawing identifies the provision of a temporary attenuation tank, stated to be for the construction phase only. The Construction Environmental Management Plan states that this tank will be used in the event of a localised collection of surface waters during construction, whereby the waters will be pumped to the attenuation tank.
- 7.6.2. I would question the location of the attenuation tank, which is shown to be within the woodland area (it appears to be on the existing informal route to the lakeshore). In view of the requirement to maintain a buffer to the lakeshore, which is a sensible requirement in the context of protecting water quality with Lough Sheelin, I consider the tank should be re-sited to the southern, open part of the site. This relocation does not undermine the overarching function of the tank but further protects the Lough from potential surface water impacts.
- 7.6.3. Should the Board decide to grant permission, I recommend a condition be attached requiring the applicant to agree the detailed specification of the surface water drainage system with the Planning Authority, including relocation of the temporary attenuation tank.

7.6.4. The disposal of surface water to Lough Sheelin gives rise to issues in respect of Appropriate Assessment, as is discussed in detail below.

7.7. Access and Parking

- 7.7.1. The site is currently accessed via an agricultural access at the north-east corner of the site, at a bend in the L-7082. The L-7082 is a single lane cul-de-sac that leads from the L-7081 to a slipway onto Lough Sheelin, Tonagh Pier, which is approx. 60m west of the site access.
- 7.7.2. The proposed development includes upgrades to each of the site access, the L-7082 and L-7081. The existing site access will be widened and set back 14m from the roadside edge, with associated alterations to the roadside verge as part of the provision of sightlines. 2 no. passing bays will be provided on the west side of the L-7082. Improved sightlines along the L-7081 are also incorporated, the provision of which includes alteration of the roadside verge on both sides of the junction. The internal circulation route within the site is identified as comprising a permeable gravel surface and the footpath routes are identified as comprising a permeable quarry dust surface.
- 7.7.3. In appealing the Planning Authority's decision, the appellants argue that the development involves the loss of 78m of hedgerow and trees along the L-7081, which is contrary to Government policy targeting carbon emissions reductions. Further, the appellant Tonagh and District Residents Association, submits that the traffic and transport assessment (TTA) does not address the adequacy of the access road to accommodate development traffic or the impact on other road users.
- 7.7.4. The TTA submitted with the application was prepared by Traffic Transport and Road Safety Associates Ltd. It bases trip generation predictions on comparable data for the Center Parcs development in County Longford, where units are typically vacated and reoccupied on a Friday. The assessment predicts that the development will give rise to low traffic levels and, using PICADY traffic modelling software, it predicts that the junction of the L-7081 and L-7082 will continue to operate well within its operational capacity.
- 7.7.5. I am satisfied that in view of the scale of the development and the number of pitches provided, low levels of traffic will arise. I am also satisfied that the development will

not have any unacceptable impact on the efficient operation of the junction of the L-7081 and L-7082.

- 7.7.6. Regarding the improvements to the site access and L-7082, I observed on my visit to the site that the location of the site access is at a sharp bend in the road, which has the effect of providing good levels of visibility in both directions. I accept as necessary the proposal to set back the controlled access point to the site and also the proposal to create passing bays along the road and, in this context, I note that the site layout drawing indicates the extent of trees/hedgerow will be removed. I am satisfied that the loss of trees/hedgerow can be mitigated by the provision of replacement planting, set behind the sightline splay/passing bay.
- 7.7.7. Regarding the improvements to the L-7081, it was evident on my site visit that both sightlines are restricted. The alterations to the junction will be beneficial to all road users in the area and, again, I am satisfied that the loss of trees/hedgerow can be mitigated by the provision of replacement planting, set behind the sightline splay. The loss of hedgerow as part of the development will affect biodiversity in the short-term, but I consider a balance needs to be struck between the impact and the wider road safety benefits accruing.
- 7.7.8. Should the Board decide to grant permission I recommend a condition be attached requiring the applicant to agree proposals for a replacement native hedgerow along the affected sections of the L-7081 and L-7082, with the Planning Authority.
- 7.7.9. The development includes 30 No. car parking spaces and an additional 3 No. disabled spaces. This provision is to serve both visitors and staff on the site. The development plan does not specify a parking rate for camping site developments and I am satisfied that that the proposed parking is appropriate to serve a development of this nature. I note that the Planning Authority did not express any concern regarding this aspect of the development.

7.8. Biodiversity

- 7.8.1. The appellant, John Lovatt, makes reference to the presence of summer birds in the area, which are affected by activity at a nearby airstrip, and which will be further affected by the development. He further claims that bats have been recorded on the road and are likely to be affected by habitat loss, associated with the removal of hedgerow along the L-7082.

- 7.8.2. In responding to the appeals, the applicant states that there will be no significant habitat loss as the development is primarily located in a field and that the site will have the character of a garden-like habitat. They further state that trees to be felled will be checked for roosting bats and will be removed outside the nesting season.
- 7.8.3. The camping element of the development is set back from the lakeshore and separated by the woodland. A 50m buffer is maintained from the lakeshore, within which no development is proposed. The main development site comprises improved grassland, which at the time of my inspection was in use for livestock grazing. It does not provide suitable nesting or foraging habitat for waterbirds.
- 7.8.4. The development will clearly give rise to an increased presence of people in the area, with associated noise, but birds in the area are likely to be accustomed to a human presence on and around the lake, in view of its popularity as a trout fishery, including boating activity on the lake, and I do not consider the development would have a significant impact on summer birds. I note that the Noise Assessment Report predicts a maximum rise of 0.2dBA during the day and 0.5dBA at night for the operational phase of the development. I do not consider this predicted impact to be significant.
- 7.8.5. Regarding bats, the Winter Bird Survey report prepared by Ecofact Environmental Consultants states that there are bat boxes in the woodland part of the site and those that could be inspected do not appear to be used by bats. The report states that some contained bird nests and most had fallen from the trees. The report does not identify the presence of any bats on the site and the Board will note that the appellant's submission does not provide any evidence of the presence of bats on the site.
- 7.8.6. I note that Section 3.2 of the NIS states that National Biodiversity Data Centre records for the area indicate that Daubenton, Pipistrelle and Soprano Pipistrelle have been recorded within 1km of the site.
- 7.8.7. In view of the characteristics of the site and its locational context, I consider that there is a reasonable possibility that it provides suitable habitat for bats. The woodland has evidently been promoted for roosting at some point in the past and the lake/lakeshore provides good foraging habitat. A number of trees and sections of

hedgerow along both the L-7081 and L-7082 are to be removed as part of the development and this has the potential to disrupt bats.

- 7.8.8. The Board will be aware that bats are protected by law in the Republic of Ireland under the Wildlife Act 1976 and it is an offence to intentionally disturb, injure or kill a bat or disturb its resting place. Should the Board decide to grant permission a condition be attached requiring the applicant to undertake a programme of bat surveys in order to establish whether the site is used by bats. In the event that there are bats roosting on the site, safe relocation of same is controlled under licence.

7.9. Other Issues

- 7.9.1. The appellant, Tonagh and District Residents' Association, submits that the development fails to comply with provisions of the development plan relating to climate change, in that climate change adaptation measures and a signed statement regarding incorporation of same were not provided with the application (development plan objectives EDC 01 and T 09 refer). Whilst I accept that no specific statement was provided with the application, I would nevertheless bring to the Board's attention that the development has a small built footprint and the vast majority of the site is retained as permeable surfacing, in accordance with SUDS drainage principles. Additionally, and given the primarily car-borne nature of the development, I consider electric vehicle charging points should be incorporated. The Traffic and Transport Assessment indicates that the applicant is willing to provide such spaces as part of the development. Should the Board decide to grant permission, I recommend a condition be attached to this effect.

- 7.9.2. Regarding concerns that the development will result in visual intrusion, light pollution and noise/disturbance issues for nearby residents, the Board will note that there are houses to the south and east, the closest of which is c.50m from the site. I am satisfied that these adjacent houses are adequately set away from the site and there will no loss of privacy or unacceptable light pollution or noise/disturbance.

7.10. Appropriate Assessment

Appropriate Assessment Screening

Compliance with Article 6(3) of the Habitats Directive

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

Background on the Application

- 7.10.2. The applicant submitted a Natura Impact Statement as part of the application, prepared by Whitehill Environmental. It provides a description of the proposed development, identifies European sites within a possible zone of influence and identifies potential impacts in relation to Lough Sheelin SPA.
- 7.10.3. Having reviewed the appeal documents provided and submissions, I am satisfied that there is adequate information in relation to the European sites to allow 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.

Need for Stage 1 Appropriate Assessment Screening

- 7.10.4. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken on any plan or project not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives.
- 7.10.5. The proposed development is not directly connected with or necessary to the management of a European site and accordingly is subject to the provisions of Article 6(3).

Brief Description of the Development

- 7.10.6. Section 3.1 of the NIS contains a description of the proposed development. The development is also summarised at Section 2 of this Report. In summary, permission is sought for the construction of a tourist campsite, including vehicular access and internal routes, single storey cabin, winter storage and toilets/shower/laundry buildings, on-site WWTP, formation of floating marina and associated site works. The site has a stated area of 5.4ha and is located in the townland of Tonagh, approx. 3km south of Mountnugent in south County Cavan. Foul water is proposed to be treated within an on-site WWTP. Surface water from the roofs of site buildings is proposed to drain to Lough Sheelin, while surface water from other permeable areas

of the site is proposed to drain by infiltration. The site is partly located within Lough Sheelin SPA (Site Code 004065).

7.10.7. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, I consider the following potential impact mechanisms require examination:

- Loss or fragmentation of habitat and/or disturbance of species of conservation interest within a European site.
- The impact of potential surface water discharges from the site during construction on water quality within a European site.
- The impact of foul and surface water discharges from the development during the operational phase on water quality within a European site.

Submissions and Observations

7.10.8. The submissions from the appellants, applicant and the Planning Authority are summarised at Section 6 of this Report. Both of the appellants have made detailed submissions regarding appropriate assessment.

European Sites

7.10.9. The site lies partly within Lough Sheelin SPA (Site Code 004065).

7.10.10. The NIS identifies the following additional European sites as falling within a 15km search zone: -

- Moneybeg and Clareisland Bog SAC (Site Code 002340) c.1.6km south-west,
- Lough Kinale and Derragh Lough SPA (Site Code 004061) c.7.9km south-west,
- White Lough, Ben Lough and Lough Doo SAC (Site Code 001810) c.12km south,
- Lough Bane and Lough Glass SAC (Site Code 002120) c.12.5km south-east,
- Lough Lene SAC (Site Code 002121) c. 13.8km south.

7.10.11. The NIS also identifies Kilconny Bog SAC (Site Code 000006) as falling within a 15km search zone but, on inspection, it falls outside of the search zone.

7.10.12. Regarding each of Moneybeg and Clareisland Bog SAC, Lough Kinale and Derragh Lough SPA, White Lough, Ben Lough and Lough Doo SAC, Lough Bane and Lough Glass SAC and Lough Lene SAC, the NIS states that there is no

hydrological connectivity to the subject site and in view of the separation distance between sites, the possibility of significant effects can be excluded.

7.10.13. I concur with the conclusions of the NIS regarding Moneybeg and Clareisland Bog SAC, White Lough, Ben Lough and Lough Doo SAC, Lough Bane and Lough Glass SAC and Lough Lene SAC.

7.10.14. Regarding Lough Kinale and Derragh Lough SPA, available EPA river flow mapping¹ indicates that surface waters flow south-west from Lough Sheelin, into Lough Kinale, thereby providing a hydrological connection between the sites. Notwithstanding this hydrological connection, the subject site is c.7.9m from Lough Kinale and Derragh Lough SPA and is separated from it by a substantial waterbody, i.e., Lough Sheelin. This intervening waterbody presents an effective barrier to any waterborne discharges between transferred from the subject site. In view of this and in view of the separation distance between sites, I am satisfied that the possibility of significant effects can be excluded.

7.10.15. A summary of Lough Sheelin SPA is outlined in the table below.

| European Site (Site Code) | List of Qualifying interest /Special conservation Interest |
|--|---|
| <u>SPA</u> | |
| Lough Sheelin SPA (Site Code 004065) | <ul style="list-style-type: none">• Great Crested Grebe,• Pochard,• Tufted Duck,• Goldeneye,• Wetland and waterbirds. |

7.10.16. In respect of Screening, the NIS concludes that: -

7.10.17. *‘The proposed development is not directly connected with or necessary to the nature conservation management of the designated site. Therefore, following consideration of the location of Lough Sheelin SPA in relation to the proposed development at Tonagh and the potential impacts that may occur, this project must proceed to the next stage of Appropriate Assessment, namely the Appropriate Impact Assessment.’*

¹ <https://gis.epa.ie/EPAMaps/>

Evaluation of potential effects

- 7.10.18. As has been outlined already, I consider that (i) potential loss or fragmentation of habitat and/or disturbance of species of conservation interest within a European site, (ii) the impact of potential surface water discharges from the site during construction on water quality within a European site and (iii) the impact of foul and surface water discharges from the development during the operational phase on water quality within a European site require consideration.
- 7.10.19. Regarding loss of or fragmentation of habitat, the SPA is designated for a number of wetland and waterbirds. The improved grassland and woodland areas of the site do not provide suitable ex-situ habitat for designated species and I note in this respect that the Winter Bird Survey report states that no SCI were encountered on the terrestrial habitats of the site. I am satisfied that the development of the terrestrial areas of the site will not have a significant effect on SCI.
- 7.10.20. The development also involves the provision of a floating marina within the SPA, the installation of which and activities associated with which have the potential to disturb SCI, each of which is identified by Birdwatch Ireland as nesting in waterside vegetation. The marina is located adjacent to and close to the lakeshore. Thus, from the information available to me, I consider there is a risk of significant effects arising from disturbance of SCI and the issue therefore cannot be excluded at this stage.
- 7.10.21. Regarding the potential for significant impacts arising from surface water discharges, the main part of the site is set back a minimum of 50m from the lakeshore but development is proposed up to the lakeshore, as part of the surface water drainage system and provision of the floating marina. I consider there is a risk of significant effects arising from this aspect of the development and the issue therefore cannot be excluded at this stage.
- 7.10.22. Regarding the impact of foul and surface water discharges from the development during the operational phase, surface water for part of the development is proposed to drain via piped connection to the SPA, with the remaining areas draining to groundwater via infiltration. Foul water is proposed to be treated in an on-site WWTP, with treated waters thereafter discharging to groundwater. I consider

there is a risk of significant effects arising from this aspect of the development and the issue therefore cannot be excluded at this stage.

- 7.10.23. The NIS also identifies potential effects associated with run-off from vehicles on the site. I am satisfied that the caravan bays and parking area, which are in excess of 80m from the SPA and are separated from it by the woodland, are adequately set away from SPA and it is unlikely that any such run-off would enter the SPA. I am therefore satisfied that this aspect of the development will not have a significant effect on SCI.

Screening Determination

- 7.10.24. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development, individually or in combination, will have a significant effect on the following European site: -

- Lough Sheelin SPA (Site Code 004065)

Stage 2 Appropriate Assessment

- 7.10.25. The NPWS synopsis sheet for Lough Sheelin SAC states that it is a medium to large-sized lake and is relatively shallow and alkaline, with a maximum depth of 14m. It further states that the Lough has experienced variable water quality in recent decades but remains a nationally important site for wintering waterfowl, especially diving duck. The SPA is stated to support nationally important populations of Great Crested Grebe, Pochard, Tufted Duck and Goldeneye. Other species occur in small numbers, i.e., Mute Swan, Mallard, Coot, Little Grebe, Cormorant and Black-Headed Gull.

- 7.10.26. The Conservation Objective for Lough Sheeling SPA is as follows: -

‘To maintain or restore the favourable conservation condition of the wetland habitat at Lough Sheelin SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.’

Winter Bird Survey

7.10.27. The application is supported by a Winter Bird Survey report, which was completed during February and March 2020 and consisted of four survey days. The survey concludes: -

'No species on Annex 1 of the EU Birds Directive were recorded during the surveys. There were also no species associated with the Lough Sheelin SPA recorded on the terrestrial habitats on the site. Small numbers of Tufted Duck, Teal and Widgeon were seen in locally important numbers in the general area – but not in the application area. A few individual Great Crested Grebes were recorded.

There were 2 species on the BoCCI Red List recorded within the application area. There were Meadow Pipit and Grey Wagtail...

The lakeshore is the most important from a bird conservation point of view. Great-crested Grebe was the only species for which Lough Sheelin SPA is designated for that were recorded within the application area. However, single individuals only were seen and the rocky and exposed shoreline is sub-optimal for this species. A few Tufted ducks were seen in the distance well offshore.

The woodland and hedgerows on the site are of local importance, Higher Value. Any development on the site should aim to protect this woodland, hedgerows and mature trees. The lake itself is disturbed by existing recreational use and by the airfield. However, this is an internationally important SPA and any development will require an Appropriate Assessment.

It is noted that the key conservation interest for Lough Sheelin SPA are wintering birds. It is not likely that the campsite would be used in winter so disturbance in winter from the campsite would be minimal.'

Potential Direct and Indirect Effects

7.10.28. As I have outlined previously, the potential for disturbance of SCI within the SPA and the impact of surface water and foul water discharges from the site on the SPA require further consideration.

7.10.29. The potential for disturbance of SCI arises from the provision of the marina and boating and other water-based activities on the Lough. The Winter Bird Survey report states that Great Crested Grebe were observed within the application site.

- 7.10.30. No details of the proposed methodology for installation of the marina have been provided with the application.
- 7.10.31. Regarding wider activity on the site, the Noise Assessment Report submitted with the application predicts that the development would have a negligible impact during both the construction and operational phases and, in particular, predicts that the operational phase will result in a minor overall increase in noise levels. In view of the nature of the development, noise levels are likely to be highest during construction. This will be for a temporary period and I note that the Noise Assessment Report predicts a maximum rise of 2.5dBA at NSL2. For the operational phase, noise will be associated with human activity on the site and SCI are likely to be accustomed to a human presence on and around the lake, in view of its popularity as a trout fishery, including boating activity on the lake. I note that the Noise Assessment Report predicts a maximum rise of 0.2dBA during the day and 0.5dBA at night.
- 7.10.32. Regarding surface water discharges, Section 4.3 of the NIS outlines that although most of the construction phase works will take place within the field that is removed from the lakeshore, the possibility remains that in the absence of mitigation a pollution event may impact negatively on water quality within the SPA, as elevated sediment and turbidity levels can affect the biological functioning of the site. The vast majority of the development is located at a minimum distance of 50m from the Lough, but the surface water drainage system involves works up to the lake.
- 7.10.33. For the operational phase, surface water from the roofs of the storage and facilities buildings will discharge directly to Lough Sheelin. The remaining areas of the site are permeable and surface waters will drain by infiltration.
- 7.10.34. Regarding foul water discharges, Section 4.3 of the NIS states that inadequate management of the treatment plant and percolation area are the most likely source of water quality impacts during the operational phase. The on-site WWTP is located c.80m from the SPA boundary and is designed for a 120 P/E. The percolation area measures 360m². The application is supported by a site suitability assessment report, which characterises site conditions and provides the results of surface and subsurface percolation tests, determining that the site is suitable for the installation of an on-site WWTP.

In-Combination Effects

- 7.10.35. The NIS considers potential cumulative impacts associated with a number of other planned projects in the area (Reg. Refs. 17/112, 20/336, 21/397, 21/464) and outlines that each application was subject to appropriate assessment screening, in accordance with the requirements of Article 6(3) of the Habitats Directive. It also considers relevant development plan policies and, in view of the assessment, concludes that the potential for significant in-combination effects can be excluded.
- 7.10.36. Available EPA Lake Water Quality records state that Lough Sheelin has a 'Moderate' ecological status and that it is 'At risk' of not achieving its Water Framework Directive water quality status objective. The NPWS Site Synopsis for the SPA identifies that it has had 'variable water quality in recent decades' and the Natura 2000 Form identifies that it is at High risk from fertilisation associated with agriculture. The Board will also note that the Inland Fisheries Ireland submission on the application states that the Lough has shown signs of eutrophication since the 1970s.
- 7.10.37. As stated previously, I have concerns regarding the adequacy of a proposed on-site WWTP to serve a seasonal tourist accommodation development such as this. I am concerned that the provision of an on-site WWTP on the site, as part of the development, gives rise to a risk of pollution of water within the Lough. Such an event could lead to in-combination impacts with other existing sources of water pollution affecting lake water quality.

Mitigation Measures

- 7.10.38. Section 5 of the NIS contains the following proposed mitigation measures: -
- Contractor to be made aware of the ecological sensitivity of the site and surroundings and advised of proposed mitigation measures.
 - Site works to adhere to guidance contained within Inland Fisheries Ireland publication *Requirements for the Protection of Fisheries Habitats During Construction and Development Works at River Sites*.
 - Construction phase
 - Works should not take place during periods of heavy rain.

- A Terram barrier will be erected around the northern boundary of the works, 50m from the lakeshore, prior to commencement of development. No machines to enter the exclusion zone other than for purposes of lifting the prefabricated marina.
- Any pooled surface water will be pumped to a temporary attenuation tank, to settle, prior to discharge at the greenfield rate.
- Best practice measures to be employed in use of bulk liquid concrete.
- Activities resulting in dust to be controlled by dampening down areas.
- Construction vehicles to be washed off-site in a bunded area.
- Fuels, lubricants, etc to be stored in a bunded area at least 30m from the Lough. Refuelling / lubrication to take place in a bunded area.
- Spill kits to be provided and spillage procedures to be put in place.
- Storage areas, depots and site offices should be located remote from watercourses.
- Stockpile / spoil heap areas to be located away from the Lough and covered in a tarpaulin.
- Excavated materials to be stored in a location agreed with the Planning Authority and shall be disposed of in an environmentally sensitive manner.
- Unnecessary site clearance to be avoided and existing verges/vegetated areas to be retained where possible. Necessary tree removal to be undertaken outside of the nesting season.
 - Protection measures contained within the Arboricultural Method Statement to be adhered to.
 - Mature trees should be assessed for roosting or hibernating bats immediately prior to removal.
- It should be ascertained that the treatment plant and polishing filter is suitable for the site. The system should be installed by a qualified engineer and operated and maintained in accordance with design specifications.

- Proposed mitigation measures contained within the Noise Assessment Report shall be implemented.
- Site operation
 - Surface water to be managed in accordance with SUDS guidelines. No contaminated surface water from the car park shall enter the Lough.
 - Safe facilities to be provided for chemical toilets of caravans/camper vans, details to be agreed with the Planning Authority.
 - The number of people using the site for overnight pitching shall be limited.
 - There should be no use of power boats or jet skis by the guests using the site.
 - Waste bins to be secured and maintained.
 - Educational information to be provided regarding the ecological context of Lough Sheelin.
 - Curfews and activity levels should be enforced by staff and fire pits should be located in a designated area away from the Lough and woodland.
 - There should be no loud music at night.
- A lighting scheme shall be submitted to the Local Authority for agreement and should take account of the presence of protected species. No lighting along the lakeshore and not directed at trees or areas of mature vegetation.
- Site works should take place outside the October-March overwintering season.
- Operation of the site should be outside the October-March overwintering season.
- No camping spaces within 50m of the Lough.

Evaluation of Residual Effects

7.10.39. I am satisfied that the above-outlined mitigation measures are adequate to address potential adverse effects on the SPA during the construction phase. However, I remain concerned regarding (a) the proposed installation of the floating marina (b) the proposed surface water drainage system and (c) the proposed on-site WWTP.

7.10.40. The floating marina is located adjacent to the shore and will require activity/disturbance in the area of shore, as part of the installation process. No details

of the proposed installation process have been provided with the application and this part of the development has the potential to disturb SCI, including nesting and breeding habitat. This aspect of the development was not assessed by the NIS and in the absence of adequate information regarding the installation methodology, adverse effects on integrity of the SPA cannot be excluded.

7.10.41. No details of the proposed surface water drainage connection to Lough Sheelin have been provided. The application proposes direct discharge of surface water from the roofs of the storage and facilities buildings to Lough Sheelin, which will require construction work up to the lakeshore. This aspect of the development was not assessed by the NIS and in the absence of adequate information regarding the specific nature of the system and potential impacts on the SPA, adverse effects on integrity of the SPA cannot be excluded.

7.10.42. I am satisfied that the site suitability assessment has confirmed that the site is suitable for the installation of an on-site WWTP, however, the application does not address the specific suitability of the proposed system to a seasonal tourist accommodation development, in particular that long periods of little or no use will not affect its efficient operation. As I have outlined previously, Inland Fisheries Ireland's submission on the application highlights eutrophication issues at Lough Sheelin since the 1970s and any failure in the proposed system will contribute to this problem. In saying this, I again highlight the Planning Authority's request that ferric sulphate be incorporated into the system, as a means of reducing Phosphorus discharges from the site. I consider this to be an acknowledgement of the potential impact of on-site wastewater treatment on the surrounding environment, including Lough Sheelin. I consider it has not been adequately demonstrated that the proposed WWTP, including the addition of ferric dosing, is suitable for a seasonal tourist accommodation use and will not affect the integrity of the SPA by reason of reduced water quality and/or nutrient enrichment. I thus consider the issue cannot be excluded.

Appropriate Assessment Conclusion

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

7.10.44. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Lough Sheelin SPA (Site Code 004065). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of the site, in light of their conservation objectives.

7.10.45. Following an Appropriate Assessment, it has not been ascertained beyond a reasonable doubt that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of European site No 004065, in view of the site's Conservation Objectives. This conclusion is based on:

- A lack of information on the possible effects of the surface and foul water drainage systems and installation of the floating marina on the SPA. These elements of the proposed development were not examined by the Natura Impact Statement in relation to possible significant effects on the SPA.

7.10.46. Appropriate assessment identified that these aspects of the proposed development have the potential for significant effects on the SPA and, in the absence of details regarding construction methods and proposed mitigation, the likelihood and/or extent of such effects cannot be determined. This is considered a gap in the overall assessment and therefore in the absence of such information, adverse effects on integrity of the European sites cannot be excluded.

8.0 Recommendation

8.1. I recommend that planning permission is refused in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to: -

- The seasonal nature of the proposed development, which will operate between April-September annually,
- The seasonal nature of the use of the proposed on-site wastewater treatment system, which includes the use of ferric sulphate as a means of reducing Phosphorus emissions from the site, and

- The vulnerability of Lough Sheelin to discharges containing suspended solids and/or pollutants which would degrade water quality.

The Board is not satisfied, on the basis of the submissions made in connection with the planning application and appeal, that effluent from the development can be satisfactorily treated and disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would therefore pose an unacceptable risk of environmental pollution and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development lies partly within Lough Sheelin SPA (Site Code 004065) and it has been identified by the Natura Impact Statement provided as part of the application that the proposed development, at both construction and operational stages, has the potential to impact on water quality within the SPA. Insufficient information has been provided regarding the proposed surface and foul water drainage systems and the proposed floating marina, to demonstrate that these aspects of the development will not affect water quality and/or site integrity of the SPA. Therefore, on the basis of the information provided with the application and appeal, and in light of the Stage 2 Appropriate Assessment undertaken, the Board cannot be satisfied that the development, individually, or in combination with other plans or projects, would not be likely to have a significant effect on Lough Sheelin SPA, in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission.

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

Barry O'Donnell
Planning Inspector

2nd August 2023.