



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315842-23

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<b>Development</b>	Erection of landside marquees and waterside inflatable installations at a multi-use facility. NIS submitted with planning application.
<b>Location</b>	Barrymore Townland, Hodson Bay, Kiltoom, Athlone, Co. Roscommon.
<b>Planning Authority</b>	Roscommon County Council
<b>Planning Authority Reg. Ref.</b>	2262
<b>Applicant(s)</b>	Athlone Baysports Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party versus decision.
<b>Appellant(s)</b>	Margaret Ducke.
<b>Observer(s)</b>	Athlone Anglers Association.
<b>Date of Site Inspection</b>	11 August 2023.
<b>Inspector</b>	Stephen Rhys Thomas.

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## 1.0 Site Location and Description

1.1. The site is located north of the Hodson Bay Hotel on the west bank of Lough Ree, north of Athlone town, in County Roscommon. The site comprises a large area on Lough Ree and includes permanent buildings and an area of temporary marquee structures along its bank. The water side part of the site comprises a large area of Lough Ree and includes inflatable platforms, slides, climbing walls and protective booms. The land side portion of the site accommodates a permanent water sports centre building and a toilet block on a large area of hardstanding. There are also marquee structures on this hardstanding and south of the sports centre building located on amenity grassland. In the wider area is the Hodson Bay Hotel Complex, a golf course and public harbour/marina and slipway.

## 2.0 Proposed Development

2.1. The applicant has applied for permission, for the following:

Part A, landside development comprising:

- 2 marquees for reception and wetsuit distribution
- 10 marquees for use as changing rooms, briefing area, observation area, café.
- 2 prefabricated office buildings
- Outdoor shower area
- Fence line

Part B waterside development comprising:

- Main waterpark area of inflatable platforms, slides and climbing walls – 35 metres by 40 metres.
- Inflatable junior waterpark area – 8 metres by 15 metres.
- 4 inflatable waterslides.
- 50 Inflatable safety booms (each 4 metres in length)
- All Inflatable elements are fixed to the lake bed by rope and anchor.

The facility will operate during daylight hours between 15 March and 15 October each year.

- 2.2. Further information was submitted and refers to NIS, traffic, parking, fence line and ownership, water services, proliferation of marquees, CEMP, anchors, reedbeds, flood risk and lighting. Some matters remained outstanding and Clarification of Further Information was requested with respect to the number of marquees and access, disposal of wash water and update to NIS, traffic assessment update, car parking.

The permitted development after all submissions results in the following:

1. 1 viewing marquee.
2. 6 changing marquees.
3. Reduced area for the reception marquee.
4. Alternate location for the viewing marquee (number 1).
5. Repositioned fence line.

The extent of the inflatable water based elements of the proposal remain the same, but matters about end of season cleaning and waste water are further clarified and subject to condition.

## 3.0 **Planning Authority Decision**

### 3.1. **Decision**

The planning authority issued a notification to grant permission subject to 12 conditions, most conditions are of a standard and technical nature, notable conditions include:

2. Permission is for a period of five years.
3. The operational period shall be as described in the NIS (dated 7 July 2022) and all equipment on land and water shall be removed at the end of each season.
4. Fencing shall be repositioned as shown on drawings dated 3 November 2022.

7. A detailed methodology regarding the disposal of wash water shall be agreed prior to the commencement of development.

8. All mitigation measures contained in the NIS shall be implemented.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

#### Report 1

- The development is visually acceptable, given the precedent of tourism /leisure use of the area. The removal of equipment at season end should be a condition of a grant of permission.
- Further information is required with respect to traffic and car parking.
- Lough Ree is an SAC and SPA, impacts to the sites must be considered. The NIS needs additional information.
- Public access to the headland is important and the erection of marquees is problematic.
- Further information requested in accordance with the Planner's recommendation.

#### Report 2

- NIS, wintering bird survey acceptable, absence of Otter noted.
- Clarification of further information is required with respect to traffic and car parking.
- Public access to the headland is important and the erection of marquees is problematic, the rationale provided is not acceptable, clarification of information required.
- Clarification of further information requested in accordance with the Planner's recommendation.

#### Report 3

- The principle of the type and form of development has been established on site. However, information received during the course of the planning process

has resulted in a reduction to the landside development with the omission of 2 viewing marquees, 3 changing marquees and a reduction in the size of the reception marquee and set back from the shore of the viewing marquee.

- The block to access to the headland has been removed, the location of the fence line has been amended.
- The NIS is complete and demonstrates no significant impacts to designated sites.
- A temporary permission should be granted.

### 3.2.2. Other Technical Reports

Environment Department – After receipt of FI, no objections.

### 3.3. Prescribed Bodies

DAU (NPWS) – issues raised with respect to the NIS. Fauna surveys required.

Inland Fisheries Ireland – issues regarding impact to watercourse, biodiversity and fish.

An Taisce – NIS, operating hours and water discharge issues.

Failte Ireland – supportive of the application.

Waterways Ireland – site development works require clarification.

### 3.4. Third Party Observations

3.4.1. 18 submissions were initially received, issues raised in the submissions are similar to those in the grounds of appeal. In summary, third parties are against the development for reasons of impacts to amenity, biodiversity, local population, car parking, safety, fishing and swimming. Criticism is levelled at the NIS.

3.4.2. A further 2 submissions were received after Clarification of Further Information, rights of way are challenged, an EIAR should be submitted, impact upon ecology challenged and traffic remains a problem.

## 4.0 Planning History

### 4.1. Site

PA ref 13346 – Permission granted for temporary inflatable floating play area, 2 trampolines, water slides, platforms, logs, booms and climbing frame.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Roscommon County Development Plan 2022-2028 has been in effect since the 19<sup>th</sup> April 2022. The plan states that it is set within the framework of Project Ireland 2040: National Planning Framework (NPF) at national level, and at regional level by the Regional Spatial and Economic Strategy (RSES) (2020) for the Northern and Western Regional Assembly area. Additionally, it has been prepared to accord with Ministerial Guidelines as issued under Section 28 of the Planning and Development Act 2000 (as amended).

Relevant sections of the plan that refer to the subject site include:

Hodson Bay/Barrymore Area Plan

Policy Objectives HB 1 to 10 inclusive, are all relevant.

The site is located within a Leisure, Tourism and Recreation Area and a Green Belt Area, with reference to Green Belt the development states that:

- The Council will seek to conserve the nature conservation value of the Lough Ree proposed Natural Heritage Area (NHA) and Special Area of Conservation (SAC) as well as other environmentally sensitive areas.
- Any proposed development which is in proximity to Lough Ree must have minimal effect on the natural environment and may need Appropriate Assessments in terms of the Habitats Directive to demonstrate that they will not adversely affect the integrity of the Natura 2000 sites in the area i.e. Lough Ree SPA/SAC, either alone or in combination with other projects and plans.

- The Council recognises the importance of the Shannon as an environmental and tourism resource of national significance and the importance of the waterway and the Callows as habitats for a rich variety of flora and fauna. Development proposals in close proximity to the River Shannon must therefore be in accordance with the appropriate sustainable development of the area.
- Green belt zoning is generally applied to specific zones to protect the setting, character and environmental quality of these areas of high natural beauty and safeguard their environmental, archaeological and ecological amenities.

Table 11.2: Public Rights of Way - Access to Lough Ree at Hodson Bay.

Section 6.7 Tourism

Chapter 10 Natural Heritage

Section 12.18 Tourism and Recreational Facilities

## 5.2. Natural Heritage Designations

- 5.2.1. The site is located within the Lough Ree SAC (site code 000440) and the Lough Ree SPA (site code 004064). The applicant submitted an AA Screening Report and NIS with the application.

## 5.3. EIA Screening

- 5.3.1. The project is not of a type included in Schedule 5 Part 1 or Part 2 of the Planning and Development Regulations 2001 (as amended). Furthermore, it does not meet any of the criteria set out in Schedule 7 of the Regulations for determining whether a sub-threshold development would be likely to have significant effects on the environment, with regard to the characteristics of the works, its location and the characteristics of potential impacts. I note observations that call for the need of an EIAR, but having regard to the nature and scale of the proposed development, which would comprise the erection of marquees, inflatables on the water and showering facilities along with associated and ancillary works all for a temporary period of five years, and the characteristics of the receiving environment which is not densely developed, albeit proximate to areas covered by sensitive ecological and heritage



designations, I am satisfied that the proposed works would not have any significant adverse effects on population and human health, biodiversity, land, soil or water, air and climate, material assets, cultural heritage or the landscape, and 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. A single third party appeal has been lodged with the Board, the grounds of appeal can be summarised as follows:

- Goose Island is important from an archaeological and nature perspective. The proposed development will negatively impact the archaeology on the island and under the water. The plants, animals and insects of the island will also be affected.
- The reed beds in the area will be adversely impacted upon. The reeds support biodiversity and if impacted upon will have knock affects for aquatic life, birds and mammals.
- The amenity area should not be extended into by the development as proposed.
- There is not the necessary infrastructure to support the development in terms of roads and car parking. The erection of a fence was done without permission. The single lane road that serves the entire area is under strain.

### **6.2. Applicant Response**

6.2.1. The applicant has prepared a response to the grounds of appeal, summarised as follows:

- No development is planned on or in the vicinity of Goose Island. No submissions have been received from the DAU concerning archaeology. No reeds will be removed from Goose Island. If archaeological remains are observed during construction the relevant course of action will follow.

- With reference to the reed beds and natural heritage, the development has been in operation since 1989 and expanded by permission in 2013. Given that a wide variety of wildlife has been observed in the area, it is proof that the development has no adverse impacts.
- No right of way exists across the site and access to the lakeshore will be maintained unhindered.
- Enforcement matters can be dealt with in their own right and car parking is available to all users of public and private amenity.
- There is no requirement for an EIS.

### 6.3. Planning Authority Response

None.

### 6.4. Observations

The Athlone Anglers Association have lodged an observation, that can be summarised as follows:

- The area is an SAC and SPA, the proposed development will result in the loss of amenity.
- Access to the water will be restricted due to permanent anchorages and trailing ropes.
- The reed bed area is an important habitat for a declining population of Mayfly.
- The NIS is deficient and fails to properly take account of bird, otter, flora, invasive species or appropriate habitat surveys.

The observation includes a report by Dr. Willaim O'Connor (Ecofact Environmental Consultants) that reviews the NIS submitted with the application. The report is critical of the lack of formal otter, bird, flora and invasive species surveys. A single survey was carried out at the wrong time of year. No aquatic or charophyte surveys were undertaken. Carrying out surveys after permission has been granted as advanced by the NIS is not appropriate. Noise impacts have not been properly assessed. Discharges to Lough Ree from inflatable washing has not been considered. The

existing site was not subject to Appropriate Assessment and there are methodological errors in the current NIS.

## 7.0 Assessment

### 7.1. Introduction

7.1.1. Planning permission was granted in December 2013 for a temporary inflatable play area with a variety of water based activities (slides, trampolines and booms), PA ref 13/346 refers. The planning application was subject to Appropriate Assessment Screening, and it was concluded that an NIS was not required. Water based sports have operated at this location since 1989 and the inflatables element has operated since permitted in 2013. The current proposal seeks to extend the water based element of the scheme and also provide additional land based facilities.

7.1.2. The main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Natural Heritage
- Archaeological Heritage
- Amenity Space
- Roads, Traffic and Car Parking
- Other Matters
- Appropriate Assessment

### 7.2. Natural Heritage

7.2.1. The appellant has raised concerns about how the proposed development will impact natural heritage associated with the area in general and the impact upon Goose Island and the reed beds in particular. The main concern is that the increase in water based inflatables and activity will negatively impact on aquatic life, birds and mammals. In addition, I note that an observation has been made by a local anglers association that is concerned about the same issues raised by the appellant and in particular they have concerns about the impact upon the declining mayfly population. The applicant points out that water based activities have been taking place at this location since 1989 and since 2013 inflatable water based activities commenced. According to the applicant, they have engaged with the planning authority to ensure

the current application includes all the necessary information to ensure the protection of the environment.

- 7.2.2. Leisure activities have been taking place at Hodson Bay for a long period of time and this is evidenced by the growth of the hotel, a golf course, the provision of public parking spaces, a large enclosed harbour/marina and all of the activities associated with Baysports the applicant. Other social and non-commercial activities such as walking, swimming and fishing have all been taking place at this location and this is recognised by the facilities already in place and the objectives outlined in the development plan for the controlled and careful growth of the Hodson Bay/Barrymore Area. However, the proposed development will increase the amount of land and water based infrastructure and consequently the intensity of activity at this location will inevitably increase. It is this increase that concerns the appellant and observer and in their view the consequences for the natural heritage of the area will not be positive.
- 7.2.3. The applicant prepared a Natura Impact Assessment (NIS), this document was refined by the submission of further information during the planning application process. I deal in detail with Appropriate Assessment issues in section 7.7 below. However, with reference the natural heritage issues in general, I note that submissions were made by the NPWS (nature conservation), Inland Fisheries Ireland and An Taisce and their content has been taken into account by the planning authority in their considerations of the planning application.
- 7.2.4. Land based development – initially, the proposed development was to increase the amount of land based facilities with the provision of 18 marquees (reception, changing rooms, café etc). However, the planning authority were concerned about the visual impact of so many structures and through a process of further information and clarification of further information, the number of marquees has reduced to 14, drawing 21.191.010.PL1 and received by the planning authority 3<sup>rd</sup> November 2022 refers. There are a number of marquees already on site and the applicant in their clarification of further information submission of October 2022 states a reduction of 5 marquees and 603 sqm. Those marquees proposed on the hardstanding areas around the existing water sports building and toilet block remain in the finalised proposal. The principal difference to take place is the removal of two large viewing marquees from the water's edge and three changing room marquees from the

terrace adjacent to the existing hardstanding area. All of these changes took place in the interests of visual amenity and in that respect the reduction and the temporary nature of their construction is acceptable.

- 7.2.5. In terms of natural heritage and the impact of the land based facilities on the ecology of the area, the NIS assessment deals with these issues and recommends a number of mitigation measures designed to protect designated sites. I note that the land based activities fall outside the boundaries of the SAC and SPA, but are directly connected to both designated sites as they occupy the river/lake bank.
- 7.2.6. I am satisfied that the reduction in the extent of land based infrastructure is sufficient to ensure a minimal impact upon the natural heritage of the area. In addition, I note the concerns raised by the DAU with respect to nature conservation and Inland Fisheries Ireland and I am satisfied that these can be addressed by condition. Specifically, I note conditions 7 and 8 of the notification to grant permission and the requirement to an agreed methodology for the collection and disposal of wash water and to implement all mitigation measures outlined in the NIS.
- 7.2.7. Water based development – At present, there a number of water based inflatables on site and they are removed at the end of the season. The proposal is to increase the number of inflatables and protective booms, and this element of the proposed development was not altered during the initial planning process. The inflatables are held in place by ropes attached to concrete anchors and Inland Waterways Ireland are satisfied with this methodology. The appellant and observer, however, are concerned that the additional structures on the water, the increase in number of patrons and additional storage will all impact on Goose Island and the riparian habitat, such as reed beds and mayfly breeding areas.
- 7.2.8. I have considered matters as they relate to natural heritage in greater detail in the Appropriate Assessment of my report, section 7.7 refers. The applicant explains that no actual works will take place on Goose Island and the storage of inflatables will take place off site. The applicant's contention is that a proportion of inflatables and patrons have used the area for water based activities for a number of years now and no impacts have resulted to the ecology of the area. As noted by the DAU and required by further information, wintering and breeding bird surveys were carried out and consequently the NIS was revised and updated.

7.2.9. The information on file with respect to natural heritage logically focuses on the findings and conclusions reached by the NIS. In this respect, the NIS has been improved and is more robust as a result of the involvement of the observations on the planning application from third parties, statutory bodies and the planning authority. The NIS recommends mitigation measures to ensure no impacts occur to any species or habitat that are qualifying interests (QIs) of designated sites. The measures highlight the use of floating booms to protect reed beds, a May to October operating window and an inspection of the area for nesting birds and referral to a Project Ecologist if necessary. In addition, to ensure biosecurity, the inflatables will be washed down at the end of the season without the use of chemicals and an invasive species watch will take place. Based on the foregoing and given the measures outlined in the NIS and the scale of development proposed, I am satisfied that the natural heritage of the area will be adequately protected.

### **7.3. Archaeological Heritage**

7.3.1. The appellant is concerned that the proposed development will impact the archaeological heritage of the area. In their view, no consideration was given to the archaeological significance of the sites in and around the proposed development, on Goose Island and Hodson's Pillar. In addition, no examination of underwater archaeology was undertaken and the negative impact of works on Goose Island are feared. The applicant points out that no works are going to take place on Goose Island and no works will occur to disturb any archaeological remains if they are present. If, during the course of the works that are proposed archaeological remains turn up then the appropriate action will be taken.

7.3.2. The appellant is correct that no Archaeological Impact Assessment was carried out as a part of the planning application, despite the proximity of mapped features and the overall area of the proposed development. I note that the application documentation was referred to the DAU, and the response received was with reference to nature conservation rather than archaeology.

7.3.3. As for the requirement to carry out an archaeological appraisal of the site, I am satisfied that the matter can be resolved by condition. The locations of the archaeological features (causeway, island and pillar) are away from where works are proposed. In addition, no ground disturbance is proposed in order to implement the

development applied for and other than the submersion of precast concrete anchors no other disturbance should take place. Notwithstanding the low level of the potential for disturbance to archaeological features, I am satisfied that a condition be attached to monitor and investigate should any features be experienced on site.

#### **7.4. Amenity Space**

- 7.4.1. Access to the lakeshore is readily available at various locations in this area of Lough Ree. The appellant is concerned that the proposed development effectively privatises public open space and that would be a negative impact upon the amenity of the area. The applicant reiterates the longstanding organised leisure activities that have taken place at this location over the years. The applicant highlights that as a commercial enterprise they have a duty of care to their clients, but the applicant accepts that access to the lakeshore is desirable despite the lack of an actual right of way. The planning authority fully considered access to the amenity area around the lakeshore at this location and required a condition to ensure a repositioned fence line in accordance with further information submitted and the omission of a number of marquees. All of these factors contribute to the open character of the area at present and as proposed.
- 7.4.2. On the day of my site visit I observed that access in and around the Baysports facility was open and I was able to walk the area unhindered. I accessed the slipway and pontoon without challenge. In addition, I walked freely to the swimming beach referred to by the appellant without encountering any obstacles. I acknowledge that it is proposed to erect a fence around the perimeter of the lands devoted to Baysports activities. During operational hours access will be permitted, there are other commercial enterprises within the site, such as a coffee wagon and the public toilets associated with the water sports building. The lakeshore area from the public marina, northwards to private houses along from Baysports remains open without barrier and crucially access to the swimming area remains unaffected by this proposal. On the waterside, I note that a drift prevention boom includes a 1.2 metre gap for swimmer access and the boom extends east of Goose Island, this is acceptable.
- 7.4.3. Given the foregoing, I am satisfied that access to the lakeshore and Lough Ree beyond is not significantly impacted upon by the development as amended by further information and clarification of further information. The public amenity enjoyed at this



lakeshore location will remain largely unaffected by the development and access to and enjoyment of Lough Ree will be largely unaltered as a result.

## **7.5. Roads, Traffic and Car Parking**

- 7.5.1. The appeal site is located adjacent to the Hodson Bay Hotel, Athlone Golf Club and a public marina/harbour/slipway. There is car parking associated with all of these sites, most are public without a fee and some, such as the golf course are restricted to members and visitors of the course and clubhouse. All of these facilities are served by a single road (L2020) that forms a junction with the N61. The road also serves a number of detached houses and includes a railway crossing. A public footpath runs the length of the access road. The road is wide for the most part and only narrows as it meets the edge of the golf course and winds gently down to the lakeshore and hotel.
- 7.5.2. The appellant is concerned that the access road is not up to standard and that the provision of car parking is inadequate at present and will not be enough to accommodate any more growth in facilities. The applicant disagrees and states that access and car parking have never been a problem and that the Council have plans to increase parking in the area.
- 7.5.3. The applicant submitted a Traffic Impact Assessment (TIA) with the application and this document was updated to take account of further information regarding peak season visits after completion of development, and an examination of the availability of car parking spaces. The planning authority accept the findings of the updated TIA and permission was granted.
- 7.5.4. The TIA states that traffic surveys were undertaken on the 15<sup>th</sup> October 2021, the appellant is critical and a more appropriate period for a survey would have been during peak season. However, the applicant has clarified that the Traffic and Traffic Guidelines (published 2014) advise that the appropriate time to carry out traffic surveys is during neutral periods. In this instance neither at the time of peak use or at a time when very few users are expected. In that context, I am satisfied that the traffic data presented by the applicant in the TIA is robust and representative of the current traffic situation. In terms of modelling the future traffic scenario I can see that PICARDY10 data was used and that relevant junctions operate within capacity, further information received 7<sup>th</sup> July 2022 refers. In terms of car parking, the TIA

states a total of 287 public car parking spaces and a lists out the variety of ways to access the site; walking, cycling, private vehicle, bus and water bus. It is acknowledged that Baysports does not have access to allocated car parking spaces by the TIA, no restriction is placed upon their use. The TIA emphatically states that no further car parking is necessary in the area, given the extent of existing spaces.

- 7.5.5. From my own observations during the height of the peak season, afternoon of the 11<sup>th</sup> August, I experienced no traffic disruption and a wide availability of car parking spaces. During my visit I observed two sperate parties of patrons utilise the Baysports facility, there were a number of free car parking spaces available in the immediate vicinity and the car parking area adjacent to the public swimming area was sparsely populated. I acknowledge that my observations are constrained to a single afternoon. However, given the documentation on file, the lack of any significant traffic or car parking issues at present, the variety of methods to access the site and the limited sale of expansion, I am satisfied that traffic and car parking will not be adversely affected. It would, however, be appropriate to require the preparation of a mobility management plan, to ensure that employees and patrons avail of the most efficient and sustainable means of accessing and visiting the site.

## **7.6. Other Matters**

- 7.6.1. The appellant has raised an issue about a lease and that an Environmental Impact Statement was not prepared. In relation to matters that concern the lease of property, this is outside the remit of a planning application or appeal. The applicant has stated in the application form that they are the occupier of the site and it is leased from Roscommon County Council. No documentation on file indicates that the applicant does not have consent to make a planning application.
- 7.6.2. In relation to the requirement for Environmental Impact Assessment, I have already stated in section 5.3 of my report that an EIAR would not be required given the character and scale of the development proposed. I am satisfied that matters to do with the environment in general and designated sites in particular are best resolved under the considerations I have undertaken in section 7.7 of my report entitled Appropriate Assessment.

## **7.7. Appropriate Assessment**

- 7.7.1. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.
- 7.7.2. The application was accompanied by a Natura Impact Statement (NIS) which contained a Stage 1 Appropriate Assessment Screening report and a Stage 2 Appropriate Assessment report. The reports scientifically examined the proposed works and their relationship with European sites in the surrounding area and they were informed by desk top studies and a site survey. A revised NIS was prepared to include a Wintering and Breeding Bird Assessment and to address the issues raised by the planning authority and the NPWS.
- 7.7.3. The AA Screening report identified 13 European sites located within a Zone of Influence (15km radius) of the proposed works, it examined connectivity and characterised the possible effects of the proposed development on these sites. It concluded that significant effects could not be ruled out for 2 of the sites (Lough Ree SAC and SPA) and that the preparation of a Stage 2 Appropriate Assessment report was required. It concluded that the works would not have a significant effect on any other European site due to the small scale of the works, the characteristics and/or upstream location of the European sites, and the extent of the separation distances involved.
- 7.7.4. The Stage 2 Appropriate Assessment report described the receiving environment and the proposed development. It described the Lough Ree SAC and SPA, listed habitats and species for each site and described the nature of the connection between the proposed works and the European site. It characterised the potential effects on the European site including in-combination effects in view of the site's Conservation Objectives. The identified effects related to surface water pollution, discharges resulting in loss/change to habitats and disturbance to commuting/foraging territory. The Stage 2 Appropriate Assessment formally concluded that provided the proposed mitigation measures are fully and adequately

implemented, there would be no significant direct, indirect or cumulative impacts on the integrity of the Lough Ree SAC and SPA or any other European site.

- 7.7.5. Having reviewed the NIS report and supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge, and details of mitigation measures are provided. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development. The proposed development, that comprises the erection of marquees, shower block, inflatable platforms adjacent and within the Lough Ree SAC and SPA, is not directly connected with or necessary to the management of this or any other European sites in the surrounding area.
- 7.7.6. Stage 1 Screening Assessment:
- 7.7.7. The project site is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites. I have had regard to the NIS and Screening Report submitted to the planning authority on the 7<sup>th</sup> July 2022.
- 7.7.8. Brief Description of the Development - The applicant provides a description of the project in the Screening Report (section 3.4.2). The development is also summarised in Section 2 of my report. In summary, the development relates to the erection of temporary marquees and a shower block adjacent to the existing water sports centre and the provision of additional inflatables on Lough Ree. The site is serviced by public water and drainage networks. Foul effluent will drain via the public wastewater network to the Local Authority WWTP. The mix of habitats on site includes: natural eutrophic lakes, amenity grassland, buildings and artificial surfaces, reed and large sedge swamp and riparian woodland.
- 7.7.9. Submissions and Observations - The submissions and observations from the Local Authority, any Prescribed Bodies, and third parties are summarised in sections 3 and 6 of this Report. The Development Applications Unit of the NPWS with responsibility

for nature conservation raised issues about the completeness of the NIS and consequently an updated NIS was prepared. Third parties raise issues with respect to the lack of survey data and the negative impact that the proposed development will have on the ecology of Lough Ree. One observer submitted a technical report prepared by Dr William O'Connor (Ecofact Environmental Consultants), that is critical of the NIS. I am satisfied that the AA Screening Report is suitably detailed and takes account of all relevant factors.

- 7.7.10. Zone of Influence- - A summary of European Sites that occur within the vicinity of the proposed development is presented in the applicant's AA Screening Report, table 4.1 refers. In terms of the zone of influence, I note that the site is partially within and immediately adjacent to two Natura 2000 sites. The nearest European sites are Lough Ree SAC (Site code 000440) and Lough Ree SPA (Site code 004016). Other sites within a 15 kilometre radius include: River Shannon Callows SAC, Crosswood Bog SAC, Carn Park Bog SAC, Lough Funshinagh SAC, Ballynamona Bog and Corkip Lough SAC, Castlesampson Eskar SAC, Lough Croan Turlogh SAC, Killeglan Grassland SAC, Pilgrims Road Eskar SAC, Lough Croan Turloughs SPA and Middle Shannon Callows SPA.
- 7.7.11. Section 3.6 of the applicant's screening report identifies the installation procedures, duration and timing of operations and yearly decommissioning. Section 4 of the screening report discounts all sites other than Lough Ree SAC and SPA on account of the intervening lands and lack of a pathway. Despite the hydrological connection to the Shannon Callows, these sites are discounted because of the intervening distance and the presence of Athlone town between sites.
- 7.7.12. The site lies within and adjacent to designated sites associated with Lough Ree, on this basis these sites are subject to a more detailed Screening Assessment. I am satisfied that the potential for impacts on all other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways.
- 7.7.13. The Conservation Objectives (CO) and Qualifying Interests of sites at Lough Ree SAC and SPA are as follows:

Lough Ree SAC (000440).

Conservation Objective (CO) - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest:

Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150]

Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (\* important orchid sites) [6210]

Active raised bogs [7110]

Degraded raised bogs still capable of natural regeneration [7120]

Alkaline fens [7230]

Limestone pavements [8240]

Bog woodland [91D0]

Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, Alnion incanae, Salicion albae) [91E0]

*Lutra lutra* (Otter) [1355]

Lough Ree SPA (004064).

Conservation Objective (CO) - To maintain or restore the favourable conservation condition of the wetland habitat at Lough Ree SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

Qualifying Interests/Species of Conservation Interest:

Little Grebe (*Tachybaptus ruficollis*) [A004]

Whooper Swan (*Cygnus cygnus*) [A038]

Wigeon (*Anas penelope*) [A050]

Teal (*Anas crecca*) [A052]

Mallard (*Anas platyrhynchos*) [A053]

Shoveler (*Anas clypeata*) [A056]

Tufted Duck (*Aythya fuligula*) [A061]

Common Scoter (*Melanitta nigra*) [A065]

Goldeneye (*Bucephala clangula*) [A067]

Coot (*Fulica atra*) [A125]

Golden Plover (*Pluvialis apricaria*) [A140]

Lapwing (*Vanellus vanellus*) [A142]

Common Tern (*Sterna hirundo*) [A193]

Wetland and Waterbirds [A999]

7.7.37. Screening Conclusion - Based on my examination of the NIS report and supporting information (incl. the desktop studies & field surveys), NPWS website, aerial and satellite imagery, the scale of the proposed works and nature of the likely effects, the substantial separation distance and functional relationship between the proposed works and the European sites and their conservation objectives, the site specific characteristics and requirements, and the absence of an aquatic connection or suitable foraging habitat, taken in conjunction with my assessment of the subject site and surrounding area, I conclude that a Stage 2 Appropriate Assessment is required for 2 of the European sites referred to above which I consider to be within the Zone of Influence by reason of aquatic and/or mobile connections (Lough Ree SAC and SPA).

7.7.38. In coming to this conclusion, I am satisfied that the River Shannon Callows SAC and Middle Shannon Callows SPA can be screened out from any further assessment, notwithstanding the aquatic connection, having regard to the small scale of the proposed works, the nature of the QI habitats and species upstream and downstream of the site, and the separation distances between the proposed development and these European sites.

7.7.39. **Stage 2 Appropriate assessment:** Lough Ree SAC and Lough Ree SPA

- 7.7.40. Both these European sites overlap and the appeal site is located within and adjacent to Lough Ree and consequently lies within the Zone of Influence of the proposed works as it has a direct aquatic and/or mobile connection to the site of the proposed works.
- 7.7.41. European site description: Lough Ree is the third largest lake in Ireland and is situated in an ice-deepened depression in Carboniferous limestone on the River Shannon system between Lanesborough and Athlone. The site spans Counties Longford, Roscommon and Westmeath. Some of its features (including the islands) are based on glacial drift. It has a very long, indented shoreline and hence has many sheltered bays. Although the main habitat, by area, is the lake itself, interesting shoreline, terrestrial and semi-aquatic habitats also occur.
- 7.7.42. Beds of Common Reed (*Phragmites australis*) are an extensive habitat in a number of the more sheltered places around the lake; monodominant stands of Common Clubrush (*Scirpus lacustris*), Slender Sedge (*Carex lasiocarpa*) and Saw Sedge (*Cladium mariscus*) also occur as swamps in suitable places. Some of these grade into species rich calcareous fen or freshwater marsh. Lowland wet grassland, some of which floods in winter, occurs frequently around the shore. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Whooper Swan, Wigeon, Teal, Mallard, Shoveler, Tufted Duck, Common Scoter, Goldeneye, Little Grebe, Coot, Golden Plover, Lapwing and Common Tern. The E.U. Birds Directive pays particular attention to wetlands and, as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds
- 7.7.43. Conservation Objectives: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:  
Attributes & targets: None specified.
- 7.7.44. Potential direct effects: The proposed development could result in a loss of or disturbance to habitats and species during installation and the operational phase. The potential impairment of water quality could result. Section 7.0 of the NIS states that there will not be any direct loss of habitats for which Lough Ree SAC is designated. The inflation of inflatables takes place on shore at the slipway and they are then towed out to their respective positions. The inflatables are attached to



anchors and cannot drift to nearby reedbeds. Safety booms further assist the protection against drift and the incursion of swimmers and boats to reedbeds. At the end of the season inflatables are packed away and stored off site. The erection of marquees on the amenity grassland will not impact Lough Ree SAC. Noise surveys carried out by AONA Environmental Consulting Limited have determined that the operation of the facility would not create a significant noise impact for nesting / bird sites. In addition, the area is already the subject of anthropomorphic disturbance given the proximity of the Hodson Bay Hotel, Hodson Bay Harbour, public swimming areas and car parking facilities. Reed beds will be protected during the operational phase and so favourable nesting and feeding areas for birds remains undisturbed. No evidence of Otter.

7.7.45. Mitigation measures: The Stage 2 Appropriate Assessment report contains a comprehensive list of mitigation measures which would serve to protect the SAC and SPA and its SCI habitat/species from adverse effects, and these include:

- Safety Booms to protect reedbed areas and prevent any anthropomorphic disturbance.
- Restriction in the operating period of between the first week in May and the first week in October, then all structures are removed.
- Prior to the placement of inflatables, a nesting bird check will be undertaken on the shoreline and reedbeds, if required the project Ecological Clerks of Works will be consulted.
- Biosecurity – complete hot water cleaning off of all infrastructure without the use of chemicals at the end and beginning of the season.
- Section 7.3 deals with the potential for the impairment of water quality that will be minimised and mitigation measures based on Inland Fisheries Ireland are recommended.
- During the operational phase, detergent free showering will take place and the waste water collected to the municipal treatment system.

7.7.46. Potential in-combination effects are limited, no other projects have been detected in the vicinity and in any case they would also be subjected to AA. The designated site is large and given the minor scale of the proposed development, no in-combination

effects are envisaged. Having regard to the implementation of the aforementioned mitigation measures and suggested conditions (see below) I am satisfied that there would be no adverse cumulative effects on the European site or its SCI species.

7.7.47. Residual effects: None anticipated post mitigation.

7.7.48. NIS Omissions: None noted, the entire NIS was updated by the requirement to subject further information as advised by the NPWS, specifically fauna surveys.

7.7.49. Suggested conditions: All works should take place outside the bird breeding season. A Project Ecologist should be appointed to oversee the works. All plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens. I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of this European site in light of its Conservation Objectives, subject to the implementation of mitigation measures outlined above.

7.7.50. Appropriate Assessment Conclusions: - Having regard to the foregoing I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the European site no. Lough Ree SAC (000440) and Lough Ree SPA (004064) or any other European site, in view of the site's Conservation Objectives.

## **8.0 Recommendation**

8.1. Having regard to the above assessment, and based on the following reasons and considerations, it is recommended that permission be granted subject to conditions.

## **9.0 Reasons and Considerations**

Having regard to the policies and objectives of the Roscommon County Development Plan 2022-2028 and the location of the site on lands zoned Leisure, Tourism and Recreation Area and Green Belt Area, in the Hodson Bay/Barrymore Area Plan contained in Volume II of the statutory plan, to the design, scale and

temporary nature of the proposed development, and to the pattern and character of development in the vicinity, it is considered that the proposed development would not seriously injure the visual amenities of the area, would be acceptable in terms of traffic safety and convenience, would not endanger public health, would not have significant negative effects on the environment or the community in the vicinity, and would not give rise to a risk of pollution. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area and it would not give rise to likely effects on the environment.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 7<sup>th</sup> day of July 2022 and the 3<sup>rd</sup> day of November 2022 and by the further particulars received by An Bord Pleanála on the 16<sup>th</sup> day of March 2023, 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.

Reason: In the interest of clarity.

2. This permission shall be for a period of 5 years from the date of this order. The facilities hereby permitted shall then be removed unless, prior to the end of the period, permission for their retention shall have been obtained.

Reason: To allow for a review of the development having regard to the circumstances then pertaining and in the interest of visual amenity.

3. The developer shall ensure that all mitigation measures set out in the Natura Impact Statement received by the planning authority on the 7<sup>th</sup> day of July 2022 and

supporting documentation submitted with the application, shall be implemented in full, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

4. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natural Impact Statement (NIS) report, and demonstration of proposals to adhere to best practice and protocols.

Reason: In the interest of protecting the European Sites and biodiversity.

5. The following nature conservation requirements shall be complied with:

(a) The works shall be carried out in compliance with the Inland Fisheries Ireland document "Guidelines on protection of fisheries during construction works in and adjacent to waters."

(b) No vegetation removal shall take place during the period 1st March to 31st August (inclusive).

Reason: In the interest of biodiversity and nature conservation.

6. Details of all external signage shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. Water supply and drainage arrangements for the site, including the collection and disposal of wash water from the inflatables, shall comply with the requirements of the planning authority for such works and services. A detailed method statement that details all aspects of wash operations shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of environmental protection and public health.

8. The developer shall enter into water and wastewater connection agreements with Uisce Éireann prior to the commencement of development.

Reason: In the interest of public health.

9. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the Baysports management company for the facility hereby permitted. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

10. 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 -

- (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,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) 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.

Reason: 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.

11. 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 the 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.

Reason: 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.

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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Stephen Rhys Thomas  
Senior Planning Inspector

7 September 2023