



An
Bord
Pleanála

Inspector's Report

ABP-317951-23

Development	Construction and continuous operation of an agricultural biogas renewable energy facility.
Location	Lislackagh & Carrowbaun, Swinford, Co. Mayo.
Planning Authority	Mayo County Council.
Planning Authority Reg. Ref.	23338.
Applicant(s)	Moy Valley Biogas Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party versus decision.
Appellant(s)	Moy Valley Biogas Ltd.
Observer(s)	<ol style="list-style-type: none">1. Andrea Cully O'Donnell2. Stephen Clarke3. Sean O'Connor4. Jo Killalea and Moira Philbin (Swinford Biogas Concern Group)5. Seamus Reddington

6. Kieran Reddington
7. Bridie Reddington
8. Deborah Canvey (Meelick Board of Management)
9. Mike Kelly, Andrea Cully, Martin Quinn, Deborah Bourke (Scoil Muire agus Treasa National School Parents Association)
10. Mark Glennon and Siobhan Kenny
11. Valerie and Brendan Forkan
12. F P Logue
13. Moira Philbin
14. Breda McHugh
15. Mary Barrett and Michael Kilgallon

Date of Site Inspection

13 and 14 September 2024.

Inspector

Stephen Rhys Thomas.

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1.0 Site Location and Description

- 1.1. The 4 Hectare site is located in a rural area of east county Mayo, 2.5 kilometres south west of Swinford. The site is to be accessed at its northern end from a single track country road (L13117) and then onwards to the L5380. The national primary route (N5) is located a short distance to the south of the site.
- 1.2. The site is low quality farm land, covered with rushes, some outcropping rocks, and with an undulating surface. The roadside boundary comprises mature hedging and the site interior contains no significant stands of trees. The Spaddagh River is located 100 metres east of the site at its closest point, and flows onwards as a tributary of the River Moy. The wider area is sparsely populated, but there are residences along the N5 to the south and L5380 to the west.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of an anaerobic digester based agricultural biogas energy facility on a 4 Hectare site, the detail can be summarised as follows:
 - 2 primary digester tanks, comprising a reinforced concrete tank with a double membrane roof cover, diameter of 26 metres and total height of 9 metres above ground level, usable volume of 3,160m³
 - 2 post digester (secondary) tanks with pump room, comprising a reinforced concrete tank with a double membrane roof cover, diameter of 26 metres and total height of 9 metres above ground level, usable volume of 4,300m³
 - Pasteurisation unit within a transport container set on concrete stands 39 metres in length and total height of 3.2 metres with 3 auxiliary tanks set on steel frames and 7 metres in height.
 - Emergency flare 6.5 metres in height and held in place with cable stays, with security fencing.
 - 2 agricultural solid feeders with associated concrete bases, positioned adjacent to the 2 primary digester tanks

- 2 underground pre-reception tanks, positioned adjacent to the 2 primary digester tanks and agricultural solid feeders
- 2 covered agricultural digestate storage tanks, 36 metres in diameter and 10 metres in total height, with an underground reception tank. The usable volume of each covered agricultural digestate storage tank is 7,600m³, total storage capacity of 15,200m³.
- Gas combined heat and power unit with concrete base comprising a containerized combined heat and power unit for use powering and heating the facility
- Site office/control building 324 sqm, 8.5 metres in height, car parking for 6 cars and wastewater treatment system located along the eastern boundary of the site.
- Biogas upgrading treatment and compression system
- Electric transformer and substation with fencing
- Agricultural feedstock storage clamp building (clamp 1-4), 12.4 metres in height and floor area of 4,636 sqm
- Nutrient recovery system building 11.5 metres in height and floor area of 970.5 sqm with ancillary tanks and equipment located internally, separated into nutrient recovery system room and a solid separator room.
- Four Ammonia Sulphate Solution (ASS) storage tanks, double bunded positioned on a concrete base, 2.6 metres in height.
- Digestate drying and pelletising building, 734 sqm and 7 metres in height
- Pellet storage building, 525 sqm and 9.8 metres in height
- A weighbridge
- New vehicular access point at the northern portion of the site.
- Site lighting and security cameras
- Surface water drainage system and storage pond with discharge system, sampling chamber and discharge to adjacent stream within landholding

- Site boundary to comprise earthen bunded areas, landscaping and 2.3 metre high security boundary fencing.
- Included within the site boundary are access laneways, set down areas, machinery storage and washdown areas, electrical transformer unit, collection tanks, a linked pump room building between primary and post digester tanks, rainwater collection tank.

2.2. Using values (approximate) from table 3.4 of the Environmental Report, the biogas plant will import:

Grass silage – 40,000 tonnes

Farm yard manure – 4,000 tonnes

Cattle Slurry – 4,000 tonnes

The plant will produce:

- gas output to gas grid – 840 Nm³/hr
- dry matter bagged (1 tonne bags) and used as fertilizer
- Ammonia Sulphate Solution (ASS) to storage tanks and removed from site

2.3. According to drawing number PL-04, input potential is as follows:

Grass silage - 10,500 tonnes

Maize silage – 4,000 tonnes

Beet – 8, 000 tonnes

Farm yard manure – 8,000 tonnes

Cattle slurry – 10,000 tonnes

Pig slurry – 1,500 tonnes

Brewery grain – 4,000 tonnes

2.4. The application was accompanied by the following documents:

- Preliminary Construction Environmental Management Plan (CEMP)
- Site Assessment Report (wastewater treatment system)

- Natura Impact Statement (includes an Appropriate Assessment Screening Report)
- CoMAH Inventory – Moyvalley Biogas, Swinford, Co Mayo
- Environmental Report, appendices include:
 - APEM Ltd Ecological Report (Ecological Impact Assessment)
 - Water Management Plan
 - Air Quality Impact Assessment Report
 - Odour Management Plan
 - Noise Impact Statement
 - Traffic Impact Assessment
 - Archaeological Report

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority refused permission for six reasons, summarised as follows:

1. Movement of additional traffic on the local road (L13117) that is substandard in terms of structural strength, surface condition, capacity and width, would pose a traffic hazard and endanger public safety.
2. Development of land located on a road network that is deficient in terms of capacity, width, alignment and surface structural condition is premature pending the improvement of these constraints, specifically with regard to the increase in traffic generated.
3. Mitigation measures to improve the local road are considered excessive for this rural area and the applicant has not sufficiently proven any legal interested in lands in order to implement the changes proposed and this would lead to a traffic hazard.
4. The development is located close to a junction on the N5, considered to be a high collision accident location. It has not been demonstrated that traffic

accessing the site would not use this junction and this would lead to traffic hazard and be contrary to National Roads policy.

5. It has not been adequately proven that the proposed development on its own or in combination with others would not adversely affect the integrity of a European site.
6. It has not been adequately proven that the proposed development will not have a negative impact on the environment in terms of local habitat, supply chain, infrastructure, soiled water, wastewater, land spreading, spillage control, odour/noise, control of operational emissions and other matters.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The basis of the planning authority decision includes:

- Detailed planning history that highlights the similarities between the current application and a recently refused proposal.
- National policy is outlined and the County Development Plan policy supports renewables, NEP 23.
- EIA, threshold for schedule 5 part 2 category 11 activities is met, intake of waste greater than 25,000 tonnes, unclear if material is waste or not. Impacts to the environment not adequately examined.
- AA – inadequacies with regard to impact to designated sites.
- Seveso/Comah sites
- Local road is to be widened to 10 metres and include cycleway/footway, not appropriate and legal interest not demonstrated.
- HGV movements onto and from N5 possible and this would present a traffic hazard.

The recommendation of the Planner to refuse permission issued.

3.2.2. Other Technical Reports

- Roads Design – further information required.

- Environment Section – plant will accept farm grown product and some waste, activity does not fall within scope of a waste permit, but may require an industrial emissions licence.
- Area Engineer - further information required.

3.2.3. Conditions

- Not relevant, permission was refused by the planning authority.

3.3. Prescribed Bodies

Health and Safety Authority (HSA) – no observations.

NPWS – with reference to the operational phase of the project and the intention to discharge treated water to a watercourse with connection to the River Moy SAC, information on monitoring absent and cannot be certain that adverse affects to a designated site will not occur.

Transport Infrastructure Ireland (TII) – refuse permission.

Inland Fisheries Ireland (IFI) – further information required or conditions to be attached in the event of a grant of permission.

3.4. Third Party Observations

3.4.1. 434 submissions received; issues include:

- Poor location
- Traffic generation
- Noise and odour issues
- Impact on local wildlife and biodiversity
- Water pollution
- Landscape and visual impacts
- Health and safety
- Impact on Swinford local amenities
- Public consultation

- Other issues that relate to property values, water supply, invasive species, flooding, EPA waste licensing, connection to the gas grid, negative impact on the local economy and other information not present on file.

4.0 Planning History

4.1. Site

PA ref: 22/571 – Permission refused for an agricultural biogas renewable energy facility. Seven reasons.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The **Mayo County Development Plan 2022-2028** is the operative plan for the area, relevant policies and objectives include:

Chapter 10 Natural Environment

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

NEO 27 To ensure all development proposals are consistent with the Landscape Appraisal of County Mayo and the associated Landscape Sensitivity Matrix and future editions thereof.

Policy 24 Encourage development that will not result in detrimental impacts (through excessive bulk, scale or inappropriate siting) on the landscape at a local or micro level as viewed from areas of the public realm.

Chapter 4 Economic Development

EDO 3 To continue to promote the county to attract enterprise and investment into Mayo through the Enterprise & Investment Unit and/or Local Enterprise Office, with a focus on a number of established and emerging sectors including tourism, manufacturing, marine, renewable energy, ICT, food and agri-food.

EDO 54 To facilitate rural enterprises, and resource development (such as agriculture, agri-food sector, agri-tourism, commercial fishing, aquaculture, rural tourism, forestry, bio- energy, the extractive industry, recreation, cultural heritage, marine enterprise sector, research and analysis) and renewable energy resources (such as wind/ solar/ocean energy) that are dependent on their locality in rural locations, where it can be demonstrated that the development will not have significant adverse effects on the environment, including the integrity of the Natura 2000 network, residential amenity or visual amenity. Where proposals demonstrate measures to promote environmental enhancement through improved ecological connectivity, such as measures in the Pollinator Plan, additional native species planting or blue and green infrastructure measures, these will be favourably considered.

Chapter 6 Movement and Transport

MTP 23 To protect the capacity, efficiency and safety of the national road network in Mayo by complying with the 'Spatial Planning and National Roads -Guidelines for planning authorities' (2012).

Chapter 11 Climate Action and Renewable Energy.

CAP 9 To support Ireland's renewable energy commitments outlined in national policy by facilitating the development and exploitation of all appropriate renewable energy sources at suitable locations within the county, where such development does not have a negative impact on the surrounding environment (including water quality), landscape, biodiversity or local amenities, so as to provide for further residential and enterprise development within the county.

REP 1 To support Ireland's renewable energy commitments outlined in national policy by facilitating the development and exploitation of a range of renewable energy sources at suitable locations within the county, where such development does not have a negative impact on the surrounding environment (including water quality), landscape, biodiversity or local amenities to ensure the long-term sustainable growth of the county.

Volume 4 includes the Mayo Renewable Energy Strategy and Landscape Appraisal for County Mayo.

5.2. Natural Heritage Designations

- 5.2.1. The nearest Natura 2000 site is the River Moy SAC (site code 002298), which is located approximately 1.9 km to the northwest of the appeal site, appendix 3 refers.

5.3. EIA Screening

- 5.3.1. It cannot be ascertained if an EIAR is required, and Schedule 7A information is required in order to make a screening determination, appendix 1 and appendix 2 of my report refers.
- 5.3.2. The Board should note that I have been unable to carry out and complete a screening determination (EIA), this is because the applicant has not submitted documentation that emphatically accords with the requirements of Section 7A of the Planning and Development Regulations 2001 as amended. In order to make a determination with reference to the need for an EIAR, the Board may wish to invite the applicant to submit the relevant information and circulate any submission as appropriate, appendix 2 of my report refers. However, in the circumstances of this case where traffic and appropriate assessment arise as foremost issues, it may not be reasonable or beneficial in this particular instance to seek such information.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The applicant has set out the policy background to the anaerobic digestion (AD) sector in the context of national, regional and local policy, the applicant's grounds of appeal can be summarised as follows:
- Reason 1 – a revised Traffic Impact Assessment (TIA) has been prepared, the construction phase will see the most traffic movements, maximum 10 trucks per hour over 18 months. For this the bog road will need to be upgraded beforehand. The operational phase will see a maximum traffic impact of 3 trucks per hour and an annual average daily traffic of 2 trucks per hour. The operational phase will see a far lesser impact than the construction phase. A distance of 380 metre of the L13117 will be improved and remove

concerns over traffic hazard, final details can be agreed with the planning authority.

- Reason 2 – road improvements will take place before construction, in agreement with the Roads section of the Council. The traffic impact during construction will be mitigated by a Traffic Management Plan in agreement with the Council. The L13117 will be improved before the proposed development begins construction and so the issue of prematurity will not arise.
- Reason 3 – A detailed scope of works that be carried along the 380 metres from the junction with the L1311 to the site road frontage is provided. The northern section can be widened to at least 5 metres, though it may be necessary to impose single lane traffic. The middle section can be widened to 6 metres and allow two way traffic. The final section aligns the front of the subject site and be widened to 10 metres. All of the works can either be accommodated within the carriageway width or on lands in the control of the applicant, no additional ownership information is required, the Roads Act is quoted with reference to title and rights across a public road. Pull ins can also be provided, as elsewhere in the county, L13836 at Cullane is such an example. The road improvements amount to less than 400 metres and will not impact the rural character of the area, traffic hazard will not occur and undesirable precedent will not be set.
- Reason 4 – the vehicular entrance to the proposed development is angled so that only traffic coming from the L1211 can access the site, kerbing and bollards will control access/exit direction. Access to the site will be controlled and secure, all traffic movements are known and controlled. All contractors will comply with a traffic management plan. Traffic generated by the development will not have access to and from the N5 to the south.
- Reason 5 – An NIS was submitted with the application, prepared in accordance with the relevant guidelines. A pathway for indirect impacts to reach the River Moy SAC was identified, during construction and operation. The hydrological distance is 3km, impacts will be reduced by dissipation or settlement before reaching the SAC, mitigation measures are proposed.

During construction phase, a CEMP will be implemented, overseen, good working practices complied with, implementation of a water management plan, establishment of a settlement pond (designed up to a duration of a 1-100 storm event), electronic monitoring with automatic shut off, silt traps and interceptors will be installed, buffer zones established and disinfection of equipment and clothing to take place.

During the operational phase, produced water will be enclosed within the production process and re-used, it will not leave the site. Surface water run-off will be directed to the settlement pond for treatment and reuse on site. In extreme weather events discharge off site, subject to mitigate measures listed at section 5 of the NIS. These are: a water management plan, surface water directed to the settlement pond by underground piping, discharge to watercourse via oil and fuel interceptors, discharge will be restricted to 14.97 litres per second and allow the settlement pond to work effectively, electronic monitoring and shut off will be deployed, and discharge will be subject to a Water Discharge Licence.

The impacts are known and mitigation measures have been outlined.

- Reason 6 – an EclA was prepared by APEM Ltd, and followed relevant guidance. Section 5 of the EclA sets out the mitigation measures and include a CEMP and Water Management Plan. With reference to common frog, breeding birds and the spread of invasive species, mitigation around timing and practices will reduce risks. No evidence for otter, badger or bat on site. Potential bat feeding corridors will be enhanced with planting. Wet heath loss will be minimal in relation to the wider area, but measures to retain areas outside the site will be deployed. The proposed supply chain and land spreading is not required to be assessed, case law An Taisce and ABP and Kilkenny Cheese Ltd refers.

Impacts on the immediate vicinity of the site with reference to ecology and biodiversity have been adequately dealt within the EclA and the integrity of species subject to protection will be maintained.

- 6.1.2. The applicant has also set out a response to the issues raised by the planning authority in their report, can be summarised as follows:

- Planning history checked and verified.
- Pre-planning, referred to fee calculation, road issues and the requirement for an EIAR clarified.
- Third party observations are listed and noted.
- The Roads section of the council appear to support the development subject to detailed design issues and access to the N5 will not occur, settling TII concerns.
- The report of the Environment section is noted.
- NPWS submission, water (stormwater only) will be subject to a discharge licence application, this process will be subject to AA and the production of an NIS. The NPWS will have a role in this process in terms of assessment and conditions to be applied. Discharge will be restricted, monitoring and controlled. No gaps in information reside within the NIS.
- Inland Fisheries Ireland – the Environmental Report and CEMP address concerns.
- EIAR is not required, the input is not considered to be waste material, primary feedstock is farm crops (70%) and secondary feedstock is farm based activator slurry and manure (30%). According to the Waste Framework Directive, article 2 exclusions, farm produced faecal matter is not regarded as waste but as a byproduct of animal husbandry. Biowaste defined by article 3 will not form part of proposed inputs, as in other plants. The proposed development will only use farm based products and this can be subject to a condition.
- Flood Risk Assessment is not required based on the findings of a preliminary flood risk assessment.
- The remaining points with reference to the Planner's Report refer to material already covered in the grounds of appeal and serve to reiterate and clarify matters already clearly set out by the applicant.

6.1.3. The applicant concludes their grounds of appeal with a summary of the benefits to be derived from the proposed development and they include: inputs to be farm

based only, material defined as waste will not be used, sustainable gas will be produced, CO₂ used in the food/drinks industry will be removed, residual digestate will be used as fertiliser and replace chemical products and the development will fulfil the aims of a circular economy. Finally, the fee charged by the planning authority is disputed.

- 6.1.4. The grounds of appeal are accompanied by the documentation originally submitted with the planning application and a set of drawings that show detailed sections through the access road, site layout drawings and restrictions at the entrance to stop access to and from the N5.

6.2. Planning Authority Response

None.

6.3. Observations

- 6.3.1. 15 observations were received by the Board and reiterate in detail the issues raised during the initial planning application process, issues already raised and extensive responses to the grounds of appeal can be summarised as follows:

- Road issues – there is a lack of belief that access to the N5 will be effectively policed. Statements made by the applicant are corrected and details to be agreed with the Council are challenged. Proposed works to the L13117 are broadly criticised and fall outside the red line boundary. Will impact other users and property ownership/rights are challenged. In addition, the wider road network cannot accommodate the increase in traffic, and this has not been addressed.

The findings of the TIA are criticised specifically with reference to average trip calculations, that are not based on seasonal variations in supply of farm based inputs. Traffic impacts on Swinford town and visual impacts to a nearby scenic route have not been examined. Cumulative impacts on the L13177 have not been assessed.

Transportation off site of gas by product have not been assessed.

The TIA does not take account of conflicting traffic movements between HGVs and school buses, or the impact upon school children that wish to walk or cycle to school.

- Location – it is the wrong location for such a development, it is too close to houses, too close to Swinford and result in a visual impact to the surrounding area. A feasibility study should have been carried and this location would not have been chosen, on environmental sustainability grounds as well as others. The site is located in a low potential for biogas production, according to the SEAI Bioenergy Map. Gas grid connection has not been detailed.
- River Moy SAC – impacts to this designated site not addressed fully, road improvement works have not been included in the scope of the NIS.
- Wildlife – the ecology and biodiversity impacts have not been properly examined. Bats, smooth newt, are present in the area.
- Odours – the production of odours will impact on the amenities and health of people living in the locality and a full assessment of odours has not taken place.
- Water quality – the proposed development could impact the Spaddagh River and its ecology, no reference is made to the Water Framework Directive. Board cannot consider granting permission when the application has not addressed articles 4 and 5 of the Surface Water Regulations. The area floods, and discharge to the local ditch will make matters worse, the capacity of the proposed bunding to withhold water has not been established.
- Groundwater will be adversely impacted upon and the applicant has not addressed the matter at all. The connection between the site, karstified aquifer and the river Moy has not been examined. Nor have the impact upon local wells and group water schemes been assessed.
- Safety – the Applegreen filling station is close by and the presence and storage of gas on the site have not been fully considered.
- Bio-gas generation is not sustainable, the impact of transporting material and diversion away from food production is ill advised.

- Land Spreading – no assessment made of land spreading impacts as a result of the development.
- Lack of community consultation. Some residents received a brochure, a business owners meeting was held at the Courthouse Swinford.
- Local landfill contents and potential for disturbance of asbestos not considered.
- Procedural issues with reference to waste definitions, EIA and AA. EIAR is required when the threshold of 25,000 tonnes for the disposal of waste will be breached (48,000 tonnes), ABP 305691 refers. Project splitting and that the site should be considered as a Seveso site due to the volume/mass of gasses stored on site. It is not certain whether there is a need for an IPPC or Waste Licence.
- Fee clarification, observers should receive their initial observation fees back made on the first application.

6.3.2. Observations are accompanied by photographs, maps, press clippings regarding the dangers associated with the N5 at this location, a signed petition (not numbered or itemised), folios (including maps) detailing land ownership along the laneway, Swedish and French requirements regarding biogas installations, an observation on methanization in French and English, French language spreadsheet regarding biogas incidents /accidents, a request to the Board to seek further information and refer the appeal to various bodies for comment.

6.3.3. In summary, all observers are against every aspect of the project and all are critical of the applicant's documentation and supporting material.

7.0 Assessment

7.1. Having regard to the nature of the proposed development, the details submitted with the planning application and appeal documents, together with my site inspection, I conclude that issues arising for consideration should be addressed under the following headings:

- Traffic and Roads
- Residential and Visual Amenity
- Environment
- Other Matters

7.2. Principle of Development

- 7.2.1. The proposed development consists of the construction of a biogas production plant. According to the application's documentation, the facility will process agricultural feedstock and byproduct (slurry) by way of anaerobic digestion to produce biogas for export off site to the gas grid (840 Nm³/hr). In addition, the plant will produce dry matter (1 tonne bags) to be used as fertilizer, Ammonia Sulphate Solution (ASS) stored in tanks before transport off site. The development could assist Ireland's international, European and national commitments as regards the provision of energy from renewable sources and a reduction in greenhouse gas emissions.
- 7.2.2. Observers have been vocal in their opposition to the development from a locational and sustainability perspective. In addition, observers are against the general concept of biogas production as it diverts agricultural land away from food production and will require unsustainable road transport of biogas off site for grid injection.
- 7.2.3. There are a number of national and regional level policy objectives that are consistent with the nature of the development proposed. The Programme for Government and the Climate Action Plan commit to a significant reduction in greenhouse gas emissions over the period to 2030 and the achievement of net zero emissions by 2050. The form of development proposed with the use of agricultural feedstock and by-products to produce renewable biogas could assist in reducing overall greenhouse gas emissions. More specifically, policy objective NEP 23 of the County Development Plan seeks to promote the construction of Anaerobic Digesters

at appropriate locations in Mayo with a view to improving water quality while at the same time making a significant contribution to National Renewable Energy targets and supporting support rural enterprise in general.

- 7.2.4. I note the concerns raised by observers to this appeal and the arguments they raise against this development and anaerobic digestion plants in general. However, I am satisfied that the broad principle of an agricultural biogas renewable energy plant is supported by the current development plan. Given the acknowledged requirement for and benefits of anaerobic digestion in local, national and Government policy, I am satisfied that the proposed development should be considered. Moreover, the development proposed could help achieve national targets for a reduction in greenhouse gas emission and the benefits accruing from the use of digestate as fertiliser in place of the spreading of slurry or the use of artificial fertilisers. However, there are other issues specific to the site and this development that require detailed assessment and this follows in the subsequent sections of my report.

7.3. Traffic and Roads

- 7.3.1. The planning authority refused permission in relation to traffic and roads issues, refusal reasons one to four refer. It is the view of the planning authority that the local road network is not able to accommodate the increase in traffic proposed, proposals to improve the road are over-scaled and it is not clear that measures to prevent access to the N5 will be effective. Transport Infrastructure Ireland (TII) have serious concerns about the danger of traffic movements at the junction with the N5 to the south. Lastly, observers echo concerns with relation to traffic movements in the vicinity and wider area and criticism is levelled at the applicant's Traffic Impact Assessment (TIA). Specifically, local landowners state that they do not consent to any land take to facilitate the improvement of the country road to facilitate the development. The applicant refutes all of these claims and sets out their reasons why the proposal can be accommodated and not negatively impact the local road network. I take these issues each in turn as they relate to the traffic and transport reasons for refusal and any other issues that have arisen from observers to the appeal.
- 7.3.2. Refusal reason one refers to the movement of additional traffic on the local road (L13117) that is substandard in terms of structural strength, surface condition,

capacity and width, and this would pose a traffic hazard and endanger public safety. Observers all echo the concerns raised in this reason for refusal. From my observations of the country road that passes to the front of the site and that will provide the vehicular access to the site, I note that this road is extremely narrow along its entire length. The central portion of the road is lined with grass and this shows that the roadway is currently lightly used. To the south, the country road squarely meets the N5 national primary road and to the north access to the L5380 is via an angled junction. The existing roadway is characteristic of a little used rural road and I note that signage from the N5 alerts the public that that the road is for local access.

- 7.3.3. The applicant anticipated the likely issues that might arise with the future and changed nature of the country road and proposes to make alterations along its length. In detail the applicant states that they have prepared a revised Traffic Impact Assessment (TIA), the construction phase will see the most traffic movements, maximum 10 trucks per hour over 18 months. To accommodate the construction phase, it is stated that the country road will need to be upgraded and the operational phase will see a maximum traffic impact of 3 trucks per hour and an annual average daily traffic of 2 trucks per hour. That being so, the applicant seeks to make improvements along a distance of 380 metres of the L13117 and this should remove concerns over traffic hazard. The final details of proposed road improvements will fall to be determined and agreed at a future date with the planning authority.
- 7.3.4. The applicant has submitted a detailed survey of the access road from the junction with the L5380 all the way along to the appeal site frontage. The survey illustrates cross sections taken at regular intervals and this details the varying width of the existing road with reference to a centreline. The drawings show the relative width of the metalled surface, road edge, bank bottom/top and any wall/fence or hedge detail and the level of lands either side. For approximately 240 metres at the northern reach of the country road, the applicant does not own lands on either side of the road. Closer to the proposed site entrance and for a distance of 60 metres the applicant owns both sides of the road and approximately 40 metres on the eastern side of the road, drawings prepared by Ryder/Geospatial submitted with the grounds of appeal refer.

- 7.3.5. As it stands, the existing road is clearly not able to safely accommodate either the construction or operational phase of the development proposed and the applicant accepts this. In this respect, I note the contents of the Traffic Impact Assessment (TIA) prepared by the applicant, that details construction and operational phase traffic flows. The applicant acknowledges that the L13117 is substandard for the uses proposed and intends that it will be improved, but no firm details have been submitted. The applicant is satisfied that detailed design matters can be agreed at a future stage with the planning authority. I am concerned that the proposed location of the facility places too many demands on a local road network that is substandard. Significant works will be required to widen and strengthen the base of the existing road and junction improvements at the northern end may or may not be necessary. This in turn will change the character of the area and lead to an uneconomic diversion of resources to provide infrastructure to suit a single user, the applicant. A significant contribution will have to be made by the applicant to upgrade the L13117 road and detailed costs have not been prepared by either the applicant or the planning authority and I cannot therefore calculate the value of a section 48(2)(c) special contribution, if the Board were minded to grant permission. The applicant does not own all the land along the length of the roadway and observers have highlighted this fact. This presents a problem of being able to implement significant structural changes, specifically in road width along the entire 380 metres of road required to be upgraded. In addition, the majority of the roadway falls outside the red line boundary of the site and such works have not been considered for the purposes of EIA and AA screening, I address these matters in detail later in my report.
- 7.3.6. It is clear to me that a comprehensive and inclusive plan to accommodate the proposed facility at this location has not been fully considered by the applicant. They have not secured lands along the road length, or at least received the consent of all the adjacent landowners either to make a planning application or carry out works. Furthermore, I can see that to leave out such significant details that concern a large portion of the development would exclude those interested in making an observation on the design and scale of such road improvements. Given the forgoing, I am not satisfied that permission can be granted for a development for which the improvements of the road concerning structural strength, surface condition, capacity and width, are not yet known and for which the timing and extent of which have not

been set out. I recommend that permission should be refused on the basis that the development would be premature pending infrastructural improvements and would therefore result in a traffic hazard and endanger public safety.

- 7.3.7. The second reason for refusal reiterates the issues outlined above with reference to a deficiency in terms of capacity, width, alignment and surface structural condition and notes that the development would be premature pending the improvement of these constraints, given the likely increase in traffic volumes. The applicant responds as before and states that road improvements will take place before construction, in agreement with the Roads section of the Council. The traffic impact during construction will be mitigated by a Traffic Management Plan in agreement with the Council. The L13117 will be improved before the proposed development begins construction and so the issue of prematurity will not arise.
- 7.3.8. For all of the reasons I have already outlined above with regard to the uncertainty and appropriateness of road improvements along the L13117, I am not convinced that the applicant has satisfactorily demonstrated that the scale of works necessary to improve the L13117 have been fully teased out or disclosed in any way. I again note the contents and conclusions reached by the TIA, the nature and volume of traffic will increase along the L13117, with this I have no disagreement. However, it is the nature and scale of the road improvements needed that have not been illustrated or described and this leaves a significant gap in the documentation needed in this application in order to reach a fully considered conclusion. It is this uncertainty that I am satisfied that permission should not be granted with reference to traffic safety considerations.
- 7.3.9. The third reason for refusal revolves round the scale of the improvements necessary to improve the L13117 and how these fit into this rural area and that consent has not been sought or given to carry out these works. Observers all echo the concerns raised in this reason for refusal. The applicant explains that a detailed scope of works along the 380 metres from the junction with the L1311 to the site road frontage is provided. The northern section can be widened to at least 5 metres, though it may be necessary to impose single lane traffic. The middle section can be widened to 6 metres and allow two way traffic. The final section aligns the front of the subject site and be widened to 10 metres. The applicant is of the view that all of the works can either be accommodated within the carriageway width or on lands in the control of

the applicant, no additional ownership information is required, the Roads Act is quoted with reference to title and rights across a public road. Pull-ins can also be provided, as elsewhere in the county, as at Cullane for example. The road improvements amount to less than 400 metres and will not impact the rural character of the area, traffic hazard will not occur and undesirable precedent will not be set.

- 7.3.10. The applicant has at best, outlined their intentions for the L13117 based upon a detailed survey along its length to serve the development, and has concluded that improvements can happen. However, I have not seen any detailed proposals that show what land take might be required, what drainage measures will be necessary or the actual appearance of the roads, its geometry, the junction detail with the L5380 or any other characteristics apart from a likely road width. It is far from satisfactory to leave such matters to be decided at a future date and at the very least, no assessment can be made of how the actual road improvement would impact the character of this rural area. As I have already outlined above, I am not satisfied that a thoroughly thought through design proposal has been advanced for the L13117 in order to accommodate the development proposed and so permission should be refused.
- 7.3.11. The fourth reason for refusal refers to the proximity of a junction on the N5, considered to be a high collision accident location. The planning authority, TII and observers all have concerns that traffic accessing the site could use this junction and this would lead to traffic hazard and be contrary to National Roads policy. The applicant disagrees and has advanced a design proposal for the vehicular entrance to the facility that is angled so that only traffic coming from the north can access the site, kerbing and bollards will control access/exit direction, drawing 03/TAI22/01 and cross section refers. In addition, protocols concerning access to the site will be controlled and secure, all traffic movements are known and will be regulated by a traffic management plan. The applicant categorically states that traffic generated by the development will not have access to and from the N5 to the south.
- 7.3.12. At a high level, I find that the applicant's design proposals to restrict turning movements from the south, the direction of the N5, make sense. In addition, a traffic management plan and set of protocols directing delivery drivers not to access or egress the site from the south (N5) seems to be reasonable. However, the drawings submitted with the grounds of appeal lack rigorous engineering detail, such as swept

path diagrams showing the impossibility of approaching from the south, site sections and an overall layout including pull-ins for the entire road length. In the absence of swept path diagrams that confirm the impracticality of a southerly approach, I am not satisfied that all of the measures proposed will be effective and eliminate dangerous traffic manoeuvres from the junction with the N5 to serve the development. Consequently, the proposed development would militate against the county development plan national roads policy MTP 23 that seeks to protect the capacity, efficiency and safety of the national road network.

- 7.3.13. Given all of the foregoing with respect to traffic and transport matters, I am not satisfied that the location selected by the applicant on a country road can be safely accommodated especially concerning the changes necessary to facilitate the proposed development. For all of the reasons outlined above, I am satisfied that permission should be refused for the development on the basis of the creation of a traffic hazard.

7.4. Residential and Visual Amenity

- 7.4.1. The planning authority did not refuse permission on the basis of residential amenity concerns. However, nearly all observers have raised concerns about the construction phase of the development and the operational phase too. In terms of traffic concerns, I am satisfied that I have addressed all relevant matters adequately under section 7.3 of my report. Many observers are unhappy that heavy goods vehicles are destined to populate the local road network if permission is granted and that this would inevitably impact upon the residential amenity of houses in the area. I have visited the site and wider environs and note that the area as a whole is sparsely populated. I have examined the applicant's TIA and note its contents with respect to the wider road network and the marginal impact that construction and operational phase traffic will have on the wider area as a whole. I do however reserve my enthusiasm for the development from a roads perspective along the L13117 country road and I have already discounted the proposal on traffic safety grounds.
- 7.4.2. Other observers are concerned about the impact of noise, odour, danger of fire/explosion and the unsightly appearance of the development. In terms of the wider visual amenity, the development will be set within an agricultural and rural setting, in an area of undulating countryside. The landscape at this location is

designated as policy area 4 (drumlin and inland lowland) and according to the Landscape Sensitivity Matrix of the Landscape Appraisal of County Mayo, such an area has a low sensitivity to change. Industrial/commercial forms of development are considered to be normal and appropriate unless siting and design issues arise, policy objective NEO 27 refers. Even though the landscape designation at this area probably has the capacity to absorb the development proposed, given the bulk and scale of the facility and the lack of a comprehensive landscape visual impact assessment, I cannot be sure. A visual assessment has been prepared and is illustrated in the Environmental Report that supports the applicant, section 14.0 refers. However, few vantage points are selected and no photomontage imagery has been prepared to identify if the facility is visible or not. Observers have raised the issue of visual amenity, but permission was not refused by the planning authority on that basis. The Board may wish to further consider the matter of visual amenity, but it is a new issue to which the applicant has not had an opportunity to respond to. On this occasion the issue is a lack of information in order to base a definitive reason to refuse permission and so I do not recommend refusing permission on visual amenity grounds.

- 7.4.3. In terms of noise and odour, I note that the applicant has prepared an Air Quality Impact Assessment, Odour Management Plan and Noise Impact Assessment. All of these documents support the proposed development, some mitigation measures are proposed in relation to odour and noise and these primarily relate to monitoring and adaptation as required on foot of complaints. I am not surprised that odour and noise are highlighted as aspects that could impact upon residential amenity and I not surprised that the impacts are seen as marginal. Primarily, because the number of residential units in close proximity are few, the closest collection of housing is located 300 metres to the west. Secondly, this is an agricultural area, where it is likely that odours and noise associated with livestock farming would be commonplace, albeit at a far lesser extent and intensity of an anaerobic digester of the scale of proposed. In any case, I am satisfied that the proposed development would not adversely impact residential amenity in the wider area and that if permission were to be considered, appropriate conditions could be drawn from the documentation submitted by the applicant with respect to odour and noise. Consequently, I am generally satisfied that the proposed development, if permitted is not likely to have any significant impact on

either noise or odour emissions. Given the rural nature of the site, together with the separation distances between the site and the nearest sensitive receptors, I am satisfied that the proposed development would have no significant negative impact on the existing residential amenity of properties in the area.

- 7.4.4. With regard to the danger of fire and/or explosion, I note the CoMAH Inventory prepared by the applicant, dated January 2013. The report concluded that the inventory results mean that the CoMAH regulations do not apply to the site. Put another way, the applicant concludes that the quantities of hazardous material stored on site would not present a physical and environmental hazard. In that context I note the comments made by the Health and Safety Authority, dated August 2023, that stated the development would be outside the scope of the relevant regulations and no further observations were made. Based upon the information on file, I am satisfied that the proposed development is unlikely to present a danger in terms of public safety.
- 7.4.5. The may Board may wish to note that the matter of residential amenity has not been directly considered by the planning authority in their six reasons for refusal and nor has the applicant had the opportunity to respond to any of the issues raised by the observers to this appeal. In that context, the wider issue of residential amenity could be considered to be a new issue and should not therefore form the basis for a refusal for refusal.

7.5. Environment

- 7.5.1. Refusal reasons five and six refer to environmental matters. Specifically, reason five states that it has not been adequately proven that the proposed development on its own or in combination with others would not adversely affect the integrity of a European site. Reason six states that it has not been adequately proven that the proposed development will not have a negative impact on the environment in terms of local habitat, supply chain, infrastructure, soiled water, wastewater, land spreading, spillage control, odour/noise, control of operational emissions and other matters. Observers agree and also raise issues about biodiversity, designated sites and the natural environment in general. The applicant refutes both of these reasons for refusal. However, given the nature and scope of the environmental issues

covered by reasons five and six, I consider it necessary to address each matter within separation sections of my report as follows:

- Reason five to do with Natura 2000 sites is dealt with in section 8.0 of my report and the associated appendix.
- Reason six to do with Environmental Impact is dealt with under section 5.3 of my report and associated appendices.

7.5.2. In my assessment with regards to environmental matters I have had regard to the submissions made by the applicant, planning authority, observers and statutory consultees. The following matters to do with ecology in general and the matter of land spreading can be dealt with below.

7.5.3. Ecology – broad concerns have been raised by observers about how the proposed development will impact upon the local environment and impact wildlife. The applicant prepared an Ecological Report (Ecological Impact Assessment), in which it is concluded that no or minor impacts would result to the ecology of the site, such as it is. The site comprises poor quality grassland and I note the contents and findings of the Ecological Report. There is nothing particularly unusual about this site and it forms part of the wider area in terms of character type and fairly normal farming practices. Evidence for common frog are present on site in the form of frogspawn no other notable flora and fauna was detected. Reference is made to wetland heath and the need for careful management in relation to groundwater, but no actual measures are advanced.

7.5.4. On balance I consider that adequate detail has been provided on the ecology of the site, and I also refer the Board to Section 8.0 of my report in relation to appropriate assessment and consideration of hydrological connections to the wider area. I am satisfied that the Ecological Report is of sufficient scope and detail to assess the overall ecological impact of the proposal. Given the location of the site in an area characterised by similar lands and habitats and the mitigation measures to be incorporated, I consider that the impacts on the ecology of the site and the wider area would be acceptable and can be managed by the implementation of a site specific CEMP.

7.5.5. Land Spreading – observers have queried why no assessment was made in relation to land spreading, production of fodder crops or the generation of slurry needed to

support the development. The appeal before the board does not entail land spreading, and the production of agricultural by-products (waste/slurry) and fodder crops do not form a part of the proposed development. Products are listed as agricultural inputs but their locational origin is not specified. The Board may wish to examine these matters in the round, indeed there may be wider environmental factors to consider relevant. However, as this could be considered to be a new issue, any such matters would be subject to circulation between various parties/observers to ensure fair procedures are followed. I do not recommend this course of action because land spreading and the various methodologies behind the inputs required for the proposed process do not form a part of the application.

7.6. Other Matters

- 7.6.1. Fees – some observers think that the fees spent on the previous application also refused permission should be returned by the planning authority. In addition, the planning application fee calculation should be revisited. This is a matter for the planning authority to resolve, if it can be. However, I note that third parties are generally permitted to make an observation on a planning application subject to an agreed fee and to make an observation on an appeal subject to being a party on the application as before and subject to a fee. No further action is required by the Board in relation to this matter.
- 7.6.2. Consultation – observers are not satisfied that a thorough amount of community consultation took place. It is stated that some residents received a brochure, and that a business owners meeting was held at the Courthouse in Swinford. I note that some observers are critical of the lack of any meaningful engagement on behalf of the applicant with respect to the development. I note that public consultation is not a feature of planning applications, and the only obligation on the applicant is notification by way of public notice, this has been complied with. Though it is desirable to have more or less complete support from adjacent property owners for a development, it is not a requirement of planning. I am satisfied that the statutory requirements to notify the public have been met in full by the applicant. I note that some engagement between parties did take place but not, apparently, to the complete satisfaction of the observers in this instance, no further action is required on behalf of the Board.

- 7.6.3. Procedural Matters – Observers make specific reference to waste definitions, EIA and AA. According to some observers an EIAR is required when the threshold of 25,000 tonnes for the disposal of waste will be breached and a figure of 48,000 tonnes is put forward, reference is made to another appeal received by the Board, ABP-305691-19 refers. Reference is also made to the concept of project splitting and that the site should be considered as a Seveso site due to the volume/mass of gasses stored on site. Lastly it is not certain whether there is a need for an IPPC or Waste Licence.
- 7.6.4. Firstly, I note that ABP-305691-19 was an application for the processing of alternative feedstocks and production of renewable energy and fertiliser. In this instance an Environmental Impact Assessment Report (EIAR) and a Natura Impact Statement (NIS) were submitted and duly assessed by the Board. In addition, it was advertised that development comprised an activity requiring an industrial emissions licence from the Environmental Protection Agency (EPA). The current appeal before the Board seems to fall below the relevant thresholds and I have already considered that topic at section 5.3 and appendices 1 and 2 of my report. I have concluded that it is not possible to determine with certainty the need for an EIAR in this instance due to a lack of the appropriate information, that being information required under Schedule 7A Planning and Development Regulations 2001 (as amended).
- 7.6.5. The issue of project splitting only arises where development is fractured in such a way as to avoid any requirement for EIA. I have already set out that I have been unable to determine with certainty whether there is a need for an EIAR, and such considerations would entail an assessment of project splitting if relevant. In terms of Seveso sites, I am satisfied that the HSA have the requisite experience and remit in this matter and elected not to make any observations on the proposed development.
- 7.6.6. In terms of the need for either IPPC or Waste Licence, this has not been brought to my attention in any of the documentation prepared by the applicant and did not form part of the publicly advertised description of development. The issue of a water discharge licence is mentioned at a future date, but this matter has been considered under section 8.0 of my report. With regard to the wider debate around the nature of inputs to the proposed biogas facility, the Board should note previous appeals that have been decided by them, specifically, I reference ABP-313975-22. The matter of definitions of waste and licensing requirements are discussed. I note that the Board

fully considered the matter of licensing requirements, Board Direction dated 12 February 2024 refers. Similarly, and in this instance, the various thresholds are not met and I do not recommend any further consideration of the matter until the requirement for an EIAR is known with certainty.

8.0 AA Screening

8.1. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on the River Moy SAC and the River Nore SPA in view of the conservation objectives of a number of qualifying interest features of those sites. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] of the proposed development is required, appendix 3 of my report refers.

8.2. Natura Impact Statement (NIS)

8.2.1. The application is accompanied by an NIS, dated January 2023, which examines and assesses the potential adverse effects of the proposed development on European Site of the River Moy SAC (002298).

8.2.2. The NIS was informed by the following studies, surveys and consultations:

- Desk top study
- Ecological Report, including a habitat survey undertaken in March, including survey for invasive species and fauna surveys (including mammals, birds, badgers)
- Noise Assessment and Odour Assessment
- Traffic Impact Assessment
- A Preliminary Construction and Environmental Management Plan
- Water Management Plan

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

- 8.2.4. The NIS under Section 5.1 identifies and assesses possible adverse effects of the proposed development on the identified European Site. Mitigation measures are set out within Section 5.1.5 under the headings of Construction Phase Measures including ground water management, surface water management, spoil heaps, biosecurity and pollutants. Operational Phase; measures to manage and monitor surface water discharge, to be agreed at a future date.
- 8.2.5. The applicant's NIS concluded that if mitigation measures outlined in the NIS are implemented in full, the development will have no adverse effects on the integrity of the SAC.

Submissions

- 8.2.6. Submissions were received from two prescribed bodies NPWS and IFI, section 3.3 of my report refers. Observations that concern the natural environment were also received, section 6.3 of my report refers. Having reviewed the documentation available to me, submissions and consultations, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the European site River Moy SAC (002298), alone or in combination with other plans and projects.

Appropriate Assessment of implications of the proposed development

- 8.2.7. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European site using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.
- 8.2.8. I have relied on the following guidance: Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009); Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002); Guidelines on the implementation of the Birds and Habitats Directives in Estuaries and coastal zones, EC (2011); Managing Natura 2000 sites, and the provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018). 8.5.3. The following site is subject to appropriate assessment:

- River Moy SAC (002298)

8.2.9. A description of the River Moy SAC (002298), and their Conservation Objectives and its Qualifying Interests are set out in the NIS under section 4 and outlined in table 1 and at appendix 3 of my report as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website (www.npws.ie).

Aspects of the Proposed Development

8.2.10. The main aspects of the proposed development that could adversely affect the conservation objectives of European Sites are examined in section 4.0 and 5.0 of the submitted NIS and are broken down into the potential impacts related to the biogas facility, as follows:

- Construction phase of the biogas facility - Surface water emissions to local drainage ditch and onwards to the Spaddagh River from the construction stage, with potentially contaminating materials such as hydrocarbons, cement-based materials, other construction related solutions and silt.
- Operation stage of the biogas facility - Emissions to surface water from the proposed settlement pond that collects all surface water collected on site.
- The site is located on a karstified bedrock aquifer, the ground is permeable and wet heath is groundwater dependant, protection and management required.

Mitigation

8.2.11. Mitigation measures to prevent possible impacts arising from the proposed project are set out in section 5.1.5 of the submitted NIS and are summarised hereunder.

- Construction phase measures are proposed to protect surface waters at the biogas site. A settlement pond will be established to collect all drawing from the site, before discharge via a fuel and oil interceptor to a watercourse. An electronically controlled monitor will be installed to control flows, in accordance with agreed parameters and threshold levels with Mayo County Council, NPWS and other stakeholders. Spoil heaps, haul roads will all be bounded by double silt fences. Silt traps will be installed along open

watercourse. Pollutants will be centrally stored (fuel and chemical areas), plant and machinery will be serviced and maintained.

- During the operational phase proposals including, a plan will be put in place to ensure that all waters directed to the settlement pond will be monitored and controlled as appropriate, parameters and thresholds to be agreed with Mayo County Council, NPWS and other stakeholders

8.2.12. I am not satisfied that the proposed mitigation measures, which are set out in section 5.1.5 of the NIS and summarised above, are clearly described, precise, and definitive conclusions can be reached in terms of adverse effects on the integrity of European sites based on the mitigation measures submitted. Specifically, I have concerns that parameters and thresholds yet to be agreed in relation to surface water discharges could result in adverse impacts to the River Moy SAC.

8.2.13. The NPWS in their submission on the planning application documentation and specifically the NIS, note that it is not appropriate that details yet to be agreed should be omitted from the NIS, specifically with regard to unknown thresholds and parameters regarding surface water discharges. In the grounds of appeal, the applicant points out that the proposed development will be subject to a discharge licence application, to which the NPWS will be invited to comment on. However, I am cautious to leave a significant part of the development, i.e. the discharge from the site of surface water, when it has been agreed by all that there is a clear and unambiguous pathway to the River Moy SAC via the Spaddagh River.

8.2.14. Whilst not considered in the NIS at all, I have significant concerns that works proposed in the grounds of appeal to the local road network to facilitate the development have not been considered. The consequences of the construction phase of works to the roadway for a distance of 380 metres have not been taken into account and nor has the provision of drains or culverts associated with such an improved roadway. In addition, the proposed works to the country road fall outside the red line boundary of the site and any consideration of their impact, if at all, on the River Moy Sac have not been assessed.

8.2.15. Lastly, mention is made of the site conditions of the lands proposed to accommodate the biogas facility. It is stated that the site is located on a karstified bedrock aquifer, such ground is permeable and wet heath (not a qualifying interest of the River Moy

SAC) is groundwater dependant, protection and management is required. In relation to this part of the development, no consideration has been given to the potential for groundwater connections if any and no mention has been made of any protection and management measures, if at all.

In-Combination Effects

- 8.2.16. Section 5.1.1.1 of the NIS considers the potential for cumulative (in-combination) effects on European sites in combination with this development and other plans or project in the area of the site, none of relevance are highlighted. I note projects listed were in themselves subject to appropriate assessment and would not lead to significant effects on European sites that would, in combination with the proposed development, have adverse implications for the achievement of their conservation objectives. Overall, cumulative impacts are not anticipated.

Appropriate Assessment Conclusion

- 8.2.17. The proposed development of an anaerobic digester biogas facility has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 8.2.18. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on European Site 002298 (River Moy SAC).
- 8.2.19. Following an appropriate assessment, it has been ascertained that it cannot be determined beyond reasonable scientific doubt that the proposed development, individually or in combination with other plans or projects, would not likely adversely affect the integrity of the River Moy SAC, in view of the sites' Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project. It is concluded that there is reasonable doubt as to the absence of adverse effects. This is based on:
- A full and detailed assessment of all aspects of the proposed project, including proposed mitigation measures;
 - Assessment of in-combination effects with other plans and projects; and
 - Reasonable scientific doubt as to the absence of adverse effects on the integrity of River Moy SAC.

8.2.20. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects could adversely affect the integrity of the European site River Moy SAC (site code 002298), in view of the that site's Conservation Objectives.

9.0 Recommendation

I recommend that permission is refused for the proposed development for the following reasons and considerations:

10.0 Reasons and Considerations

1. (a) The site is located on a minor country road that is seriously substandard in terms of width and alignment. The traffic generated by the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users.

(b) The site is accessible from the heavily-trafficked National Primary Road N5 at a point where a speed limit of 100 km/h applies and the traffic turning movements generated by the development would interfere with the safety and free flow of traffic on the public road. The proposed development would also militate against national roads policy MTP 23 of the planning authority that is considered reasonable to preserve the level of capacity, efficiency and safety of the National Primary Road. It is considered that the proposed development necessitates significant and excessive improvements to the local road network, furthermore, it has not been satisfactorily demonstrated that mitigation measures to restrict movements to and from the N5 National Primary route would be effective, thus the proposed development would endanger public safety by reason of traffic hazard.

2. On the basis of the information on file, the Board is not satisfied that the proposed development, either individually or in combination with other projects, would not be likely to have a significant effect on the European Site River Moy SAC (site code 002298). In such circumstances, the Board is precluded from granting permission for the proposed development.

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.

Stephen Rhys Thomas
Senior Planning Inspector

10 October 2024

Appendix 1 - Form 1**EIA Pre-Screening****[EIAR not submitted]**

An Bord Pleanála Case Reference	ABP-317951-23
Proposed Development Summary	<p>Construction and continuous operation of an agricultural biogas renewable energy facility.</p> <ul style="list-style-type: none">• gas output to gas grid – 840 Nm³/hr• dry matter bagged (1 tonne bags) and used as fertilizer• Ammonia Sulphate Solution (ASS) to storage tanks and removed from site <p>Table 3.4 of the Environmental Report Inputs:</p> <p>Grass silage – 40,000 tonnes</p> <p>Farm yard manure – 4,000 tonnes</p> <p>Cattle Slurry – 4,000 tonnes</p> <p>Drawing number PL-04 Inputs:</p> <p>Grass silage - 10,500 tonnes</p> <p>Maize silage – 4,000 tonnes</p> <p>Beet – 8, 000 tonnes</p> <p>Farm yard manure – 8,000 tonnes</p> <p>Cattle slurry – 10,000 tonnes</p> <p>Pig slurry – 1,500 tonnes</p> <p>Brewery grain – 4,000 tonnes</p>
Development Address	Lislackagh & Carrowbaun, Swinford, Co. Mayo

1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)			Yes	✓
			No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes			EIA Mandatory EIAR required	
No	✓	The development is of a class specified in Part 2, but it may not exceed the threshold.	Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
YES	✓	Schedule 5 Part 2 Type 11 Other Projects (b) Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.	The documentation on file differs. Cattle/Pig slurry or manure amounts to either 4,000 tonnes pa OR 19,500 tonnes pa In this regard, I note that under Article 2(1)(f) of the Waste Framework Directive 2008/98/EC, exclusions from	By reference to Class 11(a) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, installations for the disposal of waste with an annual intake greater than 25,000 tonnes

			<p>the scope of the Directive include “straw and other natural non-hazardous agricultural . . . material used in farming . . . or for the production of energy from such biomass through processes or methods which do not harm the environment or endanger human health”.</p> <p>In effect, any such material does not constitute “waste” as per the Directive.</p> <p>However, Article 2(2)(b) of the Directive clarifies that “animal by-products . . . which are destined for use in a biogas or composting plant” do fall within the scope of the Directive. Such products would include cattle/pig slurry and manure, and they are to be considered as waste.</p>	<p>necessitate mandatory Environmental Impact Assessment EIA). In the subject instance, the annual waste* intake for the proposed development amounts to between 4,000 and 19,5000 tonnes pa.</p> <p>Given that the current proposal is sub-threshold for the purposes of EIA, it is necessary to carry out a preliminary examination</p> <p>*“waste” as per Article 2(1)(f) of the Waste Framework Directive.</p>
NO				Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	✓ *	Preliminary Examination required
Yes		Screening Determination required

* The applicant has submitted a document entitled Environmental Report. The report contains environmental information and related appendices but does not explicitly refer to Schedule 7A information.

Inspector: _____

Date: _____

Appendix 2 - Form 2

EIA - Preliminary Examination

An Bord Pleanála Case Reference	ABP-317951-23	
Development Summary	<p>Construction and continuous operation of an agricultural biogas renewable energy facility.</p> <ul style="list-style-type: none">• gas output to gas grid – 840 Nm³/hr• dry matter bagged (1 tonne bags) and used as fertilizer• Ammonia Sulphate Solution (ASS) to storage tanks and removed from site <p>Table 3.4 of the Environmental Report Inputs:</p> <ul style="list-style-type: none">• Grass silage – 40,000 tonnes• Farm yard manure – 4,000 tonnes• Cattle Slurry – 4,000 tonnes <p>Drawing number PL-04 Inputs:</p> <ul style="list-style-type: none">• Grass silage - 10,500 tonnes• Maize silage – 4,000 tonnes• Beet – 8, 000 tonnes• Farm yard manure – 8,000 tonnes• Cattle slurry – 10,000 tonnes• Pig slurry – 1,500 tonnes• Brewery grain – 4,000 tonnes	
Examination		
		Yes / No / Uncertain

<p>1. Is the size or nature of the proposed development exceptional in the context of the existing environment?</p> <p>The site extends to a site area of 4 hectares. The proposed development involves the production of biogas through the processing of agricultural inputs by way of anaerobic digestion with the resulting end products including:</p> <ul style="list-style-type: none"> • gas output and export to gas grid – 840 Nm³/hr • dry matter bagged (1 tonne bags) and used as fertilizer • Ammonia Sulphate Solution (ASS) to storage tanks and removed from site <p>The proposal can be considered industrial in nature, it is situated in a rural area far from any existing complex of farm buildings and given the scale and assortment of buildings and infrastructure proposed would not resemble the appearance of an agricultural development.</p>	<p>Yes</p>
<p>2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants?</p> <p>The proposal involves the construction of an agricultural anaerobic digestion facility which will process feedstock, including cattle/pig slurry as well as manure, derived from agricultural activities. Digestate from the facility is exported off site and used as a fertiliser. Impacts from the facility would affect noise, odour, and air quality within the surrounding area, however, reports addressing these issues have accompanied the application which conclude that the impacts are capable of being satisfactorily mitigated.</p>	<p>Yes</p>

<p>3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*?</p> <p>There are no ecologically sensitive locations in the immediate vicinity of the site. The nearest Natura 2000 site is the River Moy SAC (site code 002298), which is located approximately 1.9 km to the northwest of the appeal site. There may be a source / pathway / receptor route between the development site and a watercourse that discharges to the River Moy Special Area of Conservation which is considered further at section 8.0 in the main body of my report further elsewhere in this report.</p>	<p>Yes</p>
<p>4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?</p> <p>The site is not within an area of any known archaeological interest, the results of pre-development archaeological test trenching (section 13.0 of the applicant's Environmental Report) did not record any features of archaeological significance.</p>	<p>No</p>
<p>Comment</p> <p>Schedule 7A information required for a screening determination</p> <p>Having regard to the nature, scale and location of the proposed development, and in particular the lack of information that exactly accords with Schedule 7A of the Planning and Development Regulations 2001 (as amended); the potential for significant emissions from the proposed development and the likelihood of significant effects on the environment cannot be determined. There is a significant and realistic doubt as to the likelihood of significant effects on the environment, Schedule 7A information is, therefore, required.</p> <p>It is considered that the issues arising from the proximity/ connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment).</p>	

Conclusion			
Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment **?			
There is no real likelihood of significant effects on the environment	EIAR not required	Uncertain	
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment.	Screening Determination required	✓	
	Sch 7A information submitted?	Yes	No ✓
There is a real likelihood of significant effects on the environment	EIAR is required	Uncertain	

Appendix 3

AA Screening Determination

[NIS submitted]

Screening the need for Appropriate Assessment

Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed agricultural biogas renewable energy facility development in light of the requirements of S177U of the Planning and Development Act 2000 as amended. A screening report as part of the NIS, has been prepared by APEM Ltd on behalf of the applicant and the objective information presented in that report informs this screening determination.

Description of the proposed development

It is proposed to construct a agricultural biogas renewable energy facility development on land that is currently in agricultural management, grassland for livestock.

I have provided a detailed description of the development in my report (Section 2.0) and detailed specifications of the proposal are provided in the AA screening report and other planning documents provided by the applicant.

In summary the development comprises an agricultural biogas renewable energy facility on a 4 Hectare site, to include:

- 2 primary digester tanks,
- 2 post digester (secondary) tanks with pump room,
- Pasteurisation unit within a transport container set on concrete stands
- Emergency flare 6.5 metres in height
- 2 agricultural solid feeders with associated concrete bases,
- 2 underground pre-reception tanks,
- 2 covered agricultural digestate storage tanks,

- Gas combined heat and power unit with concrete base comprising a containerized combined heat and power unit for use powering and heating the facility
- Site office/control building, car parking for 6 cars
- wastewater treatment system.
- Biogas upgrading treatment and compression system
- Electric transformer and substation
- Agricultural feedstock storage clamp building
- Nutrient recovery system building
- Four Ammonia Sulphate Solution (ASS) storage tanks, double bunded positioned on a concrete base,
- Digestate drying and pelletising building
- Pellet storage building,
- A weighbridge
- New vehicular access point.
- Site lighting and security cameras
- Surface water drainage system and storage pond with discharge system, sampling chamber and discharge to adjacent stream within landholding
- Site boundary to comprise earthen bunded areas, landscaping and 2.3 metre high security boundary fencing.
- Included within the site boundary are access laneways, set down areas, machinery storage and washdown areas, electrical transformer unit, collection tanks, a linked pump room building between primary and post digester tanks, rainwater collection tank,

Consultations and submissions

The Development Applications Unit have submitted an observation on behalf of the Department of Housing, Local Government and Heritage (DHLGH). Issues raised include the following related to the appropriate assessment process:

- It is noted that there will be surface water discharge to a drainage ditch, that in turn is hydrologically connected to the River Moy SAC by the Spaddagh River. It is stated that electrical monitoring will take place if certain parameters are overcome. The parameters to be agreed with the planning authority. It is not acceptable to require information to be agreed post consent.
- The NPWS has no role in post consent agreements.
- A determination on this development can only be taken if there is no reasonable scientific doubt as to the effects on a designated site.

There are a number of observations on the appeal that relate to designated sites and wildlife in general, I have taken all of these into consideration.

The planning authority refused permission on the basis that it had not been adequately proven that the proposed development on its own or in combination with others would not adversely affect the integrity of a European site.

European Sites

A single European site was identified as being located within a potential zone of influence of the proposed development. The River Moy SAC is located 1.9 km to the north east of the proposed development site. The boundaries of the SAC lie close to the proposed development site and are connected directly via a system of drainage channels adjacent to the proposed development site and onwards to the Spaddagh River.

European Site	Qualifying Interests	Distance	Connections
River Moy SAC Site code 002298	Lowland hay meadows (<i>Alopecurus pratensis</i> , <i>Sanguisorba officinalis</i>) [6510] Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120]	1.9 km	Via a drainage channel and named river.

	<p>Depressions on peat substrates of the Rhynchosporion [7150]</p> <p>Alkaline fens [7230]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Lutra lutra (Otter) [1355]</p> <p>https://www.npws.ie/protected-sites/sac/002298</p>			
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I note that the applicant has stated that there is no ecological justification for other sites to be open for consideration, and I have only included that site with any possible ecological connection or pathway in this screening determination.

A field survey to identify habitats was undertaken by the applicant on the 10 March 2022, using best practice survey methods. Habitats identified across the site include: scrub, wet grassland, wet heath (Annex 1 habitat Northern Atlantic Wet Heath Formations with Erica

tetralix), buildings and artificial surfaces, hedgerow, drainage ditch, stone walls and other stonework. Species include: mostly common occurring birds, frogspawn present, limited scope for bats, no invasive species detected on the site. Northern Atlantic Wet Heath Formations with Erica tetralix, is not a designated annex 1 habitat that forms part of the River Moy SAC. No other habitats of relevance to the River Moy SAC are recorded on the development site.

Likely impacts of the project.

The proposed development will not result in any direct effects on the SAC as it relates to the River Moy.

However due to the nature, size, scale and hydrological connection of the proposed development to the River Moy, impacts generated by the construction and operation of the biogas development require consideration.

The applicant has applied the source-pathway-receptor model in determining possible impacts and effects of the proposed biogas development.

Sources of impact include:

- Release of silt and sediment during site construction works and the operational phase causing deterioration of water quality. Connection via on site drainage channels to the Spaddagh River, onwards to the River Moy.

Likely significant effects on the European sites in view of the conservation objectives

The primary pathway to the River Moy SAC is via the drainage channel system within and bounding the site and its connection to the Spaddagh River, a tributary of the River Moy.

Given the hydrological connections between the site and the River Moy, there is little distance for the process of dilution of any pollutants or settlement of sediment to occur before reaching the main channel and therefore this is considered a direct pathway.

As the River is designated for freshwater species including white-clawed crayfish, lamprey species, Salmon and Otter that require high water quality, these sensitive receptors are

therefore at possible risk via the pathways identified, particularly during the construction phase and operational phase during a spillage event. The applicant considers that the operational phase of the proposed biogas facility could pose risks of significance to the SAC.

Based on the information provided in the screening report, site visit, review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result in the following impacts:

- potential damage to riparian and river habitats associated with inadvertent spillages of hydrocarbons and/or other chemicals during construction and operational phase;
- potential damage to the River Moy associated with escapement of silt to the river during the construction phase; with many of the habitats and freshwater qualifying interest species dependent on water quality, an impact of sufficient magnitude could undermine the sites conservation objectives
- potential spread of invasive species associated with ground disturbance activities during the construction phase.

I concur with the applicants' findings that such impacts could be significant in terms of the stated conservation objectives of the SAC when considered on their own and in combination with other projects and plans in relation to pollution related pressures and disturbance on qualifying interest habitats and species.

Overall Conclusion

Screening determination

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on the River Moy SAC in view of the conservation objectives of a number of qualifying interest features of those sites.

It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] of the proposed development is required.

