



An
Bord
Pleanála

Inspector's Report ABP-319615-24

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| Question | Whether peat extraction on a bog and associated works at Annaghmore, Lough Fen, Co. Offaly is or is not development and is and or is not exempted development. |
| Location | Annabrack Glebe, Mountbolus, Co. Offaly |
| Declaration | |
| Planning Authority | Offaly County Council |
| Planning Authority Reg. Ref. | DEC 2324 |
| Applicant for Declaration | Tim O'Rourke. |
| Planning Authority Decision | No declaration |
| Referral | |
| Referred by | Offaly County Council. |
| Owner/ Occupier | From the list provided by the PA: Patrick Fitzpatrick, Brittas, Clonsalee; Gerard Kelly Larragan, Clonsalee; John Doherty Annaghmore, Blueball; Gerard Kelly Larragan, Clonsalee; William (Liam) Dunne, Broughla, Clonsalee; Patrick Kelly, Annaghbrack Glebe, Mountbolus; Gerard Kelly Larragan, Clonsalee; Gerard Kelly Larragan, Clonsalee; |

Noel Doherty, Annaghbrack Glebe, Mountbolus;
Mary Bridget Control, Timothy Conroy,
Annaghbrack Glebe, Mountbolus; and
Patrick Casey, Annaghbrack Glebe, Mountbolus

Date of Site Inspection

5th July 2024

Inspector

Dolores McCague

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1.0 Site Location and Description

- 1.1.1. The site is located in the townland of Annaghbrack Glebe, Co Offaly. The site is located off a laneway, at the end of a cul-de-sac, local road no. L60131, to the east of the R421, which connects the R22 with Tullamore. The site is located to the north-west of Clonaslee, Co Laois and to the south-west of Killeagh, Co Offaly in an undulating, low-lying rural area. The lane from which the site is accessed, skirts the boundaries of a large operational quarry, to either side.
- 1.1.2. The historic Ordnance Survey mapping shows a lake adjoining the site to the east known as Annaghmore Lough. This lake no longer exists.
- 1.1.3. A drain separates the site from adjoining land to the west. At the time of inspection there was a harvesting machine on site. Large blocks of harvested peat were stacked in multiple rows.
- 1.1.4. The site outlined in the submission is 21.16ha (52.29ac).

2.0 The Question

- 2.1.1. The question presented by the PA is: whether peat extraction on a bog and associated works at Annaghmore, Lough Fen is or is not development and is or is not exempted development.
- 2.2. The Council state that the works have been subject to an enforcement file under Offaly County Council reference No. UD 22/29.
- 2.3. The question presented to the PA, refers to 5 items which are stated to be details of work and its implications, and are attached to a S5 application form, dated 10th September 2023. In my opinion the question could be stated as 'whether the drainage and horticultural peat harvesting is or is not development and is or is not exempted development.

3.0 Planning Authority Declaration

3.1. Declaration

- 3.1.1. The planning authority did not issue a declaration and referred the question to the Board.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports
None

4.0 Planning History

- 4.1.1. No planning history, is given for the site, other than the reference to the enforcement file.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Offaly County Development Plan 2021-2027 is the operative plan. Relevant provisions include:

Peatlands

BLP-14 It is Council policy to protect the county's designated peatland areas and landscapes, including any historical walkways through bogs and to conserve their ecological, archaeological and cultural heritage and to develop educational heritage.

BLP-15 It is Council policy to work with adjacent local authorities and relevant stakeholders in promoting a National Park designation for the peatlands in the midlands and a 'Regional Peatway' connecting natural and cultural attractions.

4.17 Biodiversity and Landscape Objectives

Natural Capital

BLO-01 It is an objective of the Council that development occurs within environmental limits, having regard to the requirements of all relevant environmental legislation and the sustainable management of County Offaly's natural capital.

Designated and Non-Designated Sites.

BLO-04 It is an objective of the Council to ensure that the impact of development within or adjacent to national designated sites, Natural Heritage Areas, proposed Natural Heritage Areas, Ramsar Sites and Nature Reserves likely to result in significant adverse effects on the designated site is assessed by requiring the submission of an Ecological Impact Assessment prepared by a suitably qualified professional, which should accompany planning applications.

BLO-05 It is an objective of the Council in accordance with Article 4(4) of the Birds Directive and Regulation 27(4) of the European Communities (Birds and Habitats) Regulations 2011-2015 to strive to avoid pollution or deterioration of bird habitats outside Special Protection Areas.

Peatlands

BLO-10 It is an objective of the Council to require the preparation and submission of a Hydrological Report/Assessment for significant developments within and in close proximity to protected raised bogs and to take account of same in the assessment of impacts on the integrity of peatland ecosystems.

BLO-11 It is an objective of the Council to work with relevant stakeholders on suitable peatland sites in order to demonstrate best practice in sustainable peatland conservation, management and restoration techniques to promote their heritage and educational value subject to ecological impact assessment and appropriate assessment screening.

Climate Action and Energy

CAEP-15 It is Council policy to support the enhancement of carbon sinks such as peatlands, forestry, and permanent grasslands, with consideration of in conjunction with other climate mitigation actions such as the re-wetting and restoration of cut away peatlands, where appropriate.

CAEP-19 It is Council policy that planning applications for development on or immediately adjacent to peatlands shall be accompanied by assessments

considering the following issues where relevant; peatland stability, hydrology, carbon emissions balance and ecological impact assessment.

5.2. Natural Heritage Designations

5.2.1. The nearest protected sites include:

Annaghmore Lough Fen (Offaly) (site code 000413) within which most of the site is located.

The nearest Natura site is Slieve Bloom Mountains SPA (site code 004160) located c 2.85km straight line distance away, south of the subject site.

6.0 The Referral

6.1. Referrer's Case

6.1.1. The applicant for the declaration wrote to the planning authority (dated 13th August 2023 and date stamped 12th September 2023) enclosing a document titled Annaghmore Lough Fen pNHA Ecological Survey, 10th March 2014, by Blackthorn Ecology. Also enclosing photographs dated 16th July 2023, showing freshly dug drains, and some stacked peak blocks.

The letter states that the applicant had filled out a complaint form, 30th January and had made follow up queries by phone and sent a further letter, 18th July 2023, and has not been given any information on the progress of the matter. He noted recent and ongoing damage at Annaghmore and again requested a reply and in particular to the following questions:

- A reference number for his complaint.
- Has the developer carrying out the horticultural peat harvesting at Annaghmore been identified?
- If an enforcement letter has been sent, a copy is requested.
- Has the developer been held accountable for the damage done and instructed to return the site to the condition it was in before horticultural peat harvesting began. In his letter of 18 July 2023 he pointed out the urgent need to block a

newly dug drain along the bog lagg¹ between the raised bog and the fen. Photographs were provided in his letter and the drain was dug after his complaint.

- Drainage of wetlands is an entirely separate issue to drainage of agricultural land. A definition of wetland is quoted from County Laois Wetland Survey, and the Department of Agriculture, Food and the Marine Environmental Impact Assessment (Agriculture) Regulations 2011 and European Commission Environmental Impact Assessment (Agriculture) Regulations 2017.
- He believes that the development is illegal as it will lead to a lowering of water levels across a wide area of the raised bog, and Annex 1 bog woodland and fen, including into that part of the site which is in County Laois. The developer must be held accountable for damage done not only to the raised bog, but also to rare habitats beyond the immediate area where horticultural peat harvesting is taking place.
- Damage to Annaghmore Lough Fen is also contrary to the aims of the Water Framework Directive to which Ireland has committed 'to protect and improve water quality in all waters'. The range of habitats at Annaghmore Lough Fen assist with water purification contributing to improved water quality in the Clodiagh River and the Silver River. Industrial peat harvesting causes a deterioration in water quality. As drains are opened and deepened water will be released much faster into both river catchments adding to flooding downstream at a time when the need for flood prevention is even more acute, with predicted heavy rainfall events due to climate change.
- The referrer's previous letter to the planning authority (dated 18th July 2023 and date stamped 12th September 2023) is also provided. This refers to his contact with the PA from January 2023. He went back to Annaghmore on 16th July, reporting that work had continued, but it appears that, as yet, no peat has been transported out of the area. What is very clear is that there has been

¹Lagg: a transition zone at the margin of a (usually raised) bog receiving water from both the bog and surrounding mineral ground, characterized by fen or swamp vegetation, transitional water chemistry, and shallow peat of relatively low hydraulic conductivity. It is characterised by fen vegetation with a greater diversity of species than the main bog, including sedges. In theory, it forms a halo around the bog, a consequence of increased nutrients where the bog water-table meets that of the surrounding land.

further extensive deep drainage all around the area where harvesting is taking place. The damage is now far greater than he reported in January and indicates that any effort made by Offaly County Council (OCC) to stop the work has been a failure. The fact that no peat blocks have left the site means that mitigation can still save the site if urgent action is taken to prevent the drying out of the bog and fen.

- He quotes from the site synopsis, in relation to the damaging effect of peat extraction. Annaghmore Lough is remarkable and may represent one of the only intact raised bog lags in the country. It should be noted that that protected bogs such as Clara Bog and Raheenmore Bog do not have intact lags as turf cutting over centuries gradually removed the natural edges. At Annaghmore the lagg had been protected by a lake of over 200 acres which was greatly reduced in area by drainage around the 1950s and is now replaced by fen.
- As a matter of urgency the new drain dug around the raised bog, from which horticultural peat is being harvested, needs to be blocked in several places to avoid further loss of water from the fen. In the longer term the site will need to be restored as close as possible to what it was before horticultural peat harvesting began.
- A copy of a Planning Enforcement Complaint Form (signed 30th Jan 2023 and date stamped 12th September 2023) is also provided.
- A copy of a Section 5 Application Form (signed 11th September 2023 and date stamped 12th September 2023) is also provided. This includes details of works carried out including: digging of deep trenches for peat block harvesting which feed into new drains on all sides of the peat block harvesting area, and deepening and widening of old drains leading directly to lowering of the water table over large areas of the adjacent fen, bog woodland and other natural habitats. The developer has dug a 2m deep drain along the line of the 'bog lagg', the natural transition from raised bog to fen. The developer has dug this drain since the Unauthorised Development complaint was made to OCC in January 2023.

- Drainage and release of large amounts of faster flowing water carrying sediments, to the Ballynacarrid_010 and Silver River (Kilcormack)_020 and general interference with the hydrology of the entire Annaghmore Lough Fen, site 000413, covering several hundred acres.
- A map with plots labelled 'A' to 'K' and a list of names and addresses, stated to be registered landowners, has been provided.

6.2. Board Correspondence

- 6.2.1. After confirming the ownership details with OCC, the Board wrote to all the parties named, informing them of the referral and stating the period within which submissions or observations could be made. No submissions were received.
- 6.2.2. Ownership details have not been provided for the entire site the subject of the referral.

6.3. Other Responses

- 6.3.1. A response was received from Mr Tim O'Rourke, who made the application for the declaration. His submission includes: When asked by the Planning Section of OCC to clarify the date that peat harvesting had begun he was able to say with certainty that there was no evidence of horticultural peat harvesting or associated drainage work at Annaghmore Lough Fen on 26th January 2022, on that date he spent over two hours before dusk watching for Hen harrier activity. His vantage point was on the raised bog to the west of the fen (where peat blocks are now being harvested). This location, with the help of binoculars gave the best view of the area. The raised bog to the west and northwest of the fen had been untouched by turf cutting for domestic or any other use for several decades. His reason for being at Annaghmore Lough Fen on 29th January 2023 was again to observe Hen harrier activity. The damage caused by drainage and horticultural peat harvesting was extensive at that time. He reported the damage to OCC on 30th January 2023. Some of the dates of his Hen harrier observations (given from 2013) which were reported to NPWS, are stated; and he states that no horticultural peat harvesting was taking place.
- 6.3.2. He refers to the importance of Annaghmore Lough Fen as a winter roost site for Hen harrier, for which the Slieve Bloom SPA, 3km distant, has been designated.

- 6.3.3. He states that Whooper swan, an Annex 1 species, use the site as a safe night roost.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

Section 3 (1) of the 2000 Planning and Development Act states:

In this Act, 'development' means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 4 (1) of the Planning and Development Act identifies what may be considered as exempted development for the purposes of the Act.

Section 4(2) of the Act provides that the Minister, by regulations, provide for any class of development to be exempted development, where he or she is of the opinion that:

- (i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development.

Section 4 (4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required (enacted 20th September 2012).

7.2. Planning and Development Regulations, 2001, as amended

Interpretation. Article 3 (1)

"peat extraction" includes any related drainage of bogland;

Article 6(1) states:

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided

that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 8B. Works consisting of field drainage for agriculture, other than drainage and/or reclamation of wetlands, shall be exempted development.

Article 9(1) provides a number of scenarios whereby development, to which article 6 relates, shall not be exempted development for the purposes of the Act, including:

(1) (a) if the carrying out of such development would—

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

Schedule 2 Part 3 sets out classes of rural development which are exempted, including:

Land Reclamation

CLASS 11

Development consisting of the carrying out of drainage and/or reclamation of wetlands.

1. The area to be affected shall not exceed 0.1 hectares.

2. Where development has been carried out within a farm holding under this class, the total area of any such development taken together with the area of any previous such development within the farm holding shall not exceed the limits set out in 1. above.

Peat extraction

CLASS 17

(a) Peat extraction in a new or extended area of less than 10 hectares, or

(b) Peat extraction in a new or extended area of 10 hectares or more, where the drainage of the bogland commenced prior to the coming into force of these Regulations².

1. No such peat extraction shall be likely to have significant effects on the environment by reference to the criteria set out in Schedule 7.

2. Paragraph 1 shall not apply to peat extraction

(i) on a European site where such development is regulated by the European Communities (Natural Habitats) Regulations 1997, or any Regulations or enactment amending or replacing those Regulations, or

(ii) on a site prescribed under article 12 where such development is regulated by the Wildlife (Amendment) Acts 1976 and 2000, or any enactment amending or replacing those Acts.

Schedule 5 sets out development for the purposes of part 10 (Article 93) (i.e. requiring EIA), which includes:

Part 2

2. Extractive Industry

(a) Peat extraction which would involve a new or extended area of 30 hectares.

Schedule 7 sets out criteria for determining whether development listed in part 2 of schedule 5 should be subject to an environmental impact assessment, (i.e. sub-threshold requiring EIA).

1. Characteristics of proposed development

The characteristics of proposed development, in particular (including):

(a) cumulation with other existing development...

(d) the use of natural resources, in particular land, soil, water and biodiversity,

(f) pollution and nuisances,

2. Location of proposed development

The environmental sensitivity of geographical areas likely to be affected by the proposed development, with particular regard to (including):

² 14th day of July 2005

(b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground,

(c) the absorption capacity of the natural environment, paying particular attention to the following areas:

(i) wetlands, riparian areas, river mouths;

(iv) nature reserves and parks;

(v) areas classified or protected under legislation, including Natura 2000 areas designated pursuant to the Habitats Directive and the Birds Directive;

3 Types and characteristics of potential impacts

The likely significant effects on the environment of proposed development in relation to criteria set out under paragraphs 1 and 2, with regard to the impact of the project on the factors specified in paragraph (b)(i)(I) to (V) of the definition of 'environmental impact assessment report' in section 171A of the Act, taking into account (including):

(c) the nature of the impact,

(e) the probability of the impact,

(f) the expected onset, duration, frequency and reversibility of the impact,

(h) the possibility of effectively reducing the impact.

7.3. Other

7.4. Referrals database

Of the numerous referrals in relation to peat extraction the following are the most relevant:

ABP 310546-21 whether the industrial extraction of peat at Baltrasna Bog, Mullingar, Co Westmeath is or is not development or is or is not exempted development. The Board determined that it is development and is not exempted development.

RL2297 whether the extraction of peat in an area of 38 hectares, out of a total area of 66.33 hectares of undesignated bog at Kilballyskea Bog, Co Offaly, where drainage works had previously taken place is or is not development or is or is not exempted development. The Board determined that it is development and is not exempted development.

RL2975 in respect of lands at Lower Coole, Mayne, Ballinealoe & Clonsura, Co. Westmeath owned by Westmeath Peat Ltd. and Cavan Peat Ltd. and occupied by Westland Horticulture Ltd. Whether the drainage of boglands, peat extraction, accesses from public roads, peat handling activities and other associated activities and works are or are not development or are or are not exempted development.

The Board decided that the works were exempted development until the 20th day of September 2012, and would thereafter not be exempted development, as follows:

- The extraction of peat and associated works (excluding peat handling) involved the carrying out of works on land in an intensive and sustained manner and that the commencement of such works involved a material change in the use of land even if peat extraction had occurred in an occasional and less intensive manner before then.
- Both the carrying out of the works on the sites and the material change of use to which their commencement gave rise, constituted development per S. 3 of the 1963 & 2000 Acts.
- The material change of the use and the works were exempted per S.4(1)(a) of the 1963 Act, (“use of land for turbary” was agriculture).

RL2969 a similar determination was made in relation to lands at Camagh Bog, Co. Westmeath, owned by Clover Peat Products Ltd., and occupied by Bulrush Horticulture Ltd.

7.5. Case Law

On a high court challenge to the Section 5 determinations of the Board (25RL.2969 & 25RL.2975, 15th April 2013 (referred to above)) in relation to a question regarding peat extraction, where the Board had determined that the extraction of peat is both the carrying out of works and material change of use, and that the continued works to extract peat was development and required EIA; Mr Justice Meenan, found that peat extraction being works as well as use gives rise to the requirement for EIA; that the development is no longer an exempted development; the removal of the exemption is not retrospective; Section 4(4) does not make unlawful that which was lawful at the time it was done; the effect of s. 4(4) is prospective; (IEHC 58 (2018) delivered 8th February 2018).

7.6. Assessment

7.7. The 2000 Act and consequent regulations:

- 7.7.1. The introduction of the 2000 Act changed the fundamental status of peat extraction under planning law, limited by consequent regulation. The definition of agriculture in section 2 of the 2000 Act omitted the reference to turbary (previously included in section 2 of the 1963 Act). Material changes of use and works to land are development, and this has included the extraction of peat since section 4 of the 2000 Act came into force on 21st January 2002. However regulations made under section 4(2) provided specific exemptions for the development involved in peat extraction in certain circumstances. Article 6 and Class 17 of part 3 of schedule 2 of the 2001 Planning Regulations provided an exemption for peat extraction in a new or extended area of less than 10ha, or in an area of more than 10ha where the drainage of bogland had commenced before the regulations came into force. A condition was introduced into this class on 14th July 2005 stating that it did not apply if the peat extraction was likely to have significant effects on the environment by reference to the criteria set out in schedule 7 of the regulations. Per Article 9(1)(c), development to which Part 10 of the regulations applied, (ie requiring EIA), was not exempted development under article 6. This removed the exemption under article 6 for peat extraction on a new or extended area of more than 30ha (part 2.2.a of schedule 5 of the regulations).

Ongoing works to extract peat are themselves development. Works to land to extract peat on those lands would require either a grant of permission or an exemption from the need for such a grant.

Section 4(4) the 2000 Act, inserted under the Environment (Miscellaneous Provisions) 2011, states that development is not exempted development if it requires EIA or an appropriate assessment. (Sub-section 17(2) of the 2011 Act states that the restriction on exemption would not apply to development that commenced before the relevant section of the 2011 Act came into operation (21st September 2011) and was completed not more than 12 months later. This period has expired).

Regulations – Drainage

Article 8B exempts works consisting of field drainage for agriculture, other than drainage and/or reclamation of wetlands.

Class 11 of part 2 of schedule 2 exempts limited drainage of wetlands (0.1 hectare limit).

7.8. Is or is not development

- 7.8.1. The activity, the subject of the request / referral is drainage and horticultural peat harvesting.
- 7.8.2. The drainage involves works which is development, and the horticultural peat harvesting, being works as well as a material change of use, is development.

7.9. Is or is not exempted development

- 7.9.1. The question before the Board is whether the drainage and horticultural peat harvesting, recently carried out and currently on-going at this site, is or is not exempted development. The Board has before it sufficient information to enable a decision to be made on this question.
- 7.9.2. The area indicated on the map supplied with the referral shows an area, comprising of c 21.ha. The subject area is part of a larger area of bog at this location.
- 7.9.3. The drainage involves works to drain a wetland in excess of 0.1ha which exceeds the threshold for exempted development (class 11) and is not therefore exempted.
- 7.9.4. The scale of the extraction area. The peat extraction involves a new or extended area of 10 hectares or more, where the drainage of the bogland commenced prior to the coming into force of these Regulations (class 17) and is not therefore exempted.
- 7.9.5. The need for EIA – a development which requires environmental impact assessment is not exempted development.
- 7.9.6. As presented the development is below the mandatory threshold for EIA (30ha). If it is therefore necessary to consider whether or not the development would be likely to have significant effects on the environment by reference to the criteria set out in Schedule 7, and by that likelihood require environmental impact assessment.
- 7.9.7. The nature and scale of the activity, the likelihood of impact on climate change due to the release of the sequestered CO₂, into the atmosphere; and the likelihood of impact on surface waters by the release of silt, (including potentially impacting on protected downstream sites River Shannon Callows SAC and Middle Shannon

Callows SPA, are relevant considerations; and being part of a larger area of bog such that there is potential for cumulative impact with other similar developments in the area is also a relevant consideration.

- 7.9.8. Regarding the environmental sensitivity of geographical areas likely to be affected by the proposed development, with particular regard to the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground, in the subject case the importance of Annaghmore Lough Fen as an ecological site (pNHA), and the lack of abundance of bog and lagg ecosystems, are important considerations.
- 7.9.9. I am satisfied that the likelihood of significant effects on the environment arising from the development requires Environmental Impact Assessment to be carried out; the development is therefore not exempted development.
- 7.9.10. The need for AA - a development which requires appropriate assessment is not exempted development.
- 7.9.11. The subject location is 2.85km straight line distance from the Slieve Bloom Mountains SPA (site code 004160) for which the qualifying interest species is Hen Harrier. The conservation objectives for the protected site note that 'breeding pairs predominantly use the area within 5km of their nest site or centre of territory, though they can travel further.' Hen Harriers are known to use the subject site. The likelihood is that they are part of the SPA population. The development is likely to have ex-situ impacts on the conservation objectives of the protected site, therefore AA is required for the development. For this reason also the development is not exempted development.

8.0 Recommendation

- 8.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether drainage and horticultural peat harvesting is or is not development or is or is not exempted development:

AND WHEREAS Tim O'Rourke requested a declaration on this question from Offaly County Council and the Council did not issue a declaration.

AND WHEREAS Offaly County Council referred the question to An Bord Pleanála on the 24th day of April, 2024:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 3(1) of the Planning and Development Act, 2000,
- (b) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (c) Section 4(4) of the Planning and Development Act, 2000, as amended,
- (d) article 3(1), article 6(1), article 8B and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Part 2 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) Schedule 5 to the Planning and Development Regulations, 2001, as amended,
- (g) Schedule 7 to the Planning and Development Regulations, 2001, as amended;
- (h) the planning history of the site,
- (i) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the drainage is development being works,

- (b) the horticultural peat harvesting is development being both works and material change of use of land,
- (c) the drainage is not exempted development being drainage of a wetland area exceeding 0.1ha,
- (d) the drainage and horticultural peat harvesting are not exempted development due the scale of the development and due to the nature of the location and the scale and likelihood of impacts, which require both environmental impact assessment and appropriate assessment.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the drainage and horticultural peat harvesting are development and are not exempted 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.

Planning Inspector

12th July 2023

Appendices

Appendix 1 Photographs

Appendix 2 Offaly County Development Plan 2021-2027, extracts

Appendix 3 OSI.ie Ortho mapping, extracts

Appendix 4 Conservation Objectives for Slieve Bloom Mountains SPA, extracts