



An  
Bord  
Pleanála

## Inspector's Report

### ABP-321245-24

#### Development

Amendment to P17/585 (subject to an extension of duration granted under P17/5850).

The proposed development comprises:

- a) Construction of two storey 'Daisy Lodge' building (GFA 2,995 sqm) with external decked terrace;
- b) Provision of internal access road and pedestrian path networks with associated car parking comprising 34 no. standard spaces incorporating 5 no. EV charging spaces, 3 no. disabled accessible spaces and vehicle drop off/collection areas;
- c) Construction of causeway bridge;
- d) Construction of energy centre building (GFA 69 sqm) comprising generator, plant rooms and adjacent battery charging container (GFA 3 sqm), ancillary ground mounted solar array panels of 374 sqm and service yard area;

e) Provision of sensory garden, play areas and all ancillary site development works.

A Natura Impact Statement (NIS) accompanies this planning application

<b>Location</b>	Lislaughtera, Cong, Co. Mayo
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	2460297
<b>Applicant</b>	Cancer Fund for Children Ireland
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Susan O' Dowd
<b>Observers</b>	None
<b>Date of Site Inspection</b>	27 <sup>th</sup> March 2025
<b>Inspector</b>	Ian Campbell

## **1.0 Site Location and Description**

- 1.1. The appeal site has a stated area of 8.3 ha. and is located c. 1.2 km south-east of the village of Cong, Co. Mayo.
- 1.2. Access to the appeal site is via the L-56609 (Lisloughrey Road), which connects to the R346 c. 1km north of the appeal site.
- 1.3. The adjoining lands to the north and west are indicated as being within the control/ownership of the applicant, as denoted by the blue line boundary.
- 1.4. The appeal site is irregular in shape and comprises a forested area of land bounding Lough Corrib (to the south). Parts of the appeal site comprise wetland. The particulars submitted with the application refer to a mapped drainage feature which flows in an easterly directly across the northern part of the site.
- 1.5. An access track to the north of the site connects a gated entrance from the L-56609 to Cong Waste Water Treatment Plant (WWTP). A spur (turning southwards) connects this access track the main body of the appeal site. Access tracks have been constructed throughout the appeal site. Silt fencing has been erected at the locations of the 2 no. causeways. The main body of the appeal site is surfaced in compacted hardcore and construction material is stored on parts of the appeal site. Topographical levels across the appeal site vary, from c. 12 metres OD Malin at the site entrance to c. 7 metres at the centre of the appeal site.
- 1.6. Ashford Castle (hotel) is located to the north-west of the appeal site. A detached dwelling (the appellant's property) is located to the north of the site entrance. A detached house is located to the immediate west of the site entrance. A pier providing a launching area for boat excursions of Lough Corrib is located to the south-west of the site.

## **2.0 Proposed Development**

- 2.1. The development description contained in the public notices describes the proposed development as comprising an amendment to PA. Ref. 17/585<sup>1</sup> (subject to an

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<sup>1</sup> PA. Ref 17/585 permitted the following:

- The clearance of less than 10ha of pre-thicket stage coniferous plantation.

extension of duration granted under 17/5850), which related a therapeutic village providing respite facilities, more specifically,

- a) Construction of two storey 'Daisy Lodge' building (GFA 2,995 sqm) with external decked terrace.
- b) Provision of internal access road and pedestrian path networks with associated car parking comprising 34 no. standard spaces incorporating 5 no. EV charging spaces, 3 no. disabled accessible spaces and vehicle drop off/collection areas.
- c) Construction of causeway bridge.
- d) Construction of energy centre building (GFA 69 sqm) comprising generator, plant rooms and adjacent battery charging container (GFA 3 sqm), ancillary ground mounted solar array panels of 374 sqm and service yard area.
- e) Provision of sensory garden, play areas and all ancillary site development works.

The principle changes between the development which was permitted under PA. Ref. 17/585 (extended under PA. Ref. PA. 17/5850) and the current proposed amendment application are;

- Omission of 3 no. buildings (i.e. Narnia Building, Community Hub and Plant Building).
- Minor alterations to 'Daisy Lodge building'<sup>2</sup>.

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- The construction of a Daisy Lodge Building, Narnia Building, Community Hub, Community Space and a Central Plant Building.
  - The construction of a new access road and culverted causeway, which will utilise approximately 450m existing road and track along the northern section. The construction of the road will involve it being raised and culverted where it crosses a wetland to the north of the site.
  - Surface water discharges from the site will be to the existing fen, existing bog woodland and existing wet woodland. All discharges will be controlled using Suds drainage elements.
  - The replanting of woodland and suitable landscaping. The woodland replanting will consist of mainly native tree and shrub species. Landscaping will include sowing areas of wildflower meadows.
  - The development will connect to the existing Cong Wastewater Treatment Plant to the north of the site.

<sup>2</sup> The building permitted under PA. Ref. 17/585 contained 8 no family suites and 24 beds for groups, whereas the proposed development comprises 2 no. family suites and 28 no. beds for groups.

- Minor alterations to the central plant area (stated floor area of energy centre building 69 sqm).
- Minor alterations to the internal road alignment.
- Provision of fire pipeline to abstract water from Lough Corrib.
- Provision of pathways throughout site.
- Provision of 85 metre long causeway (in lieu of a 50 metre long bridge) on northern part of access road (referred to in the particulars submitted as 'northern causeway') across a wetland area, and provision of causeway on southern part of access road across wetland area. The causeways sit on a rock armour base allowing for the flow of water.
- Revisions to car parking (i.e. a reduction from 95 no. spaces to 35 no. spaces).
- Solar array (374 sqm).
- Events Area.
- Additional lighting.

The development permitted under PA. Ref. 17/585 had a stated floor area of 7,227 sqm whereas the proposed development has a stated floor area of 3,024 sqm.

2.2. The planning application/appeal was accompanied by the following reports;

- Stage II Site Specific Flood Risk Assessment (SSFRA)
- Ecological Impact Assessment (EclA)
- Appropriate Assessment Screening report and Natura Impact Statement (NIS)
- Traffic Impact Statement
- Drainage Strategy Report
- Landscape Architecture Report
- Arboricultural Impact Assessment

The following revised reports<sup>3</sup> were submitted following a request for Further Information;

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<sup>3</sup> To reflect the omission of the fire pipeline.

- Ecological Impact Assessment (EclA)
- Appropriate Assessment Screening report and Natura Impact Statement (NIS)

2.3. Following a request for Further Information the proposed development was amended as follows -

- Omission of fire pipeline.
- Omission of pathways throughout site.
- Omission of area indicated as events meadow<sup>4</sup>.

### 3.0 Planning Authority Decision

#### 3.1. Request for Further Information & Clarification of Further Information

Prior to the decision of the Planning Authority to grant permission for the proposed development, the Planning Authority requested Further Information and Clarification of Further Information.

##### 3.1.1. Further Information was requested on the 3<sup>rd</sup> July 2024 as follows:

- Item 1 – submit plans and elevations of Daisy Lodge building.
- Item 2 – submit plans and elevations of the proposed causeway.
- Item 3 – indicate on a site layout plan all proposed amendments to originally permitted development.
- Item 4 – submit details of any constructed interventions for the proposed new walkways, including details of anchor point locations and finishes (where elevated).
- Item 5 – indicate proposed solar array on a site layout plan.
- Item 6 – confirm whether a boat house (indicated on the landscape plan but not the site layout plan) is proposed.
- Item 7 – submit elevations of proposed solar arrays.

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<sup>4</sup> The documentation submitted by the applicant in response to the Further Information request does not specifically refer to the omission of this area but the area was omitted from the layout drawings submitted as Further Information.

- Item 8 – submit a site layout plan indicating how sightlines are to be achieved at the access noting the requirements of Condition no. 5 of the PA. Ref. 17/585.
- Item 9 – elements of the proposal are outside the study area of the Arboricultural Impact Assessment. Confirm why, and update the Arboricultural Impact Assessment as required.
- Item 10 – submit details of site clearance.
- Item 11 – address the following -
  - clarify the extent of the ownership of the site with reference to parcels of land which are in the ownership of Mayo County Council, a separate entity, and land currently being transferred to Uisce Éireann.
  - provide justification and submit details of proposed emergency fire pipeline.
  - Table 4.1 of the Appropriate Assessment Screening report and NIS identifies the potential for significant effects on Lesser Horseshoe Bats (LHB) as the site is located within the LHB's core foraging range (i.e. 2.5 km) but Table 5.1 screens out significant effects on LHB as the site is over 7km from potential foraging grounds of the species, This is inconsistent with the NIS submitted as part of PA. Ref. 17/585 which notes no suitable foraging habitat or presence of LHB during bat surveys. No updated bat survey has been submitted for the current proposal.
  - submit further details in the Landscape Plan and Arboricultural Assessment of new pathways through woodland areas, and identify trees to be felled.
  - submit details of monthly ecological site walkovers and ongoing ornithological surveys between October 2023 and May 2024 referenced by the applicant.
- Item 12 – submit updated environmental reports where necessary in response to the bulleted items above.

### 3.1.2. Further Information submitted on 7<sup>th</sup> August 2024.

- Item 1 – plans and elevations of Daisy Lodge submitted.

- Item 2 – details of proposed causeway submitted.
- Item 3 – revised site layout plan (*Drawing no. 1821-PL-13*) submitted showing permitted and proposed amendment development.
- Item 4 – proposed walkway/pathways now omitted from proposal.
- Item 5 – *Drawing no. 1821-PL-10* provides details of proposed solar array.
- Item 6 – boat house is not proposed. Revised landscape drawings submitted indicating removal of boat house.
- Item 7 – *Drawing no. 1821-PL-10* provides details of proposed solar array.
- Item 8 – *Drawing no. 1821-PL-16* indicates sightlines at entrance.
- Item 9 – the fire pipe and extended walkway (which were not part of PA. Ref. 17/585) have been omitted. There are no longer any works proposed outside the submitted Aboricultural Impact Assessment. Due to the densely forested nature of the site further assessments of the site would not be possible without further site clearance being undertaken.
- Item 10 – there is no requirement for further site clearance beyond the area of the parent permission PA. Ref. 17/585.
- Item 11 – the proposal will take place within lands owed by the applicant, or an approved wayleave in the ownership of Coillte. No works extend into neighboring property. The red line boundary<sup>5</sup> of the site has been revised at the access to ‘provide further consideration to the north-eastern property’ (drawings submitted reflect changes to red line boundary).
- Item 12 -

Re. fire pipeline - the fire pipeline has now been omitted from the proposal.

Re. Lesser Horseshoe Bat (LHB) - notwithstanding the assessments carried out in the NIS prepared in 2017, wherein the potential for adverse effects on the QI LHB roost were deemed likely and were assessed, the NIS as submitted for the proposed development finds that there is no potential for likely adverse effect on the QI LHB roost of the SAC. This is because the proposed development is located outside of the 2.5km core foraging range of the QI roost, as shown on Map 11 of the Site-specific Conservation Objectives. The

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<sup>5</sup> The applicant’s response to the PA’s Further Information request, which included changes to the red line boundary of the site, was not deemed significant in accordance with Art. 35 of the Planning and Development Regulations, 2001, as amended, and public notices were not readvertised.



proposed development site is located over 4.2km away from the mapped core foraging range extent of the QI roost, and is over 7km from the roost itself. The proposal will not result in adverse effects on Lesser Horseshoe Bats. An updated bat survey has been undertaken which recorded no LHB within the site.

Re. pathways – the proposed pathways have been omitted from the proposed development.

Re. surveys – in light of the omission of the walkways and fire pipeline, all development proposed is located within the existing permitted redline boundary of the site, which is currently under construction. Nothing is proposed which would cause further pathways for disturbance or habitat loss other than that identified in the previously permitted development, associated assessments and NIS. No further bird surveys are required to inform assessment of the proposed amendments.

**3.1.3. Clarification of Further Information was requested on the 27<sup>th</sup> September 2024 as follows:**

- Item 1 – confirm that the fire pipeline is no longer required, and whether an alternative is proposed.
- Item 2 – submit an updated and more comprehensive bat survey in respect of potential impacts on LHB.
- Item 3 – confirm that the pathways along the shores of Lough Corrib have been omitted.
- Item 4 – confirm the findings of the ecological site walkovers and ongoing ornithological surveys from October 2023 – May 2024.

**3.1.4. Clarification of Further information submitted on 8<sup>th</sup> October 2024**

- Item 1 – the proposed fire pipeline has been omitted, as per drawings submitted on the 7<sup>th</sup> of August 2024.
- Item 2 - there is no potential for likely adverse effect on the Lesser Horseshoe Bat. The proposal is over 7km from the designated QI roost. The Conservation Objective targets for this QI is that there should be no significant decline of

potential foraging habitat within 2.5km of the QI roost, the area of which is mapped on Map 11 of the document. The potential foraging area is completely outside of the boundary of the proposed development site. Regarding linear features, the target is: 'no significant loss, within 2.5km of qualifying roosts. See map 11'. Regarding light pollution, the target is: 'no significant increase in artificial light intensity adjacent to named roost or along commuting routes within 2.5km of the roost. See map 11.' The development site is over 7km from the roost, therefore there is no potential for works at the proposed development site to affect this QI roost, as concluded within the NIS submitted for the proposed amendments. With regard to the local, undesignated Lesser Horseshoe Bat population, there is no potential for the proposed amendments to result in significant effect thereon. The Daisy Lodge development has already undergone Appropriate Assessment and full ecological assessment and has been fully consented. The proposed amendments comprise a reduction in buildings and tree felling required and other minor alterations. There are no additional pathways for impact that could lead to a significant effect on the local bat population. Furthermore, there is no suitable roosting habitat for Lesser Horseshoe Bat within the proposed development site. Therefore, further bat activity surveys are not considered necessary to inform the assessment of the proposed amendments.

- Item 3 – pathways have been removed from the proposal. A revised Landscape Plan submitted on the 7<sup>th</sup> of August 2024 indicates same. As a consequence, there will be no additional loss of trees.
- Item 4 - breeding and wintering bird surveys have been undertaken on Lough Corrib adjacent to the development site for the purpose of informing a separate, future planning application. The Daisy Lodge development has already undergone Appropriate Assessment and ecological assessment and has been fully consented. Given that the proposed amendments comprise minor alterations to the layout, there is no potential for additional pathways for impact on SCI bird species which use Lough Corrib. Therefore, analysis of the bird survey results with respect to the proposed amendments are not considered necessary. Wintering bird surveys were undertaken at the development site once per month between October 2023 and March 2024 inclusive. The

proposed development site itself does not offer significant supporting habitat for SCI bird species of Lough Corrib SPA or other waterbird species, given that the site comprises dense woodland as well as an active construction site. No significant levels of wintering activity were recorded within the lake habitat adjacent to the development site. In summary;

- Tufted Duck (maximum count 7) were recorded foraging along the shoreline habitats adjacent to the proposed development.
- Common Gull (3 no.) and Black Headed Gull (2 no.) were observed perching on rocky outcrops within the lake.
- Cormorant (up to 9 no.) were recorded frequently perched and preening on a small emergent archaeological rock structure 500m southeast of the development site.
- One Great Northern Diver was frequently recorded foraging out in open lake waters adjacent to the proposed development site.
- Up to 2 no. mallards were recorded swimming on waters adjacent to the site and occasionally 1 to 2 mute swans were recorded swimming close to the shoreline.
- Seventeen Golden Plover were recorded on one occasion perched on emergent rocks within the lake waters. No significant numbers of SCI species or other waterbirds were recorded using the lake habitats adjacent to the development site.

Breeding bird surveys were carried out at the Daisy Lodge development in April, May and June 2024. No significant breeding activity was observed during the surveys. The presence of one pair of mallards was noted to the east of the proposed development boundary in April. One pair of common terns was recorded on the lake waters in June. However, there is no suitable habitat for breeding tern or gull species in the vicinity of the proposed development, as these species breed colonially on generally on open rocky ground and on the islands of the lake. No other potential breeding activity was recorded during the surveys. The proposed amendments solely comprise minor amendments to the permitted development and do not encroach any closer to the SPA boundary than previously permitted. The existing woodland between the proposed

development and lake shore will continue to act as a screening between the proposed development site and the SPA.

### **3.2. Decision**

The Planning Authority issued a Notification of Decision to GRANT Permission on the 21<sup>st</sup> October 2024 subject to 7 no. conditions. The following conditions are relevant;

**C2** – conditions of P17/585 shall continue to apply.

**C3** – revised Arborist Impact Assessment to be submitted prior to any works which would impact existing trees.

**C4** – entrance to be as per site layout plan submitted with application and shall accord with Mayo County Development Plan 2022 – 2028 requirements.

**C5** – works to achieve sightlines to be implemented prior to any other proposed works, shall accord with Mayo County Development Plan 2022 – 2028 requirements, and shall be permanently maintained.

**C7** – (a) archaeological burnt mound to be preserved; (b) possible pit containing heat affected stone north of main building to be archaeologically resolved prior to further construction works; (c) ground works to be monitored; (h) should development impact stone walls and pillars to north of proposed entrance any rebuilding should reflect original entrance.

### **3.3. Planning Authority Reports**

#### **3.3.1. Planning Reports**

The report of the Planning Officer generally reflects the requests for Further Information and Clarification of Further Information. The report also notes –

- The principle of the proposed development was previously considered under PA. Ref. 17/585.
- Ascertaining and considering the amendments has been difficult due to the staggered nature of the submission. Additionally conditions in relation to trees etc. are therefore required.

### 3.3.2. Other Technical Reports

Roads Design Section – initial report recommends Further Information regarding compliance with access/visibility standard of Development Plan. Subsequent report on Further Information received recommends attachment of conditions regarding access/sightlines.

Archaeologist – report recommends attachment of conditions, including to take account of archaeological remains of burnt mound which was discovered during site enabling works associated with PA. Ref. 17/585.

Environment, Agriculture, and Climate Change Section – initial report recommends Further Information in respect of absence of details of fire pipeline/assessment of its potential impact on Lough Corrib SAC; requirement for updated bat survey; requirement for details of new pathways in context of landscape plan and Arboricultural assessment; and absence of details of monthly ecological walkovers and ornithological surveys. Subsequent report on Further Information received recommends clarification in respect of whether the proposed fire pipeline is now no longer required, or whether an alternative has been identified; the limited scope of the bat survey/information submitted, in particular in respect of LHB; confirmation required as to whether pathways have been omitted given absence of updated landscape plan and Arboricultural assessment indicating same; and absence of findings of monthly ecological walkovers and ornithological surveys.

Architects Department – initial report notes absence of drawings to enable comparison between permitted and proposed development; details of site clearance; confirmation of land ownership, and wayleaves within the site; requirement for bat survey; confirmation of the scale/details of events meadow and viewing area; confirmation of planting for areas within SAC; requirement for proposal to incorporate cycle lane and footpath at entrance and requirement for lighting to be bat friendly. Subsequent report on Further Information received notes that details in respect of height of building in context of wider site is absent; requirement for lighting to consider bats; the creation of viewing corridors of Lough Corrib would require tree removal; requirement for specimen trees to be named; concerns regarding proposal for filter area adjacent to water; confirmation required regarding public access to site; and details of the solar array is ambiguous.

### 3.4. Prescribed Bodies

None received.

### 3.5. Third Party Observations

The report of the Planning Officer summarises issues raised in the observation submitted in respect of the planning application as follows;

- Impact on adjacent property cannot be determined based on information submitted.
- Alterations to adjoining property required to facilitate sightlines. Relocation of proposed access would address this.

## 4.0 Planning History

### Appeal Site

**PA. Ref. 17/585** – Permission GRANTED for a therapeutic village to provide respite facilities, to include daisy lodge building, narnia building, community hub, community space and central plant building. The development also includes a new access road and all ancillary site works. A Natura Impact Statement accompanied this application.

PA. Ref. 17/585 was granted an Extension of Duration up to and including the 9<sup>th</sup> September 2026 under PA. Ref. 17/5850.

## 5.0 Policy Context

### 5.1 Ministerial Guidelines

5.1.1 Having regard to the nature of the proposed development and to the location of the appeal site, I consider the following Guidelines to be pertinent to the assessment of the proposal.

- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities (2010).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).

## 5.2. Development Plan

5.2.1. The relevant Development Plan is the Mayo County Development Plan 2022-2028.

5.2.2 The appeal site is not zoned under the Mayo County Development Plan 2022 – 2028. The provisions of the Mayo County Development Plan 2022-2028 relevant to this assessment are as follows:

### **Volume 1 – Written Statement:**

#### Chapter 10 (Natural Environment)

- Objective NEP1: To support the protection, conservation and enhancement of the natural heritage and biodiversity of County Mayo, including the protection of the integrity of European sites, that form part of the Natura 2000 network, the protection of Natural Heritage Areas, proposed Natural Heritage Areas Ramsar Sites, Nature Reserves and Wild Fowl Sanctuaries (and other designated sites including any future designations).
- Objective NEO4: To protect and enhance biodiversity and ecological connectivity in County Mayo, including woodlands, trees, hedgerows, semi-natural grasslands, rivers, streams, natural springs, wetlands, stonewalls, geological and geo-morphological systems, other landscape features and associated wildlife, where these form part of the ecological network.

## 5.3 Natural Heritage Designations

- Lough Corrib SAC (Site Code: 000297) – part of the red line boundary of the appeal site is located within the SAC.
- Lough Corrib SPA (Site Code: 004042) – part of the red line boundary of the appeal site is located within the SPA.
- Lough Corrib pNHA (Site Code: 000297) – part of the red line boundary of the appeal site is located within the pNHA.

## 5.4. EIA Screening

See Form 1 and 2 (attached). Having regard to the limited nature and scale of development, as well as the criteria set out in Schedule 7 of the Planning and

Development Regulations, 2001, as amended, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

I consider that any issues arising from the proximity/connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment).

## **6.0 The Appeal**

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

This is a third-party appeal by Susan O' Dowd against the decision to grant permission. The grounds for appeal may be summarised as follows;

- Appellant queries how sightlines at the proposed entrance can be achieved without affecting the appellant's property, and how Condition no. 5 of the parent permission/PA. Ref. 17/585 and Condition no.'s 4 and 5 of the amendment permission can be implemented without interfering with the appellant's property. The appellant contends that the visibility triangle indicated on the drawing submitted under PA. Ref. 17/585 extends into her property, and that her property extends to the centre of the road. Correspondence from Engineer accompanies appeal submission stating that the development permitted under the parent permission will require alterations to the appellant's wall.
- Requirements of Condition no. 7 (h) queried.
- Concerns regarding the ability of the site to manage surface water from the 1.4 ha development area proposed, in the context of flooding and pollution.
- Concerns regarding the methodology used for undertaking the Flood Risk Assessment (FRA), specifically;
  - basing the FRA on a single site visit;
  - predicted water levels being assumed to be the same before and after the development;



- CFRAM is not completed for the area; the FRA cannot take account of the introduction of 1.4 ha of impermeable area;
- Development within Flood Zones A and B require the Justification Test; item iv of the Justification Test, i.e. good urban design, does not apply to this development; and the site is not zoned, with implications for the Justification Test.
- Food risk to the WWTP is likely.
- Lough Corrib could flood with implications for the site entrance, the WWTP and access for emergency services. Water levels in Lough Corrib could rise and inundate the site.
- Flooding could impact water quality and habitats and protected species within Lough Corrib SAC, SPA and NHA.
- Flooding could affect tourism in the area and the health of residents.
- The issue of water levels in Lough Mask affecting Lough Corrib has not been addressed in the FRA.
- The site is remote from Cong village.
- Potential for ground water flooding.
- There may be karst features in the area.
- Queries whether Cong WWTP has capacity to cater for the proposal.
- Construction of the new road, causeway and drainage system could result in flooding.
- Ground works necessary for the construction of the causeways are not described/no ground investigations surveys carried out. The potential effects of same on designated sites has not been examined.
- Direct connectivity between the site and protected sites cannot be discounted given the nature of karst.
- Mitigation measures are an admission of adverse impacts on designated sites.
- Environmental legislation i.e. SI. No. 384/2022 and SI. No. 293/2021 has changed in the meantime.

- Regarding Lesser Horseshoe Bat -
  - the applicant's approach to Lesser Horseshoe Bat in the current application is not consistent with that in NIS submitted under PA. Ref. 17/585, where the potential for disturbance was not ruled out.
  - no updated bat survey was undertaken for the current proposal to take into consideration additional lighting which is proposed and the revised site boundary.
  - in response to a request for Further Information a bat survey was undertaken however Mayo County Council (MCC) considered the survey to be insufficient given the known presence of Lesser Horseshoe Bats on adjacent sites. MCC subsequently sought Clarification of Further Information, and the applicant responded noting that the distance between the development and the Lesser Horseshoe Bat roost, at 7 km, results in no potential for significant effects on Lesser Horseshoe Bats. The appellant contends that the applicant's claim in this regard is unsubstantiated and not adequate in relation to PA's request.
- No bat survey was undertaken prior to the development being given permission under PA. Ref. 17/585 or PA. Ref. 17/5850.
- No Appropriate Assessment was requested or submitted as part of the Extension of Duration application. MCC should have carried out a screening to determine whether EIA or AA was required.
- At the time of the applicant's responses to the PA the development was not fully consented and requests for FI and CFI were to comply with updated Irish and EU law.
- A grant of permission does not constitute a licence or permit to disturb bats.
- The site offers variable potential roosting, commuting and foraging for bats.
- Potential impact from lighting on light sensitive species, including the Lesser Horseshoe Bat. Light mitigation measures are inadequate.
- The proposal could affect the fringing habitat of Lough Corrib SAC, which is found on three sides of the site.

- The NIS submitted with the parent application noted that no QI of the SAC were found within the site, but were 4 metres outside the site boundary, with a potential for negative effects to occur.
- Concern regarding the number of mitigation measures proposed and the implementation of same.
- Development could be sited elsewhere.
- Concerns regarding cost of project.
- The applicant incorrectly relies on the outcome of previous environmental assessments.
- The report of the Planning Officer makes no reference to Appropriate Assessment.
- The PA have failed to carry out EIA screening of the proposal.
- The proposal may necessitate the removal of a priority habitat, i.e. limestone, in order to build foundations.
- A condition to address climate change should be attached, i.e. 1 metre above ground level.
- Concern regarding the cumulative impact of proposal alongside Mayo County Council's proposal to develop a car park on the adjacent lands.
- Query as to whether Galway County Council were consulted in respect of the proposal.
- Potential for damage of pier to occur from construction machinery/safety considerations.
- Query regarding access to Cong WWTP during construction phase.
- The proposal may affect future proposals to raise the level of water in Lough Corrib. This is not addressed in the application.
- The proposal needs an IROPI determination.
- New areas within the site would require site clearance within the SAC.
- Details of the 'viewing area' and 'events meadow' area are ambiguous.

## 6.2. Applicant Response

The applicant submitted a response in respect of the third party appeal submission, summarised as follows;

### Preliminary comments:

- The proposal is justified with reference to the National Planning Framework – Ireland 2040, specifically NSO10; Our Rural Future: Rural Development Policy 2021 – 2025, specifically Policy Measure 96; the Regional Spatial Economic Strategy for the Northern and Western Assembly 2020 (RSES), specifically Regional Policy Objective 3.6.10, 7.10, 7.12 and 7.15; and the Mayo County Development Plan 2022 – 2028, specifically objectives SCP6, SCP9, SCP18, SCP20, SCP22, RSVO5, RSVO 10, RSVO 11, RSVO 13, RSVO 14, Section 6.2 of Chapter 6, and Chapter 9 in respect of community facilities, services and infrastructure.
- The Planning Authority note that the principle of the proposal has already been considered under the previous permission, PA. Ref. 17/585. The applicant requests that the Board dismiss the appeal as it refers to matters that are outside the scope of the application/appeal process.

### Scope of Appeal:

- This appeal relates to an amendment application, specifically changes to a permitted development. The proposal entails a substantial reduction in the extent of the originally permitted development, i.e. a reduction to the number of buildings from 3 to 1, significant reduction in the scale of the energy centre, significant reduction in the extent and impact of the internal access road and minor amendments to Daisy Lodge and associated plant and service area. The reduction in the scale of the development would result in the significantly reduced ecological and hydrological impact, relative to the originally permitted scheme.
- The overarching principle of an amendment application is that it is an application seeking to amend specific elements contained within an extant permission. Prior to an unambiguous ruling made by the High Court on 4<sup>th</sup> of February 2016 in *South-West Regional Shopping Centre Promotion Association Limited & Anor v. An Bord Pleanála (2016) TEHC 84*, the general consensus was that a Planning

Authority or An Bord Pleanála had jurisdiction to grant a revision of or amend a planning permission by way of a subsequent grant of permission. The High Court found that an application to amend elements of an extant or parent permission *'is to be assessed in the normal way but it is the proposed amendments or revisions only that are to be assessed. The parts of the development which are not modified or varied have the benefit of a valid planning permission and thus issues relating to the totality of the development (as opposed to the modifications) should not be revisited'*. Similarly, *Sweetman v An Bord Pleanála [2018] IESC 1, [2018] 2 I.R. 250* found that revisiting an earlier determination on an application constitutes a 'collateral challenge.'

- Much of the appellant's submission relates to the principle of the project which has already been considered under the parent permission (PA. Ref. 17/585). The amendment planning application process does not represent an opportunity for the appellant (or the Planning Authority or An Bord Pleanála) to revisit the aspects of the principle of the proposed development.

Access:

- The proposal does not include any amendments to the permitted access and it therefore falls outside the scope of the PA's assessment, and as such the PA's decision to include Condition no. 4 and 5 is procedurally incorrect. The Board are requested to omit Condition no. 4 and 5 in the event of a grant of permission. For the avoidance of doubt the applicant is satisfied that the requirements of Condition no. 5 of PA. Ref. 17/585 can be met within lands not in control of the appellant. Additionally, the matters raised by the appellant are typically addressed under Section 34 (13) of the Planning and Development Act, 2000, as amended, relating to land ownership disputes.

Flooding:

- The scope of the assessment of flood risk in respect of the subject planning application pertains only to the amendments proposed. A summary of the conclusions of the FRA which accompanied the subject planning application are:
  - No instances of recurring flooding were identified on OPW maps within the site.

- The GSI Groundwater Flood Mapping does not record any historic or predictive groundwater flood zones within the site.
- National Indicative Fluvial Mapping (NIFM) shows encroachment onto the site.
- There is no CFRAM fluvial food zone mapping for the area of the site.
- Historical 6' mapping identifies an area to the north-east of the site as 'Liable to Floods'. The mapped flood area is likely to be associated with the marsh area and drain which runs through the northern section of the site.
- NIFM mapping indicates flood zones along Lough Corrib in the vicinity of the site. NIFM mapping in the area of the site is likely to be incorrect (see Section 5.1 of FRA) and site specific flood mapping based on predicted CFRAM 100yr and 1000yr food levels for Lough Corrib have been carried out.
- The OPW Indicative Flood Maps identify the north and north-east of the development site as 'Benefitting Land'. The mapped food area is likely to be associated with the marsh area and drain which runs through the northern section of the site.
- The highest peak water level for Lough Corrib recorded at the nearby Cong Pier occurred during the December 2015 floods and it is 7.269m OD. Using this peak water level an indicative site-specific flood map for the winter 2015 floods was created.
- Indicative site-specific flood maps were created for the winter 2015/2016 flood event and for the CFRAM 100yr and 1000yr predicted flood levels;
- Areas of the proposed development within Flood Zone A include a section of the northern access road within the marsh area and a minor section of the vehicle access road to the north-east of the Lodge. Development within Flood Zone B includes a minor section of the play lawn and play area in the southeast. The remainder of the proposed site (which includes all built-up areas) are located within Flood Zone C.

- The finished flood level of the proposed building is between 8.75m OD which is at least 1.42m above the 1000 year flood level. The minimum level of the vehicular access roads will be 7.7mOD which is 0.37 above the 1000-year flood level. Given the vast storage potential of Lough Corrib, these are significant freeboards and are sufficient to account for future climate change scenarios not included in the CFRAM food level predictions.
- Proposed measures to reduce flood risk to development within Zone A include the construction of an appropriately designed bridge/causeway structure to cross the marsh area on the north of the site, and drainage /or raising of any wet areas within the site that might be affected by pluvial flooding. A SuDS drainage proposal for the development is also proposed.
- A Justification Test was carried out for the proposed development located in Flood Zone A and Flood Zone B. These elements include the northern access route, the vehicle access road north-east to the Lodge, the pumping house and the solar array. The justification test shows that with an appropriately designed bridge/causeway along the northern access road at the marsh, the residual risk of fooding to the proposed development and surrounding area is negligible.
- The proposed amendments accord with the provisions of the Flood Risk Management Guidelines 2009. The analysis and assessment of flood risk has been undertaken by a professional hydrologist with extensive experience whereas the appellant is not a qualified hydrologist, and on that basis, the points raised in the appeal submission in relation flood risk are entirely speculative. Furthermore, the appeal submission pertains to the principle of the development as a whole in the context of the potential for flooding to occur rather than to the amendments which are the subject of the planning application in question (PL. Ref. 17/585).

Waste Water Treatment:

- The issue of waste water treatment is irrelevant in the context of the proposal, and the matter has been assessed at the time of granting the initial permission.

- No evidence has been submitted by the appellant to support the contention that there is no capacity in Cong WWTP.
- The applicant is engaged in discussions with Uisce Éireann and is satisfied that there is adequate capacity in the plant to cater for the proposal.

Ecological Impact:

- Matters raised by the appellant in respect of ecological impacts relate to the principle of development rather than the amendments which are the subject of the current planning application. Similarly, the PA sought certain information at CFI stage relating to the principle of the development and not the amendments, the applicant highlighted this to the PA and the PA subsequently accepted this.
- Regarding the appellant's statement that mitigation measures are an admission of adverse impacts, mitigation measures are proposed to prevent potential residual adverse effects to European Sites.
- Regarding the appellant's contention that the creation of 1.4 Ha of impermeable surfaces will result in flooding and pollution impacts on designated sites, the creation of impermeable surfaces was assessed and permitted under the parent permission. The amendments proposed under the current application provide for a significant reduction in the number of buildings and footprint of the development. The proposed mitigation measures to address water deterioration in the NIS result in there being no potential for adverse effects on Lough Corrib SAC and SPA. The construction of a bridge over the wetlands was fully assessed and consented under the parent permission, the proposed amendment entails a causeway and culvert in place of the bridge and will be constructed within the footprint of existing forestry tracks over wetlands, and will be designed to maintain existing hydrological flows. The proposed amendment is fully assessed in the NIS and EclA with mitigation measures proposed to address potential adverse effects on designated sites.
- There is no potential for impacts on fringing habitats of Lough Corrib SAC as a result of the proposed amendments. The application boundary is set back from the shore of Lough Corrib and does not include fringing habitats. Potential



effects on fringing habitats have been assessed in the NIS and mitigation measures are proposed to prevent water deterioration.

- The appellant correctly notes that a number of Key Ecological Receptors (KERs) identified in the EclA have potential to be impacted, including the water quality of Lough Corrib, disturbance to species and lighting impacts. Construction of the causeway has the potential to result in water deterioration and loss of hydrological connectivity. Mitigation measures are set out in Section 6 of the EclA which protect the local environment and designated sites. Furthermore, a condition attached to the parent permission requires the implementation of mitigation measures contained in the EclA and NIS.
- Regarding Lesser Horseshoe Bats (LHB);
  - The appellant notes that potential adverse effects to Lesser Horseshoe Bats (LHB) was screened in for the previous assessment but screened out in the current application. In fact, all QI of Lough Corrib SAC were screened in for the current application.
  - The Conservation Objective targets for this QI, according to the Conservation Objective document for Lough Corrib SAC (NPWS 2017) stipulate that there should be no significant decline of potential foraging habitat within 2.5km of the QI roost, the area of which is mapped on Map 11 of the document. The potential foraging area is completely outside of the boundary of the proposed development site. Regarding linear features, the target is 'no significant loss, within 2.5km of qualifying roosts. See map 11'. Regarding light pollution, the target is 'no significant increase in artificial light intensity adjacent to named roost or along commuting routes within 2.5km of the roost See map 11.' The development site is over 7km from the roost as indicated on map 11 (NPWS 2017), therefore there is no potential for works at the proposed development site to affect this QI roost, as concluded within the NIS submitted for the proposed amendments.

- The potential for impact on all bat species and not just the designated Qualifying Interest LHB population has been assessed in the EclA submitted for the subject application. The development was fully consented and assessed under PA. Ref. 17/585. The proposed amendments within the subject application provide for a condensing of the site layout and as such no further habitat loss is proposed. Given that the development underwent Appropriate Assessment and ecological assessment and was consented in 2018 and that the proposed amendments comprise a reduction in buildings and tree felling required, and other minor alterations, there are no additional pathways for impact that could lead to a significant effect on the local bat population. Furthermore, there is no suitable roosting habitat for LHB within the proposed development site and no bat roosts of any other species have been identified on the site. The lighting layout for the proposed access road and carpark area has been fully assessed within the EclA and NIS. The lighting was designed in accordance with the most up to date lighting guidelines including Bat Conservation Trust (2023) Bats and Artificial Lighting at Night Guidance Note 0823 and NPWS guidelines (Marnell et al. 2022)'. The appellant claims that the entrance road, car park and buildings will be subject to lux levels of between 6 and 26. However, illumination is reduced to between 2.5 and 1 lux along the edges of the entrance road. Within the main building area and carpark, lighting is restricted to the buildings and surfaced areas and light overspill into adjacent habitats has been minimised. There will be no light spillage within the SAC or SPA boundary.
- The potential for direct and indirect effects to the European Sites have been assessed in the original application and in relation to the proposed amendments for the subject application. It has been found that there is no potential for residual adverse effect, direct or indirect, on its own or when considered in combination with other developments.
- The appellant alleges that the development requires destruction of underground karst and misapplies case law with regard to destruction of Annex I limestone pavement habitat (*CO258/11 Sweetman v An Bord Pleanála*). There is no limestone pavement present within the development site and as such there is no potential for loss of priority habitat.

### Extension of Duration:

- The PA gave appropriate consideration of the criteria set out under Section 42 (1) of the Planning and Development Act, 2000, as amended. During assessment of the application, the PA made due reference to the provisions of Sections 44A and 44B of the Planning and Development Act, 2000, as amended, which defines the methodology imposed upon a PA in consideration of an Extension of Duration application. Sections 44 (A) and (B) are set out therefore to guide the Planning Authorities on a permission to be extended based on the size, nature and location of the development, all of which remained the same, with no modifications, increase in area or change in location.
- The appeal of a subsequent amendment planning application is not the appropriate forum for the appellant to raise issues in respect of a separate and complete statutory consenting process. This element of the grounds of appeal submission is invalid.

### **6.3. Planning Authority Response**

None received.

### **6.4. Observations**

None received.

## **7.0 Assessment**

### **7.1. Scope of Appeal –**

- 7.1.1. The development description contained in the public notices refers to the proposed development as an amendment to a previously approved permission, that being PA. Ref. 17/585, as extended by PA. Ref. 17/8580. The grounds of appeal include issues in respect of access/sightlines, specifically the contention that the conditions of the parent permission cannot be achieved without encroachment into her property. I note that the proposed development does not include any alterations to the access, which

has the benefit of permission under PA. Ref. 17/585, as extended. In my opinion the matters raised in the appeal submission as they relate to the access to serve the proposed development are outside the scope of the appeal. Similarly, the appeal raises concerns in respect of Cong WWTP and its capacity to serve the proposal. I note that under PA. Ref. 17/585, as extended by PA. Ref. 17/8580, the issue of waste water was assessed and permission was granted for a therapeutic village. In my view the issue raised in respect of waste water is similarly outside the scope of this appeal. I further note that the proposal would not result in any significant increase in loading in terms of waste water noting the significant reduction in the scale of the proposal.

7.1.2. Having examined the application details and all other documentation on file, including the appeal, the applicant's response to same and having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Flood Risk
- Issues Arising
- Appropriate Assessment

## **7.2. Flood Risk**

7.2.1. The appellant raises a number of concerns in relation to flood risk, including the methodology used in the SSFRA; the contention that the proposal does not meet Item iv of the Justification Test; flood risk posed by the proposal to Cong WWTP; the possibility of flooding of the site entrance, with implications for emergency vehicle access; the possibility of rising water levels within Lough Corrib; the potential for rising water levels in Lough Mask to affect Lough Corrib; and the possibility of ground water flooding.

7.2.2. The applicant's submission to the third party appeal notes that the assessment of flood risk relates only to the amendments proposed under the current application and summaries the findings of the SSFRA. The applicant states that their analysis and assessment of flood risk has been undertaken by a professional hydrologist and notes that the appeal relates to the principle of the development rather than the proposed amendments which are the subject of the current planning application.

7.2.3. I note that the under PA. Ref. 17/585 permission was granted for a therapeutic village on the site and that this planning application was subject to a SSFRA. The development which is the subject of the current application/appeal consists of amendments to the permitted development, and provides for a reduction in the footprint of the development. Whilst the applicant has submitted a SSFRA for the entire development under the current application I concur with their contention that it is only the proposed amendments which require assessment in the context of flood risk. In this regard I note that the proposed development would not entail any significant encroachment into areas of the site indicated as Flood Zone A or B. I also note the findings of the SSFRA, specifically that the main building will have a FFL which is at least 1.42 metres the 1-1000 year flood level and that the northern access road and part of the access road north-east of the main building, which are within Flood Zone A and B respectively, are 0.37 metres above the 1000-year flood level. The SSFRA notes that flood risk from groundwater is not applicable, with relevant flood risk sources being from fluvial, pluvial and surface water. The applicant has also carried out the Justification Test for the proposal and I am satisfied that compliance with sub-items 1 – v has been demonstrated. I am satisfied with the methodology of the applicant's SSFRA, and having regard to the forgoing, I am satisfied that the proposed development, which comprises amendments to the PA. Ref. 17/585, is acceptable from a flood risk perspective.

### 7.3. **Issues Arising**

7.3.1. Red line boundary – the development description contained in the public notices refers to the proposed development as an amendment to a previously approved permission, that being PA. Ref. 17/585, as extended by PA. Ref. 17/8580. From comparing the red line boundary of the site associated with PA. Ref. 17/585 and the current application site I note that the red line boundary under the current application is more expansive, extending to the shoreline of Lough Corrib, and includes additional areas not included under PA. Ref. 17/585. The proposed development not only includes amendments to the development permitted under the parent permission, that being PA. Ref. 17/585, but also an expansion of the original site boundary. The fire pipeline and pathways, which were previously proposed but omitted at Further Information stage, were located within areas outside the red line boundary of the parent permission. In my opinion

pursuance of this would have given rise to procedural issues as the development description contained in the public notices would not have been commensurate with the development proposed, or put simply the proposal could not be correctly described as an amendment to PA. Ref. 17/585 when it includes development outside of the red line boundary of PA. Ref. 17/585. Notwithstanding this however I note that the fire pipeline and pathways were omitted following request for Further Information, and as such there is now no development proposed within the red line boundary of the site which is additional to the red line of the parent permission. The red line boundary of the site was also altered at the site access at Further Information stage however I note that no additional development is proposed within this area. In my view, from a procedural perspective, the Board is not precluded from permitting the proposed development. Furthermore, I note that the additional area indicated within the red line boundary of the current application was within the blue line boundary of PA. Ref. 17/585.

7.3.2. Development Contributions – neither the Notification of Decision to Grant Permission issued by Mayo County Council in respect of the current proposal nor the parent permission, PA. Ref. 17/585, included a condition requiring the payment of a development contribution. Section 10.7.2 (c) of the Mayo County Council Development Contribution Scheme, 2023, provides an exemption for applications where the development is for social, recreational or religious purposes not used for profit or gain. In the event that the Board are minded to grant permission for the proposed development I submit to the Board that a condition requiring the payment of a development contribution is not required.

7.3.3. Conditions of Planning Authority – the Notification of Decision to Grant Permission issued by Mayo County Council includes a number of specific planning conditions which I consider should be included should the Board grant permission for the proposed development. A number of specific conditions are included in the Notification of Decision to Grant Permission which I do not recommend are attached in the event the Board grant permission for the proposed development, specifically -

C3 – requirement to submit revised Arborist Impact Assessment prior to works which would impact existing trees.

Having regard to the omission of pathways and the fire pipeline from the proposal at Further Information stage I am satisfied that the proposed development does not result in significant tree loss over and above that which arises as a result of required site clearance associated with the implementation of the parent permission. I do not recommend that this condition is included should the Board grant permission for the proposed development

C4 – requires the entrance to be as per the details submitted to the Planning Authority as Further Information on the 7<sup>th</sup> of August 2024, and to accord with the requirements of the Mayo County Development Plan 2022 – 2028.

The proposed development does not provide for any changes to the access, which was permitted under PA. Ref. 17/585. The issue is therefore outside the scope of this appeal. I do not recommend that this condition is included should the Board grant permission for the proposed development.

C5 – requires that works to achieve visibility at the entrance are implemented prior to any other proposed works, and that sight visibility accords with the requirements of the Mayo County Development Plan 2022 – 2028.

The proposed development does not provide for any changes to the access, which was permitted under PA. Ref. 17/585. The issue is therefore outside the scope of this appeal. I do not recommend that this condition is included should the Board grant permission for the proposed development.

C6 – requires compliance with mitigation measures contained in NIS and EcIA.

I recommend that this condition is included should the Board grant permission for the proposed development.

C7 – (a) requires the preservation in situ of the burnt mound (discovered during ground works when implementing the parent permission) and (b) requires the archaeological resolution of a possible pit feature at the main building prior to further construction works. Conditions c - g relate to general requirements to monitor ground works. C7 (h) relate to works to the existing bell-mouth entrance immediately north of the proposed new entrance to the site (i.e. the access permitted under PA. Ref. 17/585) and lands within the ownership of the applicant.

Regarding Condition 7 (a) and (b), archaeological features discovered in the period since the implementation of the PA. Ref. 17/585 remain covered by the conditions of the parent permission, Condition no. 17 of which requires that where archaeological features are discovered that the applicant shall stop work and be advised by the National Monuments Service. In my view this condition is sufficient to ensure the preservation, in situ or by record, of archaeological within the site. I recommend that the requirements of condition 7 (a) and (b) are not included should the Board grant permission for the proposed development.

The requirements of c – g were included under the parent permission, see Conditions 13 – 17 inc., and will continue to pertain in the event of a grant of permission under the current proposal given that it is an amendment to the parent. Including these conditions would duplicate the conditions attached to PA. Ref. 17/585. I do not recommend that conditions 7 (c – g), are included should the Board grant permission for the proposed development.

In respect of Condition 7 (h), as the proposed development does not provide for any changes to the access, which was permitted under PA. Ref. 17/585, it is not appropriate in my view to impose additional requirements on the applicant under the current application. I do not recommend that this condition, i.e. 7 (h), is included should the Board grant permission for the proposed development.

7.3.4. Extension of Duration – the appellant notes that no Appropriate Assessment was requested or submitted as part of the Extension of Duration application, and that the Planning Authority should have carried out a screening to determine whether EIA or Appropriate Assessment was required. This is an appeal against the decision of Mayo County Council to grant permission for amendments to a therapeutic village. In my view consideration of procedural matters associated with previous applications made to the Planning Authority, and separate to the current planning application i.e. PA. Ref. 24/60297, are outside the scope of this appeal.

7.3.5. Access to Cong WWTP – the appellant raises concerns in relation to the potential impact on access to the Cong WWTP during the construction phase of the proposed development. Cong WWTP and the application site share part of the access road to the north of the site. I note that permission exists under PA. Ref. 17/585 for the



development of the site and that the applicant has begun to implement this permission. I am satisfied that the proposed amendments do not give rise to any significant impediments to accessing Cong WWTP.

- 7.3.6. Assessment of Planning Authority – the appellant contends that the assessment of the proposed development by the Planning Authority was inadequate/absent, specifically in respect of screening for Appropriate Assessment and Environmental Impact Assessment. This report represents my *de novo* assessment of the proposed development having regard to the information submitted with the planning application and appeal.

#### 7.4. Appropriate Assessment

##### 7.4.1. Stage 1 Screening

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

- 7.4.3. Background. The applicant submitted an Appropriate Assessment Screening report and Natura Impact Statement (NIS) for the proposed development<sup>6</sup>. 15 no. European Sites were examined in the Stage 1 Appropriate Assessment Screening report. Following this screening exercise, 2 no. European Sites were identified on the basis of there being potential for polluted run-off reaching Lough Corrib SAC and Lough Corrib SPA during the construction phase of the proposed development and potential for disturbance of species to occur.

- 7.4.4. The applicant's Stage 1 Appropriate Assessment Screening report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the

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<sup>6</sup> The applicant submitted a revised Appropriate Assessment Screening report and Natura Impact Statement (NIS) to the Planning Authority at Further Information stage. This Appropriate Assessment Screening report and Natura Impact Statement (NIS) reflects changes to the proposal, i.e. omission of fire pipeline and pathways, and forms the basis of my assessment.

development. Having reviewed the document, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European Sites.

#### 7.4.5. Supplementary Reports/Studies

An Ecological Impact Assessment (EclA) was submitted with the application. The EclA, also revised in response to the request of the Planning Authority for Further Information, sets out the habitats present on the site, the ecological impact of the proposed development in terms of biodiversity/ecology, and mitigation measures to address potential adverse impacts on same.

The Drainage Strategy Report submitted with the application sets out the existing drainage conditions within the site and the proposed drainage for the proposed development. Infiltration testing found that the site is not conducive to water percolation. The report notes that the marsh area within the site discharges to Lough Corrib, and that the woodland also connects to Lough Corrib through a number of channels.

A Site Specific Flood Risk Assessment (SSFRA) was submitted with the application. The main sources of flooding within the site are fluvial and pluvial. The SSFRA notes that areas of the proposed development within Flood Zone A include a section of the northern access road and a minor section of the vehicle access road to the north-east of Daisy Lodge, and that development within Flood Zone B includes a minor section of the play lawn and play area in the south-east, with the remainder of the proposal located within Flood Zone C. It is proposed to raise the finished flood level of Daisy Lodge at least 1.42m above the 1000 year flood level and to construct the minimum level of the vehicular access roads 0.37 metres above the 1000-year flood level.

#### 7.4.6. Likely Significant Effects. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European Site(s). The proposed development is examined in relation to any possible interaction with European Sites

designated as SACs and SPAs to assess whether it may give rise to significant effects on any European Site.

7.4.7. The Proposed Development. The development comprises permission for amendments to PA. Ref. 17/585. The principle changes between the development permitted under PA. Ref. 17/585 and the current proposed amendment application, post FI and CFI where a number of elements were omitted, are -

- Omission of 3 no. buildings.
- Minor alterations to 'Daisy Lodge building'.
- Minor alterations to the central plant area.
- Minor alterations to the internal road alignment.
- Provision of causeway in lieu of bridge on northern part of access road and provision of causeway on southern part of access road.
- Revisions to car parking.
- Solar array (374 sqm).
- Additional lighting.

The proposed development has commenced. The duration of the parent permission, PA. Ref. 17/585, was extended under PA. Ref. 17/5850 up to the 9<sup>th</sup> of September 2026 and therefore the applicant/developer will have until this date to complete the development, including the amendments proposed under the current application/appeal.

7.4.8. Potential Effects of the Proposed Development. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of the implications for likely significant effects on European Sites:

- The uncontrolled release of pollutants, generated by the proposal during the construction stage, to ground water and surface water (e.g. run-off, silt, fuel, oils, concrete etc.) and subsequent impacts on water quality sensitive habitats of Lough Corrib SAC (Site Code 000297) and Lough Corrib SPA (Site Code 004042), including from the construction of the causeways.

- Potential disturbance impacts/loss of habitat to Lesser Horseshoe Bat and Otter, QI of Lough Corrib SAC (Site Code 000297).
- Potential for the release of contaminated surface water, generated by the proposal at operational stage, and subsequent impacts on water quality sensitive habitats of Lough Corrib SAC (Site Code 000297) and Lough Corrib SPA (Site Code 004042).
- Potential release of foul effluent generated by the proposal on water quality sensitive habitats of Lough Corrib SAC (Site Code 000297) and Lough Corrib SPA (Site Code 004042).
- Should any bird species, which are Special Conservation Interests (SCI) of Lough Corrib SPA (Site Code 004042) or another European Site, use the site for resting, foraging, breeding etc., then the proposed development would have the potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts).

7.4.9. Submissions and Observations. No submissions or observation were made in respect of the appeal relating to Appropriate Assessment issues. The appeal (see para. 6.1) raises a number of issues relating to potential impacts on Lough Corrib SAC and Lough Corrib SPA. These issues are addressed within the Appropriate Assessment (below).

7.4.10. European Sites and Connectivity. A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in Table 7.1. Where a possible connection between the development and a European Site has been identified, these sites are examined in more detail. I note that the applicant included a greater number of European Sites in their initial screening consideration with sites within 15km of the development site considered. There is no ecological justification for such a wide consideration of sites, and I have only included those sites with any possible ecological connection or pathway in this screening determination. I am satisfied that other European Sites proximate to the appeal site can be ‘screened out’ on the basis that significant impacts on such European Sites could be ruled out, either as a result of the separation distance from the appeal site or given the absence of any direct hydrological or other pathway to the appeal site. The appeal site is outside the

core foraging range (i.e. 2.5 km) for Lesser Horseshoe Bat, which is a QI of Lough Carra/Mask Complex SAC (Site Code 001774), Kildun Souterrain SAC (Site Code 002320), Ballymaglancy Cave (Site Code 000474) and Clyard Kettle-Holes SAC (Site Code 000480), and these sites have been screened out on this basis, in addition to considerations of lack of connectivity and distance in respect of other QI associated with these SACs.

**Table 7.1 - Summary Table of European Sites within a possible zone of influence of the proposed development.**

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
Lough Corrib SAC (Site Code 000297)	<ul style="list-style-type: none"> <li>• Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</li> <li>• Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> [3130]</li> <li>• Hard oligo-mesotrophic waters with benthic vegetation of <i>Chara</i> spp. [3140]</li> <li>• Water courses of plain to montane levels with the <i>Ranunculon fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260]</li> <li>• Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]</li> <li>• <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</li> <li>• Active raised bogs [7110]</li> <li>• Degraded raised bogs still capable of natural regeneration [7120]</li> <li>• Depressions on peat substrates of the <i>Rhynchosporion</i> [7150]</li> <li>• Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]</li> </ul>	The red line boundary of the appeal site is located within Lough Corrib SAC. The proposed development is located outside the boundaries of the SAC.	Noting the proximity of the proposed development to Lough Corrib SAC, a likelihood of significant effects exists.	Y

	<ul style="list-style-type: none"> <li>• Petrifying springs with tufa formation (Cratoneurion) [7220]</li> <li>• Alkaline fens [7230]</li> <li>• Limestone pavements [8240]</li> <li>• Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</li> <li>• Bog woodland [91D0]</li> <li>• Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</li> <li>• Austropotamobius pallipes (White-clawed Crayfish) [1092]</li> <li>• Petromyzon marinus (Sea Lamprey) [1095]</li> <li>• Lampetra planeri (Brook Lamprey) [1096]</li> <li>• Salmo salar (Salmon) [1106]</li> <li>• Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</li> <li>• Lutra lutra (Otter) [1355]</li> <li>• Najas flexilis (Slender Naiad) [1833]</li> <li>• Hamatocaulis vernicosus (Slender Green Feather-moss) [6216]</li> </ul>			
Lough Corrib SPA (Site Code 004042)	<ul style="list-style-type: none"> <li>• Gadwall (Anas strepera) [A051]</li> <li>• Shoveler (Anas clypeata) [A056]</li> <li>• Pochard (Aythya ferina) [A059]</li> <li>• Tufted Duck (Aythya fuligula) [A061]</li> <li>• Common Scoter (Melanitta nigra) [A065]</li> <li>• Hen Harrier (Circus cyaneus) [A082]</li> <li>• Coot (Fulica atra) [A125]</li> <li>• Golden Plover (Pluvialis apricaria) [A140]</li> <li>• Black-headed Gull (Chroicocephalus ridibundus) [A179]</li> <li>• Common Gull (Larus canus) [A182]</li> <li>• Common Tern (Sterna hirundo) [A193]</li> <li>• Arctic Tern (Sterna paradisaea) [A194]</li> </ul>	The red line boundary of the appeal site is located within Lough Corrib SPA. The proposed development is located outside the boundaries of the SPA.	Noting the proximity of the proposed development to Lough Corrib SPA, a likelihood of significant effects exists.	Y

	<ul style="list-style-type: none"> <li>Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]</li> <li>Wetland and Waterbirds [A999]</li> </ul>			
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7.4.11. Following an examination of sites within the zone of influence, and upon an examination of the connectivity between the appeal site and these sites (see Table 7.1 above), Lough Corrib SAC (Site Code: 000297) and Lough Corrib SPA (Site Code: 004042) have been screened in having regard to the proximity of the proposal to both European Sites.

7.4.12. Conservation Objectives of European Sites 'Screened-In'. There is no Conservation Management Plan for Lough Corrib SAC. The Conservation Objectives for **Lough Corrib SAC** can be found at <https://www.npws.ie/protected-sites/sac/000297> (dated 28th April 2017). There is no Conservation Management Plan for Lough Corrib SPA. The Conservation Objectives for **Lough Corrib SPA** can be found at <https://www.npws.ie/protected-sites/spa/004042> (dated 17th January 2023).

7.4.13. Identification of Likely Effects. In light of the above Conservation Objectives, the main elements of the proposal which may give rise to impacts on the European Sites listed above are as follows;

Construction Phase Impacts on Lough Corrib SAC - during the construction phase, there is potential for surface water run-off from site works to temporarily discharge into the SAC via surface water and ground water. There is the potential for the water quality pertinent to this European Site to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons. During the construction phase there is potential for disturbance/displacement impacts to Lesser Horseshoe Bat and Otter, QI of Lough Corrib SAC (Site Code 000297).

Operational Phase Impacts on Lough Corrib SAC - during the operational phase the applicant proposes to discharge effluent to the public sewer/Cong WWTP. Sustainable Urban Drainage (SuDs) measures are incorporated into the proposed development. SuDS measures have been selected based on their ability to address pollution risk and include swales, filter drains and permeable paving. No impacts are anticipated in this regard.

In the absence of mitigation, the proposed development has the potential to result in negative impacts on Lough Corrib SAC. I consider that such impacts could be significant in terms of the stated conservation objectives of Lough Corrib SAC.

Construction Phase Impacts on Lough Corrib SPA - during the construction phase, there is potential for surface water run-off from site works to temporarily discharge to groundwater and surface water and flow into the SPA. There is the potential for the water quality pertinent to this European Site to be negatively affected by any contaminants, such as silt and construction activities and also from the release of hydrocarbons. The habitats within the site may represent suitable supporting habitat for bird species associated with Lough Corrib SPA and the potential for ex-situ effects (disturbance/displacement) therefore exists.

Operational Phase Impacts on Lough Corrib SPA - during the operational phase the applicant proposes to discharge effluent to the public sewer/Cong WWTP. Sustainable Urban Drainage (SuDs) measures are incorporated into the proposed development. No impacts are anticipated in this regard. The habitat within the site may represent suitable supporting habitat for bird species associated with Lough Corrib SPA and the potential for ex-situ effects (disturbance/displacement) therefore exists.

In the absence of mitigation, the proposed development has the potential to result in negative impacts on Lough Corrib SPA. I consider that such impacts could be significant in terms of the stated conservation objectives of Inner Lough Corrib SPA.

In-combination Impacts. Recent planning applications where permission has been granted and plans have been examined in the applicant's Appropriate Assessment Screening.

A summary of the outcomes of the screening process is provided in the screening matrix Table 7.2.

Table 7.2 - Summary Screening Matrix				
European Site	Distance to proposed development/ Source, pathway receptor	Possible effect alone	In combination effects	Screening conclusions:



Lough Corrib SAC (Site Code (000297)	The red line boundary of the appeal site is located within Lough Corrib SAC. The proposed development is located outside the boundaries of the SAC.	<p>During the construction phase there is potential for surface water runoff from site works to temporarily discharge to ground and surface water and reach the SAC.</p> <p>There is potential for disturbance/displacement impacts to Lesser Horseshoe Bat and Otter, QI of Lough Corrib SAC</p>	No effect	Screened <b>in</b> for AA
Lough Corrib SPA (Site Code: 004042)	The red line boundary of the appeal site is located within Lough Corrib SPA. The proposed development is located outside the boundaries of the SPA.	<p>During the construction phase there is potential for surface water runoff from site works to temporarily discharge to ground and surface water and reach the SPA.</p> <p>The habitats within the site may represent suitable supporting habitat for bird species associated with Lough Corrib SPA, with the potential for ex-situ effects (disturbance/displacement) during construction and operational phases of the proposed development.</p>	No effect.	Screened <b>in</b> for AA.

7.4.14. Mitigation Measures. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

7.4.15. Screening Determination. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act, 2000, as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in-combination **could have a significant effect** on Lough Corrib SAC and Lough Corrib SPA in view of the Conservation Objectives of the site, and Appropriate Assessment is therefore required.

#### 7.4.16. **Stage 2 – Appropriate Assessment**

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

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

7.4.18 Compliance with Article 6(3) of the EU Habitats Directive. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European Site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European Site and therefore is subject to the provisions of Article 6(3).

7.4.19 Screening The Need for Appropriate Assessment. Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be

excluded on the basis of objective information that the proposed development, individually or in-combination with other plans or projects, will not have a significant effect on the following European Sites:

- Lough Corrib SAC (Site Code: 000297)<sup>7</sup>
- Lough Corrib SPA (Site Code: 004042)<sup>8</sup>

The possibility of significant effects on other European Sites has been excluded on the basis of objective information and noting that there is no possible ecological connection or pathway between the appeal site and other Natura 2000 sites surrounding the proposed development. Measures intended to reduce or avoid significant effects have not been considered in the screening process.

7.4.20. The Natura Impact Statement. A NIS, prepared by MKO, examines and assesses potential adverse effects of the proposed development on Lough Corrib SAC and Lough Corrib SPA. A walkover survey of the site was undertaken by an ecologist on the 25<sup>th</sup> of April 2017 as part of the original application, and also on the 8<sup>th</sup> of February 2024 and the 16<sup>th</sup> of July 2024. The NIS notes that the proposed development site does not offer suitable breeding habitat for SCI bird species of Lough Corrib SPA. Habitats on the site were identified as comprising *Stone Walls and other Stone work* (BL1), Reed and large sedge swamps (FS1), Drainage ditches (FW4), Rich Fen and flush (PF1), Mixed broadleaved/conifer woodland (WD2), Conifer plantation (WD4),

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<sup>7</sup> The Appropriate Assessment Screening report and NIS submitted by the applicant notes that the proposed development will have no potential for adverse effects on the following QI of Lough Corrib SAC due to the location of these specific species within the SAC and the limited nature of excavation works relative to the water table.

- *Margaritifera margaritifera* (Freshwater Pearl Mussel) [1029]
- *Rhinolophus hipposideros* (Lesser Horseshoe Bat) [1303]
- *Drepanocladus vernicosus* (Slender Green Feather-moss) [1393] – **reference to the binomial name and species code appears to be a typographical error. Slender Green Feather-moss is *Hamatocaulis vernicosus* [6216]**
- Water courses of plain to montane levels with the *Ranunculus fluitantis* and *Callitriche-Batrachion* vegetation [3260]
- Semi-natural dry grasslands and scrubland facies on calcareous substrates (*Festuco-Brometalia*) (\* important orchid sites) [6210]
- *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinia caerulea*) [6410]
- Limestone pavements [8240]
- Active raised bogs [7110]
- Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae* [7210]
- Petrifying springs with tufa formation (*Cratoneurion*) [7220]
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]
- Bog woodland [91D0]

<sup>8</sup> The Appropriate Assessment Screening report and NIS submitted by the applicant notes that the proposed development will have no potential for adverse effects on Hen Harrier as the site does not provide suitable habitat for roosting, foraging, or breeding for this species, and noting that the site is currently a construction site with high levels of disturbance.

Treeline (WL2), Wet willow-alder-ash woodland (WN6), Bog woodland (WN7) and Immature woodland (WS2). The NIS identifies the main potential indirect impacts from the proposed development as being the potential for polluted/contaminated run-off to enter Lough Corrib SAC and Lough Corrib SPA (via surface water including during the construction of the causeway over the wetland), affecting aquatic dependent QI and SCI. An otter survey was conducted which found no evidence of otter on the site, however it is stated that Lough Corrib is likely to support foraging and commuting otter. The NIS notes that disturbance/displacement impacts (ex-situ effects) on Otter are not likely having regard to the small scale nature of the proposed amendments and the mitigation set out in the NIS for the permitted development (PA. Ref. 17/585). Regarding the Lesser Horseshoe Bat, the NIS notes that according to Map 11 of the site-specific conservation objectives, the development site is located over 4.2km away from the mapped core foraging range extent of the QI roost, and is over 7km from the roost itself. Therefore, the proposed development is located outside of the core foraging range for the Lesser Horseshoe Bat roost designated for this SAC (2.5km, NPWS, 2018) and there is no potential for adverse effects to this species, and no further assessment is required. A bat survey was undertaken which recorded no Lesser Horseshoe Bats within the site. Regarding the solar array, the NIS cites published literature in relation to the effects of solar development on birds and notes that given the small scale of the solar array it is highly unlikely that birds would mistake the solar array for a water body. The NIS notes that there is potential for disturbance of SCI associated with Lough Corrib SPA to occur from lighting within the site during the operational phase of the proposed development.

7.4.21. The NIS refers to mitigation measures which will be adhered to. Measures for the construction and operational phase of the proposed development are set out in Section 6 of the NIS. Mitigation measures address impacts arising from water deterioration and disturbance and include;

Construction Phase (water deterioration) –

Surface Water Mitigation

- Prior to works at the proposed causeway, a silt fence will be erected along both sides of the wetland areas and extend the length of the proposed causeway.
- As outlined in the NIS prepared for the consented development (PA. Ref. 17/585), a silt fence will also be erected around the wet woodland areas (WN6/WN7).
- Stockpiling of excavated material will be temporary and located in a clearly defined and demarcated area, at least 50m away from the lakeshore and any wetland habitats.
- Silt fencing will comprise a layer of geotextile material, supported by wooden posts driven into the ground. The geotextile will be embedded below the soil for approx. 300mm, with at least 500mm of geotextile material above ground. The geotextile will be embedded in an L' shape.
- The silt fence design will follow the technical guidance document, *Control of Water Pollution from Linear Construction Projects*, published by CIRIA (CIRIA, No. C648, 1996). Up to three silt fences may be deployed in series.
- Silt fences are to be inspected daily, and replaced if damaged or when large amounts of silt accumulate.
- Earthworks will not take place during periods of high rainfall.

#### Refuelling, fuel and hazardous materials storage

- All plant will be inspected prior to use. Defective plant shall not be used until the defect is satisfactorily fixed. All major repair and maintenance operations will take place off site.
- Vehicles will never be left unattended during refuelling. Only dedicated, trained, and competent personnel will carry out refuelling operations. Fuels, lubricants and hydraulic fluids for equipment used will be carefully handled to avoid spillage, properly secured against unauthorised access or vandalism, and provided with spill containment.
- It is unlikely that large volumes of fuel will be stored on the site but any storage bowzers will be adequately bunded or double skinned and kept in secure areas within the site.

- Refuelling will be completed in a controlled manner, at a defined location, using drip trays at all times. Mobile storage tanks such as fuel bowzers will be bunged to 110% capacity to prevent spills.
- Tanks for bowzers and generators shall be double skinned. When not in use, all valves and fuel trigger guns from fuel storage containers will be locked.
- All pipework from containers to pump nozzles will have anti siphon valves fitted.
- The plant used will be inspected daily by the contractor's Environmental Manager for leaks.
- Spill kits, oil soakage pads and oil booms will be available to deal with any accidental spillage.

#### Dust

- All plant and machinery will be kept in good condition and checked regularly for oil/fuel leaks.
- Any site roads with the potential to give rise to dust will be watered at least once daily during dry and/or windy conditions.
- Public roads outside the site and along the main access route to the site will be inspected daily by the Contractor's Environmental Manager for cleanliness, most notably before and after plant and machinery deliveries to site.
- Water misting or sprays will be used if particularly dusty activities are necessary during dry or windy periods.
- Water misting or bowzers will operate on-site as required to mitigate dust in dry weather conditions.
- Material handling systems and material storage areas will be designed and laid out to minimise exposure to wind.
- If transport of soils or other material off-site is required, which has significant potential to generate dust, this will be undertaken in tarpaulin-covered vehicles.
- Daily inspection of the site to determine dust measures and their effectiveness.

#### Cement-Based Products Mitigation

- No batching of wet-cement products will occur on site.
- Any concrete used on site will be delivered ready mixed and used within adequate, correctly sized, well-maintained shuttering.

- No washing out of any plant used in concrete transport or concreting operations will be allowed on-site.
- The weather forecast will be checked prior to the pouring of concrete and no such works will be undertaken when heavy rain is forecast.
- Ensure pour site is free of standing water and plastic covers will be ready in case of sudden rainfall.
- No discharge of cement contaminated waters to any watercourse will be allowed.

Construction Phase (disturbance effects) –

#### Construction Lighting

- Working hours will avoid dawn and dusk (periods of increased activity for fauna). External lighting during construction will be avoided, or if absolutely necessary, will be minimised, focused away from trees and woodland, and switched off when not in use.
- The construction lighting will be cognisant of Bat Conservation Ireland Guidance Notes for: planners, engineers, architects and developers, Bat Conservation Trust (2023) Bats and Artificial Lighting at Night Guidance Note 08/23 and EUROBATS - Guidelines for consideration of bats in lighting projects as well as NPWS guidelines (Marnell et al. 2022). Any construction lighting used will be switched off when not in use, particularly overnight.
- No construction phase lighting will be directed towards Lough Corrib within the site or within proximity to the site.

Operational Phase (disturbance effects) –

#### Lighting Disturbance

- Lighting will be restricted to proposed artificial surfaces and infrastructure areas. No lighting will be directed on to linear habitats, trees, Lough Corrib, wetlands or woodlands.
- There will be no light spillage within the SAC or SPA boundary associated with the proposed operational lighting.

- New column mounted fittings installed on the roadway and the car park shall use an LED source with a downward only light, with a sharp cut off angle with a 0% upwards light ration.
- There will be no upward light spill.
- Lamp sources shall have no/minimal UV element and will be a warm white colour with a CCT of between 2700-3000K.
- Light shields will be used to ensure no upward light spillage and to ensure that light is directed on artificial surfaces only.
- Emergency lights will only be used when emergency tasks are critical.
- Amber colour LED with wavelength of no less than 540nm to be used (EUROBATS recommends against wavelengths below 540nm).

7.4.22 The NIS concludes that where the potential for any adverse effect on any European Site has been identified, the pathway by which any such effect may occur has been robustly blocked through the use of avoidance, appropriate design and mitigation measures, that the measures ensure that the construction and operation of the proposed development does not adversely affect the integrity of European Sites, and that therefore, it can be objectively concluded that the proposed development, individually or in combination with other plans or projects, will not adversely affect the integrity of any European Site.

7.4.23 Having reviewed the documents, 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 following European Sites alone, or in combination with other plans and projects:

- Lough Corrib SAC (Site Code: 000297)
- Lough Corrib SPA (Site Code: 004042)

The applicant's NIS was prepared in line with current best practice guidance and provides an assessment of the potential impacts on Lough Corrib SAC and Lough Corrib SPA.

7.4.24 Appropriate Assessment of implications of the proposed development. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European Sites 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.

7.4.25 The following sites are subject to Appropriate Assessment:

- Lough Corrib SAC (Site Code: 000297)
- Lough Corrib SPA (Site Code: 004042)

A description of the sites and their Conservation and Special Conservation Interests are set out in Table 7.1 of this report. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

7.4.26 The main aspects of the proposed development that could adversely affect the conservation objectives of the European Sites include;

- The potential for the water quality pertinent to Lough Corrib SAC and Lough Corrib SPA to be negatively affected during the construction phase of the proposed development, including from works associated with the construction of the causeway, from contaminants arising from site clearance and construction activities, including silt and hydrocarbons.
- The potential for disturbance to SCI of Lough Corrib SPA from lighting, during the operational phase of the proposed development.

7.4.27. Assessment of proposed Mitigation Measures.

The NIS outlines a number of mitigation measures. For the most part the mitigation measures are intended to avoid the release of contaminated run-off from the site, and address disturbance effects from lighting. I am satisfied that the measures are sufficient to address potential impacts from pollution and lighting during construction and operation phases of the proposed development and that the potential for deterioration of habitats and species identified within the European Sites (Lough Corrib SAC and Lough Corrib SPA) are not likely. Regarding ex-situ effects, I am satisfied that the proposed development would not result in ex-situ effects on birds species associated with Lough Corrib SPA noting the unsuitability of the nature of the habitats within the appeal site, which do not represent favourable habitat for SCI of Lough Corrib SPA.

7.4.28.Integrity test. Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of Lough Corrib SAC or Lough Corrib SPA in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

7.4.29.Appropriate Assessment Conclusion. The proposed development has been considered in light of the assessment requirements of Sections [177U and 177V] of the Planning and Development Act, 2000, as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Lough Corrib SAC and Lough Corrib SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of these 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 would not adversely affect the integrity of Lough Corrib SAC or Lough Corrib SPA, in view of the Conservation Objectives of these sites. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of Lough Corrib SAC and Lough Corrib SPA.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Lough Corrib SAC.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Lough Corrib SPA.

## 8.0 Recommendation

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

## 9.0 Reasons and Considerations

Having regard to:

- (a) The scale and extent of the alterations proposed to the permitted development, and its resultant design, scale and layout,
- (b) The conclusion of the Site Specific Flood Risk Assessment,
- (c) The conclusion of the Ecological Impact Assessment,
- (d) The provisions of the Mayo County Development Plan 2022-2028,
- (e) The conclusion of the Appropriate Assessment,

it is considered that subject to compliance with the conditions set out below, the proposed development would not result in flooding, and would not have a significant impact on ecology or on European Sites in the vicinity, and, would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the Planning Authority on the 7<sup>th</sup> day of August 2024 and the 8<sup>th</sup> day of October 2024. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permission PA. Ref. 17/585, as extended by PA. Ref. 17/5850, unless the conditions set out hereunder specify otherwise. This permission shall expire on the same date as the parent permission.</p>

	<p><b>Reason:</b> In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.</p>
3.	<p>The mitigation measures contained in the Natura Impact Statement (NIS) submitted to the Planning Authority on the 7<sup>th</sup> day of August 2024 shall be implemented and shall be supervised by a suitably qualified ecologist.</p> <p><b>Reason:</b> To protect the integrity of European Sites.</p>
4.	<p>The mitigation measures contained in the Ecological Impact Assessment (EclA) submitted to the Planning Authority on the 7<sup>th</sup> day of August 2024 shall be implemented and shall be supervised by a suitably qualified ecologist.</p> <p><b>Reason:</b> In the interest of environmental protection and nature conservation.</p>

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

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Ian Campbell  
Senior Planning Inspector

16<sup>th</sup> April 2025

## Appendix 1 - Form 1

### EIA Pre-Screening

<b>An Bord Pleanála</b>	ABP-321245-24		
<b>Case Reference</b>			
<b>Proposed Development Summary</b>	<p>Amendment to P17/585 (subject to an extension of duration granted under P17/5850). The proposed development comprises:</p> <p>a) Construction of two storey 'Daisy Lodge' building (GFA 2,995 sqm) with external decked terrace;</p> <p>b) Provision of internal access road and pedestrian path networks with associated car parking comprising 34 no. standard spaces incorporating 5 no. EV charging spaces, 3 no. disabled accessible spaces and vehicle drop off/collection areas;</p> <p>c) Construction of causeway bridge;</p> <p>d) Construction of energy centre building (GFA 69 sqm) comprising generator, plant rooms and adjacent battery charging container (GFA 3 sqm), ancillary ground mounted solar array panels of 374 sqm and service yard area;</p> <p>e) Provision of sensory garden, play areas and all ancillary site development works.</p> <p><b>[As amended following FI stage – see para. 2.3 of report]</b></p>		
<b>Development Address</b>	Lislaughtera, Cong, Co. Mayo		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)	<b>Yes</b>	X	
	<b>No</b>		
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			

<b>Yes</b>	X	Part 2, Class 1, (d) (iii) (threshold is 70 Ha of conifer forest) Part 2, Class 10, (b), (iv) (threshold is 20 Ha.)	Proceed to Q3.
<b>No</b>			
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			
<b>No</b>	X		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	X	Part 2, Class 1, (d) (iii) (threshold is 70 Ha of conifer forest) Part 2, Class 10, (b), (iv) (threshold is 20 Ha.)	Preliminary examination required (Form 2)

<b>5. Has Schedule 7A information been submitted?</b>		
<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector: Ian Campbell**

**Date: 16<sup>th</sup> April 2025**

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-321245-24
<b>Proposed Development Summary</b>	<p>Amendment to P17/585 (subject to an extension of duration granted under P17/5850). The proposed development comprises:</p> <ul style="list-style-type: none"><li>a) Construction of two storey 'Daisy Lodge' building (GFA 2,995 sqm) with external decked terrace;</li><li>b) Provision of internal access road and pedestrian path networks with associated car parking comprising 34 no. standard spaces incorporating 5 no. EV charging spaces, 3 no. disabled accessible spaces and vehicle drop off/collection areas;</li><li>c) Construction of causeway bridge;</li><li>d) Construction of energy centre building (GFA 69 sq.m) comprising generator, plant rooms and adjacent battery charging container (GFA 3 sqm), ancillary ground mounted solar</li></ul>

	<p>array panels of 374 sqm and service yard area;</p> <p>e) Provision of sensory garden, play areas and all ancillary site development works.</p> <p><b>[As amended following FI stage – see para. 2.3 of report]</b></p>
<b>Development Address</b>	Lislaughtera, Cong, Co. Mayo
<p><b>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b></p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development comprises amendments to a permitted therapeutic village providing respite facilities. The amendment provides for a reduction in the number of buildings/overall floor area of development, in addition to minor alterations to the internal road network, solar array, changes to the internal road network and provision of a causeway in lieu of a bridge. No demolition works are proposed as part of the proposal.</p> <p>The proposed development will not give rise to the production of</p>



	significant waste, emissions or pollutants.
<p><b>Location of development</b></p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European Sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>Construction has commenced on the site for a therapeutic village under PA. Ref. 17/585. The site is partially within 2 no. European Sites, with the proposed development located outside European Sites. Following an Appropriate Assessment, it has been ascertained that the proposed development would not adversely affect the integrity of Lough Corrib SAC or Lough Corrib SPA, or any other European Site, in view of the Conservation Objectives of these sites.</p> <p>The area is not of historic or cultural significance. Archaeological remains have been identified within the site during works associated with PA. Ref. 17/585. Conditions are attached to PA. Ref. 17/585 to ensure the archaeological resolution of these features.</p> <p>A Site Specific Flood Risk Assessment has been submitted with the application. The main</p>

	<p>building will have a FFL at least 1.42 metres above the 1-1000 year flood level and the northern access road and part of the access road north-east of the main building, which are within Flood Zone A and B respectively, are 0.37 metres above the 1000-year flood level.</p> <p>Given the scale and nature of development there will be no significant environmental effects arising.</p>		
<p><b>Types and characteristics of potential impacts</b> (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>During the construction phase noise, dust and vibration emissions are likely. However, any impacts would be local and temporary in nature and the implementation of standard construction practice measures would satisfactorily mitigate potential impacts.</p> <p>The EclA and NIS contain measures to address accidental discharge of pollutants to ground and surface waters.</p>		
<b>Conclusion</b>			
<b>Likelihood of Significant Effects</b>	<table border="1"> <tr> <td data-bbox="665 1915 1157 1960"><b>Conclusion in respect of EIA</b></td> <td data-bbox="1157 1915 1457 1960"><b>Yes or No</b></td> </tr> </table>	<b>Conclusion in respect of EIA</b>	<b>Yes or No</b>
<b>Conclusion in respect of EIA</b>	<b>Yes or No</b>		

There is no real likelihood of significant effects on the environment.	EIA is not required.	<b>Yes</b>
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	<b>No</b>
There is a real likelihood of significant effects on the environment.	EIAR required.	<b>No</b>

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_

**Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)