



**Question**

Whether the temporary structure measures 14m x 6m x 4m high. It is now proposed to dismantle 2.1m from eastern gable of the structure to ensure the recommended 10m 'cordon sanitaire' from the watercourse which borders SAC. The dismantled section is proposed to be attached to the western gable. This amended proposal is to accommodate the single concern expressed by the Council is its determination of ED 24/134 is or is not development or is or is not exempt.

**Location**

Knockkillaree, Aughnanure,  
Oughterard, Co. Galway, H91 R25W.

**Declaration**

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

ED25/22

Applicant for Declaration

Patrick Curran.

Planning Authority Decision

Is not exempted development

**Referral**

**Referred by** Patrick Curran

**Owner/ Occupier** None

**Observer(s)** None

**Date of Site Inspection** 26<sup>th</sup> February 2026

**Inspector** Kenneth Moloney

## Contents

1.0 Site Location and Description .....	4
2.0 The Question .....	4
3.0 Planning Authority Declaration.....	5
3.2. Planning Authority Reports .....	5
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.1. Galway County Development Plan, 2022 – 2028.....	7
5.2. Natural Heritage Designations .....	9
6.0 The Referral.....	9
6.2. Planning Authority Response.....	10
7.0 Statutory Provisions.....	10
7.1. Planning and Development Act, 2000 (as amended).....	10
7.2. Planning and Development Regulations, 2001, .....	11
8.0 Relevant Referrals .....	14
9.0 Assessment.....	14
9.1. Is or is not development.....	14
9.2. Is or is not exempted development .....	15
9.3. Restrictions on exempted development.....	18
10.0 EIA Screening.....	20
11.0 Appropriate Assessment .....	20
12.0 Water Framework Directive .....	21
13.0 Recommendation .....	22
Appendix 1 – Form 1: EIA Pre-Screening	
Appendix 2 – Appropriate Assessment Screening	

## 1.0 Site Location and Description

- 1.1. The referral site is located in a rural area situated approximately 3 km to the southeast of Oughterard, Co. Galway.
- 1.2. The size of the referral site measures approximately 5 acres, and its eastern boundary adjoins the River Drimneen, which flows into Lough Corrib approximately 500 metres from the subject site.
- 1.3. The gradient of the referral site slopes gently towards the River Drimneen, and a tributary to the river flows along the northern boundary of the subject site.
- 1.4. The referral site is largely located to the rear of a single storey house that fronts onto the public road, and the referral site comprises of an existing two-storey detached house and a single storey concrete built shed structure, both of which have planning consent.
- 1.5. The shed structure the subject of the referral application is located to the rear of the house and has a pitched roof. The rear of the shed structure (eastern elevation) is situated approximately 8m from the River Drimneen.
- 1.6. The maximum height of the shed structure is 4m above ground level, and the shed is finished externally in metal green sheeting, supported internally by steel beams. The shed has a concrete base for the internal floor.
- 1.7. The shed structure is insulated and is currently used for the storage of garden tools and domestic fuel.

## 2.0 The Question

- 2.1. I would consider that the question for consideration is as follows.

*Whether a temporary shed structure 14m x 6m x 4m high, including the dismantling of 2.1m from eastern gable of the structure and attaching the dismantled section to the western gable, at Knockillaree, Aughanure, Co. Galway, is or is not development and is or is not exempted development.*

- 2.2. I would note, for the purpose of clarification to the Commissioners, that a similar question to the current referral was submitted to the PA as a Section 5 application and the planning reference no. for this case was L.A. Ref. ED24/134. However, the

current Section 5 application and referral is different to that of L.A. Ref. ED24/134, as the current question includes the dismantling of 2.1m from eastern gable of the structure and attaching the dismantled section to the western gable as part of the question. Accordingly, I would not consider that the *Naracanon Trust v An Bord Pleanalá* judgement would be relevant in this instance.

### **3.0 Planning Authority Declaration**

- 3.1.1. On the 26<sup>th</sup> of February 2025 a request for a Declaration in accordance with Section 5(1) of the Planning and Development Act, 2000, as amended, was received by Galway County Council from Patrick Curran.
- 3.1.2. The Planning Authority issued a declaration on the 12<sup>th</sup> of March 2025, to the effect that the construction of a temporary structure 14m x 6m x 4m high at Knockkillaree, Aughanure, Co. Galway, is development and not exempted development.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

3.2.2. The Planner's Report can be summarised as follows:

- The construction of a temporary structure falls within the scope of 'works' and therefore 'development' within the Act.
- The development could be exempted development having regard to Class 16 and/or Class 17, Part 1, Schedule 2, of the Planning and Development Regulations, 2001 (as amended).
- The construction of the temporary structure is development and is not exempted development as the development would contravene the restriction on the exemption Article 9(1)(a)(vi).
- Article 9(1)(a)(vi) prohibits exempted development that interferes with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan.
- The site is located within CDP landscape designation Class 4 which has a landscape sensitivity rating of 'Iconic'.

- It has not been satisfactorily demonstrated that the development falls within the exemptions Class 16 and/or Class 17 of the Regulations. The applicant has not provided any evidence that the construction of Vertical Axis / Wind Turbines and photo-voltaic-film array is taking place on the site.
- There is no evidence from the information on the file that the construction of Vertical Axis / Wind Turbines and photo-voltaic-film array works are exempted in accordance with Class 2(b) and Class 2(c) of the Regulations.
- Furthermore, the erection of a wind turbine on the CDP Class 4 'Iconic' Landscape would require the benefit of planning permission.
- Following a review of the submitted AA Screening the PA cannot exclude likely significant effects of the development on the Lough Corrib SAC and as such the restriction on the exemption Article 9(1)(a)(viib) would also apply.

#### 3.2.3. Other Technical Reports

- None

## 4.0 Planning History

#### 4.1.1. The following planning history relates to the referral site.

- L.A. Ref. ED24/134 – The Council determined on the 4<sup>th</sup> of December 2024 that a Section 5 application is **not exempt**. The Section 5 application asked the question '*whether a temporary shed structure that measures 14m x 6m x 4m high is or is not development and is or is not exempted development*'.
- L.A. Ref. 13/485 – Retention permission **granted**, on the 12<sup>th</sup> of August 2013, subject to 3 no. standard conditions, for the construction of a dwelling house and associated site works. The floor area of the house is 387 square metres.
- L.A. 03/4562 – Retention permission **granted** on the 13<sup>th</sup> of October 2003, subject to 5 no. standard conditions, for a garage shed.
- L.A. Ref. 99/734 – Planning permission **granted**, on the 13<sup>th</sup> of September 1999, subject to conditions, to construct a dwelling house and waste treatment plant.

#### 4.1.2. Enforcement History

- EN 23/210 – Warning Letter issued on the 28<sup>th</sup> of August 2022 for unauthorised large metal structure under construction without planning permission in an SAC.

## 5.0 Policy Context

### 5.1. Galway County Development Plan, 2022 – 2028.

#### 5.1.1. Chapter 8 – Tourism and Landscape

Section 8.13.2 of the Plan sets out objectives and policies in relation to ‘Landscape Sensitivity’ and in accordance with Map 8.2 ‘Landscape Sensitivity’, the referral site is located in an area designated ‘Class 4 – Iconic’. This is the highest landscape sensitivity rating in the county.

The following policies are relevant.

- Policy LCM 1 ‘Preservation of Landscape Character’ states the following;  
*Preserve and enhance the character of the landscape where, and to the extent that, in the opinion of the Planning Authority, the proper planning and sustainable development of the area requires it, including the preservation and enhancement, where possible of views and prospects and the amenities of places and features of natural beauty or interest.*
- Policy LCM 2 ‘Landscape Sensitivity Classification’ states the following;  
*The Planning Authority shall have regard to the landscape sensitivity classification of sites in the consideration of any significant development proposals and, where necessary, require a Landscape/Visual Impact Assessment to accompany such proposals. This shall be balanced against the need to develop key strategic infrastructure to meet the strategic aims of the plan.*
- Policy LCM 3 ‘Landscape Sensitivity Ratings’ states the following;  
*Consideration of landscape sensitivity ratings shall be an important factor in determining development uses in areas of the County. In areas of high*

*landscape sensitivity, the design and the choice of location of proposed development in the landscape will also be critical considerations.*

5.1.2. Chapter 15 Development Management

Section 15.7.2 Landscape Sensitivity

DM Standard 46: Compliance with Landscape Sensitivity Designations

Subject to the provisions of the plan but in particular the settlement policies of Chapters 2, 3 & 4 and the consequent restriction on development in rural areas, the control of permissible development shall be in accordance with the policies as they relate to the four sensitivity classes of landscape in Section 8.13.2 of the plan. The CDP Table 15.6 sets out types of development generally to be acceptable in the various areas of sensitivity as follows:

**Table 15.6: Landscape Sensitivity Designations**

Class 1 – Low Sensitivity	All developments which are of appropriate scale and design and are consistent with settlement policies.
Class 2 – High Sensitivity	Restricted to essential residential needs of local households and various developments (subject to site suitability and appropriate scale and design), including those with substantiated cases for such a specific location and which are in compliance with settlement policies.
Class 3 – Special	Restricted to essential residential needs of local households, family farm business and locally resourced enterprises (subject to site suitability and appropriate scale and design) including those with substantiated cases for such a specific location and which are in compliance with settlement policies.
Class 4 – Iconic	Negligible alterations will be allowed only in exceptional circumstances.

## 5.2. Natural Heritage Designations

- Lough Corrib SAC (site code 000297) – The referral site adjoins the SAC and is partially located within this SAC.
- Lough Corrib SPA (site code 004042) – 445m east
- Gortnandarragh Limestone Pavement SAC (site code 001271) – 2.87km southeast.
- Ross Lake and Woods SAC (site code 001312) – 4.47km southeast.
- Lough Corrib pNHA (site code 000297) – 150m east
- Oughterard District Bog NHA (site code 002431) – 3.2 km southwest

## 6.0 The Referral

6.1. The referrer's case includes both information contained in the current referral application and the applicant's submissions in respect of the previous referral case (ED 24/134). The following is a summary of the referrer's case.

- The applicant has recently commenced building works on his 5-acre site.
- The works include a 14m x 6m x 4m shed structure and is incomplete and temporary.
- The development is exempted under Temporary Structures and Uses Class 16 and Class 17 of Schedule 2, Part 1 of the Regulations.
- The applicant is constructing Vertical Axis / Wind Turbines (VAWTs) and photo-voltaic-film array for his residence, and the shed structure will support the construction of the VAWTs and the photo-voltaic-film array.
- The VAWTs are highly specialised technical devices which are exempted development.
- The temporary structure will be disassembled upon completion of the devices.
- The temporary structure comprises of a steel frame and profiled metal insulated side shed structure and roof panels on a concrete base.

- It is proposed to dismantle 2.1m from the eastern gable of the structure. This will ensure the recommended 10m 'cordon sanitaire' from the watercourse, which borders the SAC.
- The dismantled section will be attached to the western gable.
- These amendments to the structure will address the Council's concerns in Section 5 application ED 24/134.
- The application includes an AA Screening.
- It is contended that the PA's landscape impact assessment is concluded in the absence of any appraisal of drawings.

## 6.2. Planning Authority Response

- None

## 7.0 Statutory Provisions

### 7.1. Planning and Development Act, 2000 (as amended)

7.1.1. Section 2(1) of the Act states the following:

- 'development' has the meaning assigned to it by Section 3;
- 'works' includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal ....'

7.1.2. Section 3(1) states that:

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

7.1.3. Section 4(2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development.

7.1.4. Section 4(4) provides that development shall not be exempted development if an Environmental Impact Assessment (EIA) or an Appropriate Assessment (AA) of the development is required.

**7.2. Planning and Development Regulations, 2001,**

- 7.2.1. Article 6(1) of the Planning and Development Regulations 2001, as amended, (hereinafter referred to as ‘the Regulations’) provide that ‘subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1’.
- 7.2.2. Schedule 2 of Part 1 to the Regulations set out the classes of exempted development, including ‘Class 3’, ‘Class 16’ and ‘Class 17’.

**Exempted Development – Classes of Use**

**Temporary structures and uses**

<b>Column 1</b> <b>Description of Development</b>	<b>Column 2</b> <b>Conditions and Limitations</b>
<b>Class 3</b> The Construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.	<ol style="list-style-type: none"><li>1. No such structure shall be constructed, erected or placed forward of the front wall of a house.</li><li>2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.</li><li>3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively</li></ol>

	<p>for the use of the occupants of the house to the rear or the side of the house to less than 25 square metres</p> <ol style="list-style-type: none"> <li>4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where such structure has a tiled or slated roof, shall conform with those of the house.</li> <li>5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other cases, 3 metres.</li> <li>6. The structure shall not be used for human habitation or for keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such</li> </ol>
<p><b>Class 16</b></p> <p>The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery</p>	<p>Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act</p>

<p>needed temporarily in connection with that development during the period in which it is being carried out.</p>	
<p><b>Class 17</b></p> <p>The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development (other than mining) is being, or is about to be carried out, pursuant to any permission, consent, approval or confirmation granted under the Act or any other enactment or as exempted development, of temporary on-site accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the development, during the period in which it is being carried out.</p>	<p>Such accommodation shall be removed at the expiration of the period and the land shall be reinstated save to such an extent as may be authorized or required by the permission, consent, approval or confirmation granted under the Act or any other enactment.</p>

7.2.3. As provided for in Article 9(1)(a), the development to which article 6 relates, shall not be exempted development, under certain circumstances and the restrictions and limitations are outlined in this Article. Of relevant to the referral before the Commission is Article 9(1) (a) (vi) which states as follows:

*interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area .....*

7.2.4. The following restriction is also of relevance to the referral before the Commission, Article 9(1) (a) (viiB) which states as follows:

*comprise development which would be likely to have a significant effect on the integrity of a European site,*

## 8.0 Relevant Referrals

- 8.1.1. ABP-314387-22: The Board determined on the 19<sup>th</sup> of January 2024 that the placing on land of temporary structures for use as site offices and associated compound is development and is not exempted development. The Board accepted the Inspector's recommendation which concluded that the temporary structures were removed from the development site and not on land adjoining the development site and therefore would not constitute exempted development under Class 16 and Class 17 of Schedule 2, Part 1 of the Planning Regulations.
- 8.1.2. 26.RL3607: The Board determined on the 18<sup>th</sup> of July 2018 that a construction compound is development and is not exempted development. The Board accepted the Inspector's recommendation which concluded that the referral site was physically separated from the construction site and is not on land adjoining the construction site and therefore would not constitute exempted development under Class 16 of the Planning Regulations.
- 8.1.3. 06SRL3312: The Board determined on the 25<sup>th</sup> of February 2015 that the erection of one number single storey temporary storage shed and one number portacabin on lands in connection with construction works under planning register reference number SD14A/0072 is development and is not exempted development. The Board accepted the Inspector's recommendation which concluded that both Class 16 and Class 17 would not apply as the referral site is not adjoining the development site, and also the development works, for which a permission pertains, has not commenced.

## 9.0 Assessment

### 9.1. Is or is not development

- 9.1.1. Section 2(1) of the Planning and Development Act, 2000, as amended, defines "works" as including any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.....'.
- 9.1.2. Section 3(1)(a) of the Act defines development as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land

or structures situated on land and in effect relates to both works and the material change in the use of land or structures.

- 9.1.3. The referral submission to ACP includes a 1:100 scaled drawing illustrating the layout of the shed structure the subject of this referral application. I note from the submitted drawing that the shed structure has a floor area of approximately 74 sq. metres and a maximum height of 4 metres above ground level. The submitted drawing indicates that the shed's elevation is comprised of dark green insulated profiled metal sheeting. The proposal also provides for the dismantling of 2.1m section of the eastern portion of the shed structure to ensure a recommended 10m distance from the adjacent watercourse which borders the Lough Corrib SAC (site code 000297) and relocating the dismantled section to the western side of the shed structure.
- 9.1.4. The placing of a structure, such as the shed in question, on the site is an act or operation of construction and constitutes works, which by definition, is development. The construction of the shed is therefore development in accordance with Section 3(1)(a) of the Act.

## 9.2. **Is or is not exempted development**

- 9.2.1. Section 4(1) of the Act sets out provisions in relation to exempted development. The construction of a domestic shed is not exempted having regard to any of these provisions.
- 9.2.2. Section 4(2) of the Act provides that the Regulations can make provision in respect of exempted development. This is done by Article 6, which provides that development of a class specified in Schedule 2 of the Regulations shall be exempted provided that the conditions and limitations attached to those various classes are met.
- 9.2.3. I noted from my site assessment that the shed structure was currently in use for the storage of garden tools and domestic fuel, and therefore the use of the structure, at the time of my site assessment, is primarily ancillary to the domestic use on the site. Class 3, Part 1, Schedule 2 of the Regulations offers an exemption for the construction of a shed within the curtilage of a house subject to 6 no. conditions and

limitations. However, the exemption would fall on Condition no. 2 of Class 3. For clarity, Condition no. 2 states as follows:

*The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.*

9.2.4. In this instance the floor area of the subject shed structure is c. 75 square metres, which exceeds the floor area available in the Class 3 exemption.

9.2.5. However, the referrer claims that the shed structure would be exempted development having regard to Class 16 and Class 17 of Part 1, Schedule 2 of the Regulations which provide exempted development provisions for temporary structures. I would acknowledge that both Class 16 and Class 17 relate to temporary structures, plant/machinery and other works that are required to be provided in the context of construction works and are needed in connection with those construction works. The referrer asserts that the shed structure is temporary in nature and is required for the construction of Vertical Axis / Wind Turbines and photo-voltaic-film array on the subject site and would therefore avail of the exemption in Class 16 and Class 17, of the Regulations.

9.2.6. Class 17 relates solely to the provision of temporary on-site accommodation for those employed or engaged in construction works. Whereas Class 16 relates to non-accommodation structures, works, plant or machinery.

9.2.7. My interpretation of Class 16 and Class 17 is that temporary structures, works, plant or machinery are only exempted if they are needed temporarily in connection with the “development” (i.e. the development that is being or is about to be carried out pursuant to a permission or as exempted development). It therefore follows that in order for the development to fall within these classes, it needs to be established that:

- The structure, works, plant or machinery is needed in connection with the primary use of the site;
- This need is a temporary one;
- The primary use either has the benefit of planning permission or is exempted development; and

- The temporary period is identifiable and connected to the period during which the works are being carried out.

- 9.2.8. I noted from my site assessment and the information on the file that there is no active ongoing construction works on the referral site relating to either Vertical Axis / Wind Turbines or photo-voltaic-film array which is the stated development by the referrer. Furthermore, there was no enabling works on the site that might suggest that the said construction works is about to be carried out.
- 9.2.9. In addition, I would note from the PA's Planners Report, dated March 2025, that there is an outstanding Enforcement file on the referral site. The Planner's Report refers to the issuing of a Warning Letter, dated 28<sup>th</sup> of August 2022, in respect of an unauthorised '*large metal structure under construction*'. In the previous Section 5 application to the PA (L.A. Ref. ED24/134) on the subject site the referrer's submission (dated 11<sup>th</sup> November 2024) indicates that the shed structure is in place, although incomplete and temporary. Separately I have also reviewed a Google Earth image dated 20<sup>th</sup> of March 2025 and I can confirm that the shed structure was in situ on this date. It would therefore appear that the shed structure was constructed sometime in 2022, or thereafter and was in place prior to the 11<sup>th</sup> of November 2024.
- 9.2.10. Therefore, having regard to the date of my site assessment in which case the shed structure was in situ and the issuing of the Warning Letter in August 2022, the shed structure has been in place for a period of more than three years and no construction work has commenced for Vertical Axis / Wind Turbines or photo-voltaic-film array during this period. Furthermore, there is no documentation submitted by the referrer indicating that the proposed Vertical Axis / Wind Turbines or photo-voltaic-film array has the benefit of a grant of planning permission or a Section 5 exemption certificate.
- 9.2.11. As such, and having regard to the above considerations, the subject shed structure is not connected to any development works on the site that would be pursuant to a permission under the Act or exempted development and would not on that basis represent a structure, plant or enabling works needed temporarily in connection with the "development".
- 9.2.12. On the basis of the above, I would not consider that either Class 16 or Class 17 of Schedule 2 of Part 1 to the Regulations would be applicable to the development the

subject of the question before the Commission. I would conclude that the site would not avail of an exemption for the temporary storage shed.

- 9.2.13. The Commission will note that the referral question refers to the dismantling of a 2.1m section from the eastern gable of the structure and attaching the dismantled section to the western gable of the temporary structure. These proposed alterations would have no bearing on the principal issue in considering whether the Class 16 and Class 17 exemptions apply. As such, I would conclude that the shed structure, including the proposed alterations would not avail of the exemptions in Class 16 and Class 17 of the Regulations, and that there are no other available exemptions, and as such is not exempted development.

### 9.3. Restrictions on exempted development

- 9.3.1. I have noted above that there are no relevant exempted development provisions in respect of the question before the Commission in this referral. Notwithstanding, and should the Commission consider otherwise, I would acknowledge that Article 9 of the Planning and Development Regulations 2001 (as amended) refers to restrictions on exempted development.

- 9.3.2. In this respect I have assessed the shed structure having regard to the relevant Article 9 restrictions and I would consider that Article 9(1)(a)(vi) would be applicable. Article 9(1)(a)(vi) states,

*interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*

- 9.3.3. The PA concluded in their Section 5 Declaration that the proposed works would contravene the Article 9(1)(a)(vi) restriction. I would note that the PA's opinion, that accompanied their declaration, concluded that the site is located within a Class 4 designated rural landscape, which has a landscape sensitivity rating of 'Iconic', and therefore on that basis the proposed works would contravene the Article 9(1)(a)(vi) and as such any exemption is de-exempted.

- 9.3.4. I would note that there is no assessment on the file, by either the PA or the referrer, in respect of the siting of the shed structure within the Class 4 landscape. I acknowledge that the referral site is located within a landscape designated 'Class 4 – Iconic' and that this is the highest landscape sensitivity rating in the county in accordance with Map 8.2 'Landscape Sensitivity'. I have referenced relevant CDP policies in para 5.1 above and I would note that in accordance with CDP that DM Standard 46: *Compliance with Landscape Sensitivity Designations* indicates that within the 'Iconic Landscape' that negligible alterations will be allowed only in exceptional circumstances.
- 9.3.5. Notwithstanding I would note the location of the subject shed structure is situated some 40 metres from the public road and is screened from view from the public road by an existing single storey house, and existing ancillary structures and boundary planting associated with this house. The shed structure would therefore have no visual impacts from the public road. Further, I walked the public road during my site assessment, the local bridge over the Drimneen River and public car park associated with Aughnanure Castle (located on the opposite side of the public road from the referral site) and there was no visual impact of the shed structure owing to existing structures and screening in the area. I would also acknowledge that my site assessment was undertaken in late-February when screening foliage would be at a minimum.
- 9.3.6. I also note that the existing two-storey house (floor area 387 sq. m.) on the referral site is partially visible from the public road, however the shed structure with a floor area of c. 75 sq. m. and a pitched roof height of 4 metres is not visible.
- 9.3.7. I would acknowledge the sensitivity of the local landscape having regard to the CDP designations, however single storey structures, including houses and domestic sheds are not uncommon locally, and based on my site assessment it is my view that the shed structure would have negligible impact on the landscape. Therefore, should the Commission consider that the subject shed structure is exempted development I would not consider that the exemption would be restricted by Article 9(1)(a)(vi) of the Regulations.
- 9.3.8. I note that the referrer proposes alterations to include the dismantling of a 2.1m section from eastern gable of the structure and attaching the dismantled section to

the western gable of the temporary structure. I would consider that these alterations are minor in scale and the alterations would have a negligible impact on the overall landscape and the 'Iconic Landscape'.

- 9.3.9. A second potential restriction of any exemption, for which Article 6 relates, is Article 9(1)(a)(viiB), which states as follows;

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

- 9.3.10. The PA concluded in the Section 5 application, having regard to the submitted AA Screening, that they cannot exclude likely significant effects of the development on the Lough Corrib SAC, and as such any exempted development would be restricted by 9(1)(a)(viiB) of the Regulations.
- 9.3.11. I have concluded in my AA Screening, which I have addressed in Appendix 1 and Appendix 2 of my report, and which I have had regard to the applicant's submitted AA Screening Report, that the development would not likely have a significant effect on any European site. Therefore, should the Commission consider that the subject shed structure is exempted development I would not consider that the exemption would be restricted by Article 9(1)(a)(viiB) of the Regulations.

## **10.0 EIA Screening**

- 10.1.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

## **11.0 Appropriate Assessment**

- 11.1. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other

plans or projects would not be likely to give rise to significant effects on the Lough Corrib SAC (site code 000297) and the Lough Corrib SPA (site code 004042) in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

11.1.1. This determination is based on:

- The minor nature and scale of the development.
- The temporary nature of the structure.
- The absence of any services associated with the temporary structure.

## 12.0 Water Framework Directive

12.1. I have individually assessed the subject development use and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the subject use, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

The reason for this conclusion is as follows.

- The minor nature and scale of development.
- The temporary nature of the structure.
- The absence of any services associated with the temporary structure.

12.2. I conclude that on the basis of objective information, that subject development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## 13.0 Recommendation

13.1. I recommend that the Commission should decide this referral in accordance with the following draft order.

**WHEREAS** a question has arisen as to whether a temporary structure 14m x 6m x 4m high, including the dismantling of the 2.1m from eastern gable of the structure and attaching the dismantled section to the western gable, at Knockillaree, Aughanure, Co. Galway, is or is not development and is or is not exempted development:

**AND WHEREAS** Patrick Curran requested a declaration on this question from Galway County Council and the Council issued a declaration on the 12<sup>th</sup> of March 2025 stating that the matter was development and was not exempted development:

**AND WHEREAS** Patrick Curran referred this declaration for review to An Coimisiún Pleanála on the 8<sup>th</sup> day of April 2025:

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000, as amended,
- (c) Section 4(2) of the Planning and Development Act, 2000, as amended,
- (d) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Parts 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,

- (f) Previous referrals to the Commission, including 06S.RL.3312,
- (g) the planning history of the site,
- (h) The documentation on the file, including submissions on behalf of the referrer Patrick Curran,
- (i) the pattern of development in the area:
- (j) the report and recommendation of the Inspector:

**AND WHEREAS** An Coimisiún Pleanála has concluded that:

- (a) The placing on land of the shed structure constitutes development, as it involves the carrying out of 'works',
- (b) the lands which are in use for said shed structure and works are located at Knockillaree, Aughanure, Co. Galway, and the lands do not constitute land adjoining a development that is about to be carried out pursuant to a permission or as exempted development,
- (c) accordingly, the temporary structures and associated works do not come within the exempted development provisions of Class 16 or Class 17, Schedule 2, Part 1 of the Planning and Development Regulations 2001, (as amended), and
- (d) does not come within any of the other exempted development provisions of the Act or Regulations.

**NOW THEREFORE** An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the placing of a temporary structure 14m x 6m x 4m high, including the dismantling of 2.1m from the eastern gable of the structure and attaching the dismantled section to the gable, at Knockillaree, Aughanure, Co. Galway, is development and is not exempted development.

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

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Kenneth Moloney  
Senior Planning Inspector

27<sup>th</sup> March 2026

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	ABP-322245-25
<b>Proposed Development Summary</b>	Whether the temporary structure measures 14m x 6m x 4m high is or is not development or is or is not exempt. It is now proposed to dismantle 2.1m from eastern gable of the structure to ensure the recommended 10m 'cordon sanitaire' from the watercourse which borders SAC. The dismantled section is proposed to be attached to the western gable. This amended proposal is to accommodate the single concern expressed by the Council is its determination of ED 24/134.
<b>Development Address</b>	Knockkillaree, Aughnanure, Oughterard, Co. Galway.
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	

**3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?**

<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.  <b>No Screening required.</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.  <b>EIA is Mandatory. No Screening Required</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b>  <b>OR</b>  <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b>	

**4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?**

Yes <input type="checkbox"/>	<b>Screening Determination required (Complete Form 3)</b>
No <input checked="" type="checkbox"/>	<b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b>

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix 2 – Appropriate Assessment Screening

### Screening for Appropriate Assessment

#### Test for likely significant effects

#### Step 1: Description of the project and local site characteristics

Case file ABP-322245-25

#### Brief description of project

Section 5 Referral

Whether the temporary structure measures 14m x 6m x 4m high is or is not development or is or is not exempt. It is now proposed to dismantle a 2.1m section from eastern gable of the structure to ensure the recommended 10m 'cordon sanitaire' from the watercourse which borders SAC. The dismantled section is proposed to be attached to the western gable. This amended proposal is to accommodate the single concern expressed by the Council in its determination of ED 24/134.

#### Brief description of development site characteristics and potential impact mechanisms

The referral site is located in a rural area, and its eastern boundary adjoins the River Drimneen, which flows into Lough Corrib approximately 450 metres from the subject site. A tributary to the river flows along the northern boundary of the site. The referral site slopes gently towards the River Drimneen. The rear of the shed structure (eastern elevation) is situated approximately 8m from the River Drimneen.

The referral application relates to a single storey shed / storage structure located to the rear of the site.

The nearest designated European Sites to the referral site are Lough Corrib SAC (site code 000297) which adjoins the subject site to the immediate east, and the Lough Corrib SPA (site code 004042) located approximately 445m east. The Gortnandarragh Limestone Pavement SAC (site code 001271) is located 2.87 km to the southeast of the referral site and the Ross

	Lake and Woods SAC (site code 001312) is situated approximately 4.47km to the southeast.
<b>Screening report</b>	Y
<b>Natura Impact Statement</b>	N
<b>Relevant submissions</b>	None

**Step 2. Identification of relevant European sites using the Source-pathway-receptor model**

<b>European Site (code)</b>	<b>Qualifying interests Link to conservation objectives (NPWS, date)</b>	<b>Distance from proposed development</b>	<b>Ecological connections</b>	<b>Consider further in screening Y/N</b>
Lough Corrib SAC (site code 000297).	<p>Oligotrophic waters containing very few minerals of sandy plains</p> <p>Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea</p> <p>Hard oligo-mesotrophic waters with benthic vegetation of Chara spp.</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation</p>	Shed structure 10m west SAC.	Surface water connection.	Y

	<p>Semi-natural dry grasslands and scrubland facies on calcareous substrates</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils</p> <p>Active raised bogs</p> <p>Degraded raised bogs still capable of natural regeneration</p> <p>Depressions on peat substrates of the Rhynchosporion</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i></p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>)</p> <p>Alkaline fens</p> <p>Limestone pavements</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p>Bog woodland</p> <p>Freshwater Pearl Mussel</p> <p>White-clawed Crayfish</p> <p>Sea Lamprey</p> <p>Brook Lamprey</p> <p>Salmon</p> <p>Lesser Horseshoe Bat</p> <p>Otter</p> <p>Slender Naiad</p>			
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	Slender Green Feather-moss			
Lough Corrib SPA (site code 004042)	Pochard Tufted Duck Common Scoter Hen Harrier Coot Golden Plover Black-headed Gull Common Gull Common Tern Arctic Tern Greenland White-fronted Goose Shoveler Gadwall Wetland and Waterbirds	Shed structure 500m west of SPA.	No direct connection	Y
The Gortnandarragh Limestone Pavement SAC (site code 001271)	Limestone pavements	2.87 km to the southeast.	No direct connection	N
Ross Lake and Woods SAC (site code 001312)	Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. Lesser Horseshoe Bat	4.47km to the southeast.	No direct connection	N

### Further Commentary / discussion

There is no source-pathway-receptor connectivity between the proposed development and the designated site The Gortnandarragh Limestone Pavement SAC (site code 001271) and the Ross Lake and Woods SAC (site code 001312). Further, having regard to the scale of the development I am satisfied that it is highly unlikely that the proposed development could generate impacts of a magnitude that could affect habitat quality within these designated sites.

Step 3. Describe the likely effects of the project (if any, alone <u>or</u> in combination) on European Sites		
AA Screening matrix		
Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
<p><b>Site 1</b> <b>Lough Corrib SAC (site code 000297).</b></p> <p>Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</p> <p>Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> [3130]</p> <p>Hard oligo-mesotrophic waters with benthic vegetation of <i>Chara</i> spp. [3140]</p> <p>Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</p> <p>Semi-natural dry grasslands and scrubland</p>	<p>The proximity of the referral site to the designated site and the potential for run-off surface water connection.</p>	<p>There is a source-pathway-receptor connectivity between the development proposal and the designated site.</p> <p>It is not proposed that the shed structure will have services such as water or wastewater treatment.</p> <p>Notwithstanding the source-pathway-receptor, having regard to the minor nature and scale of the works involved during construction phase of the temporary storage shed and also given that there will be no operational phase impacts it is highly unlikely that the proposed development could affect habitat quality within the designated site.</p> <p>The proposal also involves the dismantling of 2.1m from eastern gable of the structure and attaching the dismantled section to the western gable of the temporary structure, which would remove the structure further from the SAC and mitigate impacts.</p> <p>I am therefore satisfied that it is highly unlikely that the proposed</p>

<p>facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</p> <p>Active raised bogs [7110]</p> <p>Degraded raised bogs still capable of natural regeneration [7120]</p> <p>Depressions on peat substrates of the Rhynchosporion [7150]</p> <p>Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alkaline fens [7230]</p> <p>Limestone pavements [8240]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Bog woodland [91D0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p>		<p>development could generate impacts of a magnitude that could affect habitat quality within the designated site.</p> <p>Conservation objectives would not be undermined.</p>
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<p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Najas flexilis (Slender Naiad) [1833]</p> <p>Hamatocaulis vernicosus (Slender Green Feather-moss) [6216]</p>		
	Likelihood of significant effects from proposed development (alone): <b>No</b>	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? <b>No</b>	
<p><b>Site 2</b> <b>Lough Corrib SPA (site code 004042).</b></p> <p>Pochard (Aythya ferina) [A059]</p> <p>Tufted Duck (Aythya fuligula) [A061]</p> <p>Common Scoter (Melanitta nigra) [A065]</p> <p>Hen Harrier (Circus cyaneus) [A082]</p> <p>Coot (Fulica atra) [A125]</p>		As above.

<p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Common Gull (<i>Larus canus</i>) [A182]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395]</p> <p>Shoveler (<i>Spatula clypeata</i>) [A857]</p> <p>Gadwall (<i>Mareca strepera</i>) [A889]</p> <p>Wetland and Waterbirds [A999]</p>		
	Likelihood of significant effects from proposed development (alone): <b>No</b>	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? <b>No</b>	
<b>Step 4 Conclude if the proposed development could result in likely significant effects on a European site</b>		
<p>I conclude that the proposed development (alone) would not result in likely significant effects on the Lough Corrib SAC (site code 000297) and the Lough Corrib SPA (site code 004042). The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project. No mitigation measures are required to come to these conclusions.</p>		

**Screening Determination**

**Finding of no likely significant effects**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Lough Corrib SAC (site code 000297) and the Lough Corrib SPA (site code 004042) in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The minor nature and scale of the development.
- The temporary nature of the structure.
- The absence of any services associated with the temporary structure.