



An
Coimisiún
Pleanála

Inspector's Report ABP-322607-25

Development	Re-contouring of agricultural land within an area of 5.061 hectares for the purpose of land reclamation. This application is accompanied by a Natura Impact Statement (NIS).
Location	Derrycoosh, Castlebar, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	2460669
Applicant(s)	Gene McConway
Type of Application	Permission
Planning Authority Decision	Grant permission (16 no. conditions)
Type of Appeal	First Party
Appellant(s)	Gene McConway
Inspector	Conor McGrath

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1.0 Site Location and Description

- 1.1. The appeal site is located at Derrycoosh, approx. 5 km west of Castlebar Co. Mayo, with frontage to the R311 (Castlebar – Newport) to the north and the L18106 to the east. The lands are described as being in agricultural use and comprise a stated area of 5.061ha. The application documentation confirms that there are small watercourses bounding the site. The site is described as mainly cutover peat /bog and wet grassland and which has undergone significant disturbance in the past and has been drained.

2.0 Proposed Development

The proposed development is described as the re-contouring of agricultural land using imported by-product soil and stones for the consequential benefit to agriculture. Permission is also sought for the modification of the existing agricultural site access, and all associated site infrastructure required for the development, including erection of silt fences at all watercourses.

A 10-year planning permission is sought and the volume of materials to be imported during that period is stated to be the 165,000 tonnes (91,800 cu.m.). During the course of the application, revisions to the application were stated to reduce the proposed fill area from 50,606-sq.m. to 49,985-sq.m.. The application confirms that the imported materials will not constitute waste. Works on-site include:

- Importation and deposition of clean, uncontaminated soils and stone, sourced from greenfield construction sites.
- Grading to design levels, to an average depth of 1.8m across the site, set back from water features.
- Set-back of the existing entrance to facilitate HGV movements.
- Associated works, including silt fences along watercourses within and bounding the site, wheelwash facilities, internal roads etc.

The development is to be undertaken in four phases, with average movements of 25 – 40 loads pre week, between 8am and 6pm.

The planning application was accompanied by a natura impact statement.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission for the proposed development subject to 16 no. conditions, including the following:

16. The following contributions shall be paid to Mayo County Council prior to commencement of the development. The development contributions may increase in accordance with the Wholesale Price Index for Building and Construction in January of each year from the date of grant of permission up to the date that payment is made to Mayo County Council: €87,474.

Reason: To comply with Mayo County Council's Development Contribution Scheme 2023

In considering the application, the planning authority sought Further Information and Clarification of Further Information in relation to matters including the submission of the following:

- An Archaeological Impact Assessment.
- Sightline details.
- A SSFRA
- Operational arrangements.
- Proposals for the management of invasive species.
- Schedule 7A information.
- Details of the relationship between the proposal to retain existing flood storage areas and the submitted NIS and the extent of land area to be filled.

3.2. Planning Authority Reports

3.2.1. Planning Reports

(17/12/2024) FI sought to facilitate EIA Screening. Stage II AA required. The submitted NIS is comprehensive. Landowner consent has been provided. Given the low levels of annual intake proposed, residential amenities will not be unduly impacted, subject to conditions on noise and hours of operation. Anticipated traffic movements of 1 – 1500 two-way trips per annum. Adequate sight visibility can be achieved but not illustrated. FI will be sought. The site will be returned to agricultural use with levels raised by an average of 1.8m.

27/03/25: A revised access arrangement was submitted at FI stage and is acceptable. An SSFRA was submitted. Areas currently providing flooding storage are to be retained, however, no indication of required revisions to the NIS is provided. Further it is unclear if a revised fill area is applicable. Response to on-site operational management and invasive species management issues are acceptable. Schedule 7A information has been submitted.

23/04/25: The Clarification confirms that the findings of the original NIS are not impacted. The area to be filled will be reduced marginally from 50,606-sq.m. to 49,985-sq.m. (-1.2%). Grant of planning permission recommended.

Development contributions calculated on the basis of the Mayo County Development Contribution Scheme 2023:

Class 14: Landfilling / raising of site (inert materials) for non-agricultural purposes @ €1.75 per m².

Total site area 5.06ha

Fill area = 49,985-sq.m.

49,985-sq.m. x €1.75 = €87,474.

EIA Screening: The planning report includes an EIA Screening Determination.

AA Screening: Concludes that the development would not adversely affect the integrity of European Sites, subject to the mitigation measures set out in the NIS.

3.2.2. Other Technical Reports

- Archaeologist: Concur with the findings of the Archaeological Impact Assessment submitted as FI. No further archaeological work is required.

- Environment (General Waste): The site appears suitable for the activity and would provide an important outlet for clean material in the Castelbar area.
- Environment (Flooding): A portion of the site may be impacted by flood levels. The development may result in displacement to other lands. A SSFRA is requested.
- Road Design: No objection subject to conditions.

3.3. Prescribed Bodies

- An Taisce: Concerns regarding impact of invasive species.
- DAU: The only site that may be impacted is the River Moy SAC, however, if the NIS measures are implemented there should be no impact.

3.4. Third Party Observations

None received.

4.0 Relevant Planning History

No recent relevant planning history on the site noted. The first party appellant has identified the following precedent case:

PA ref. 23/60127, granted permission in November 2023. It was concluded that it was intended to bring the land to agricultural grazing quality to be used as part of the family farm, and since it is for agricultural purposes, Development Contributions should not apply.

5.0 Policy Context

5.1. Development Plan

Volume 2: 10.0 Agriculture and Extractive Industries

10.1 The Council recognises the importance of agriculture and agriculture diversification in the County. The principal aim shall be to support agriculture in the

County subject to best environmental standards which promote maintaining good water quality and biodiversity.

10.3 Deposition Sites

The Council recognises the need for land reclamation for the improvement of agricultural lands. It is also of note that in recent years significant pressure has come on the Council to facilitate the provision of waste recovery sites for soil and stone.

All land reclamation developments which include the importation of any material onto site are also required to have the requisite waste authorisation in place, in accordance with the stipulations of the Waste Management Act 1996.

All applications for land reclamation / soil and stone recovery shall comprehensively address the following criteria:

- Details of the overall and annual quantities of material to be brought on to the site in tonnes having regard to Mandatory EIA Thresholds set out in Schedule 5 Part 2 of the Planning and Development Regulations 2001-2018;
- Details of the nature of material including EWC or LoW codes for all waste materials proposed for acceptance at the site.
- Justification for agricultural improvement and detail of proposed agricultural use.
- Possible impacts on surface water, groundwater and the Natura site network.
- Transportation impacts with particular reference to details of all haul routes, load size, trip movements.
- Details of site services including wheel wash, site office, security welfare facilities quarantine areas and weighbridges.
- Phasing programme for reclamation with accurate drawings showing the development in layout and sections through the phases to completion.
- Impact on existing local communities with regard to but not limited to: Noise, dust emissions.

5.2. **Mayo County Council Development Contribution Scheme 2023 (adopted 30th June 2023)**

Section 9.0 sets out the Level of Contributions

Table 2 – Level of Contribution for other categories of development.

Class	Description	Rate
8	The provision of buildings or other structures for the purposes of agricultural development (including extensions)	0 – 750m ² = €0 751 m ² – 1000 m ² = €2.50 per m ² Over 1001 m ² = €5 per m ²
14	Landfilling/raising of sites (inert material) for non-agricultural purposes	€1.75 per m ²
16	Development not coming within any of the foregoing classes	€20 per m ² (Buildings) €250/0.1 ha (Site Area)

Section 10 notes that contributions will be calculated on the gross footprint or site area of the development as appropriate.

Section 10.7 sets out Reductions and Exemptions for certain categories of development in certain circumstances in respect of contributions payable under the Scheme.

5.3. Natural Heritage Designations

Natural Heritage Designated sites within the wider area include:

- Dambaduff Lough pNHA: c.1km southwest
- River Moy SAC: >6km northwest
- Newport River SAC: c 5.5km north
- Croaghmoyle Mountain NHA: c.5.5km north
- Clew Bay Complex SAC: C12.4km west.

6.0 EIA Screening

This case relates to a first party appeal against a financial contribution condition attaching to the planning authority decision to grant permission. Having regard to the nature of the appeal and the provisions of s.48(10)(c), and notwithstanding that Schedule 7A information was provided to the planning authority, I conclude that the proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of this report.

7.0 The Appeal

7.1. Grounds of Appeal

The first party make the following points in their appeal against condition no. 16 of the decision to grant permission. There has been no third-party appeal in relation to this decision:

- The applicant is in the process of purchasing the lands to facilitate their improvement for agricultural purposes.
- The fees are excessive and detrimental to the viability of the development.
- The development has been treated as a commercial rather than an agricultural undertaking and the Development Contribution Scheme has been misapplied.
- This is an appeal under S.48 and the Board is precluded from considering the de novo assessment of the application.
- The development comprises agricultural enhancement works. No non-agricultural purposes arise.
- It is not of a scale that will impact on residential amenity and accords with the County Development Plan and development management standards thereof.
- The planning authority reports acknowledge that the lands will be returned to agricultural use upon completion.

- The contribution rate applied by the PA (Class 14) is that for “Landfilling / raising of site (inert material) for non-agricultural purposes”, which does not reflect the assessment of the proposal.
- A development contribution rate of €1.75 was applied under Class 14, based on a footprint of 49,985-sq.m.
- The development footprint liable to contributions is not disputed rather the applicable Class.
- There is no class of contribution for agricultural activity or use in the Scheme (except for large agricultural buildings).
- The development comprises agricultural enhancement works. Benefits to the applicant’s separate business in the construction sector should not undermine the validity of the agricultural improvement of the lands.
- Class 14 is not applicable to the proposal under the Scheme, which has been incorrectly applied.
- Precedent PA ref. 23/60127 - permission granted for land reclamation and improvement works was not subject to development contributions on the basis of the agricultural purposes of the works.
- The Development Plan promotes agricultural development and activities (EDP 23 and section 10 of Volume 2).
- The plan requires that justification for agricultural improvement and agricultural use are provided, to ensure that reclamation is the priority. Such has been provided in this case.
- Condition no. 16 is contrary to Development Plan Policy and the terms of the Scheme. It should be omitted.
- Where any modification to the contribution is proposed, an opportunity to comment thereon should be provided.

7.2. Planning Authority Response

No response to the first party appeal has been received from the planning authority.

7.3. Further Responses

A s.132 notice issued to the planning authority on 01/07/2025. No response to this notice has been received.

8.0 Assessment

- 8.1. This report relates to a first party appeal against condition no. 16 of the planning authority decision to grant permission, under S.48(10)(c) of the 2000 Act as amended. This assessment is confined solely to the consideration of whether the terms of the Development Contribution Scheme have been properly applied by the planning authority. I have considered all of the submissions on the file.

The relevant Development Contribution Scheme is the Mayo County Development Scheme 2023, which has a stated duration of six years from date of adoption by the elected members. Section 9.0 of the Scheme sets out the levels of contributions payable in respect of 16 no. classes of development. The planning authority have applied contributions under Class 14 to the proposed development. The appellant argues that the development does not fall under this class being agricultural development and that condition no. 16 should therefore be omitted. A precedent case is cited in this regard, wherein contributions were not applied to a similar development on the basis that it was for agricultural purposes.

I note that the primary purpose of the import and recontouring activities is stated to be to improve the use of the land for agriculture. No other use is proposed, or is indeed likely, for these lands and this has not been disputed in planning authority reports. I note also that the area the subject of development contributions (49,985-sq.m) has not been disputed. While I note that the appellant refers to benefits to the applicant's separate business in the construction sector, I do not consider that this alters the primary purpose of the activity. I therefore conclude that the proposed activity, being for agricultural purposes, does not fall within Class 14 of the Scheme, as applied by the planning authority in this instance (Landfilling/raising of sites (inert material) for non-agricultural purposes).

The proposed activity does constitute development, however. I note that there is no express exemption under section 10.7.2 of the current Mayo Development Contribution Scheme for agricultural development. I do not consider that the inclusion of a Class relating to agricultural buildings (Class 8) implies that other agricultural development is exempt. It is not clear therefore that the precedent cited by the first party is relevant in this case.

I conclude therefore that the proposed development would be subject to Class 16 of the Scheme - "Development not coming within any of the foregoing Classes". Such contributions would be chargeable at a rate of €250 / 0.1 ha (Site Area)

On the basis of the stated reduced footprint of development of 49,985-sq.m., contributions under the scheme would be calculated as follows:

$$€250 / 49,985\text{-sq.m.} = €12,496.25$$

9.0 AA Screening

The appeal has been made under the provisions of section 48(10)(b) of the Planning and Development Act, 2000, as amended. The Commission shall therefore determine only the matters relating solely to a condition dealing with a special contribution. As such, the requirements S177U of the Planning and Development Act 2000, as amended, do not apply.

10.0 Recommendation

Having regard to the nature of the proposed development and the terms of the adopted Mayo Development Contribution Scheme 2023, I recommend that Condition no. 16 be amended and that the development contribution should be calculated on the basis of Class 16 rather than Class 14.

Recommended Decision

The Commission, in accordance with section 48 of the Planning and Development Act, 2000, as amended, considered, based on the reasons and considerations set out below, that the terms of the Development Contribution Scheme for the area had not been properly applied in respect of condition number 16 and directs the said Council to AMEND the condition so that it shall be as follows for the reasons stated.

Condition

16. The developer shall pay to the planning authority a financial contribution of **€12,496.25** (Twelve thousand, four hundred and ninety six euros, and twenty five cent) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

REASONS AND CONSIDERATIONS

Having regard to the existing and proposed use of the lands for agricultural purposes, and the nature of the activities proposed to be carried out, to the terms of the Mayo County Council Development Contribution Scheme 2023 and the absence of any express exemption or reduction for development of the nature proposed, it is considered that the development would not constitute “*Landfilling/raising of sites (inert material) for non-agricultural purpose*” under Class 14 of the scheme, but

would be subject to development contributions under Class 16 “*Development not coming within any of the foregoing classes*”.

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.

Conor McGrath
ADP
29/07/25

Form 1 - EIA Pre-Screening

Case Reference	ABP-322607-25
Proposed Development Summary	<p>Re-contouring of agricultural land within an area of 5.061 hectares for the purpose of land reclamation. This application is accompanied by a Natura Impact Statement (NIS).</p> <p>Derrycoosh, Castlebar, Co. Mayo.</p>
Development Address	
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (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 type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input checked="" type="checkbox"/> No. No further action required. This case relates to a first party appeal against a financial contribution condition attaching to the planning authority decision to grant permission. Having regard to the nature of the appeal and the provisions of s.48(10)(c), I conclude that the proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<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 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. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	State the Class and state the relevant threshold
<input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	State the Class and state the relevant threshold

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

Inspector: Conor McGrath **Date:** 29/07/25