An Coimisiún Pleanála

Inspector's Report ACP-323837-25

Question	Whether the installation of a roadway, fencing, surfacing, drainage works including trenching through the applicant's property, and installation of a water pipe and gates is or is not development or is or is not exempted development.
Location	Shraheens, Achill, Co. Mayo.
Declaration	
Planning Authority	Mayo County Council.
Planning Authority Reg. Ref.	P25/371.
Applicant for Declaration	Margaret O' Donoghue.
Planning Authority Decision	Is exempted development.
Referral	
Referred by	Margaret O' Donoghue.
Owner/ Occupier	J.T. McNeela.
Observer(s)	J.T. McNeela.

Date of Site Inspection	9th June 2026.
Inspector	C. Daly.

1.0 Site Location and Description

1.1. The subject site, of unstated area, consists of a linear grass area with gorse bushes associated with an old road or way, a commonage hillside area to its north-west, the north-east side of a field and part of an area adjacent to the L-1405 local road. The higher elevated north-west end of the site includes some bushes adjacent to the linear pathway and otherwise consists of a grass/scrub hillside. and a flat grass area adjoined by a fence line. The remainder of the site consists of a drainage channel to the north-east side of a grass field which slopes downhill towards the L-1405 and a linear area of drainage channel adjacent to the L-1405 local road.

1.2. The rural site is at the back/side of a dormer dwelling and field which dwelling is accessed from a public laneway. There is a grass covered linear area behind the gate to this property between it and some rear sheds and at the other end of this area is another gate. There is low level mature hedgerow between the subject site and the adjacent house site owned by the applicant to the north-east.

1.3. The site is c.280m from Cuan Mó coastal inlet and is c.2.2km from the edge of Gob an Choire village on Achill Island.

2.0 The Question

2.1. Whether the installation of a roadway on lands including commonage, fencing, surfacing, drainage works including trenching through the applicant's property, installation of a water pipe and gates, drainage works on the applicant's lands and along the L-1405 is or is not development and is or is not exempted development.

3.0 Planning Authority Declaration

3.1. Declaration

Mayo County Council declared the above described works to be development and to be exempted development per Section 4(1)(h) of the 2000 Act and Class 11 of Schedule 2, Part 3, of the Planning and Development Regulations 2001 (as amended).

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The Planner's Report noted that the access road noted in the referral was in place at the time of the application. The report was satisfied that the road has been in place for a prolonged period noting its presence on GIS mapping and the planning history under reg. ref. 98/2111. It considered that any maintenance, improvement or other alteration of the surface falls under Section 4(1)(h) of the 2000 Act and would be exempted development.

It noted that the remainder of the works fall within Class 11 of Schedule 2, Part 3 of the regulations as it noted these relate to fencing and drainage.

3.2.2. Other Technical Reports

None.

4.0 **Planning History**

98/2111: Permission granted at adjacent site to the south-west by the P.A. to construct extension to a dwelling house and puraflo treatment system.

08/140: Permission granted by the P.A. at adjacent site to the north-east for renovation and refurbishment of existing dwelling house.

5.0 **Policy Context**

5.1. **Mayo County Development Plan 2022-2028 (the CDP)**

The site is located with the functional area of the above County Development Plan.

The L-1405 in front of and adjacent to the subject site is a designated scenic route per Map 10.2 of the CDP.

5.2. **Precedent**

None located.

5.3. Natural Heritage Designations

In relation to designated sites, the subject site is located:

- c.1km south-east of Sraheens Bog NHA (site code 002403).
- c.2.5km north-west of Corraun Plateau SAC and PNHA (site code 000485).
- c.4.7km east of Keel Machair / Menaun Cliffs SAC and PNHA (site code 001513).
- c. 6km east of Achill Head SAC (site code 002268).

6.0 The Referral

6.1. Referrer's Case

The case on behalf of Margaret O' Donoghue can be summarised as follows:

- The P.A. inappropriately relied on a lapsed permission (reg. ref. 98/2111) to imply that an access road lawfully existed at the time and no evidence has been provided.
- This permission lapsed in 2004 and the Planner did not seek any independent verification of consent that the applicant had permissions to use private lands for access for a landlocked site or through commonage.
- There is no evidence to confirm a roadway existed prior to the 1998 application and a temporary track was created on commonage lands to facilitate construction and preparatory work.
- An OSI map from 1997 is provided in support.
- The applicant's house was always the last house at this cul de sac and correspondence from the Council's Road Department is supplied in support.
- The right of way, on commonage, was only registered in Spring 2018 while the roadway was constructed in early October 2018.
- There was no consultation with the Council's Roads Department which is required given the connection to the public road and this raises procedural concerns.

- The works took place within the last 7 years within the timeframe for enforcement.
- Temporary access was allowed in 1998/99 by another landowner to facilitate construction at the site to the west and this was an informal, temporary arrangement that did not create a right of way.
- There was a failure to consider the permission on the adjacent site under reg. ref. 08/140 and this confirmed the end point of the cul de sac at this property.
- There was a failure to conduct a full AA or EIA screening despite proximity to an NHA (1.2km), scenic route (500m) and public water source (100m).
- No Water Framework Directive compliance or precautionary assessment was conducted and the trenching and surface water drainage into commonage and third party lands raises water quality and catchment concerns.
- The works occurred on commonage lands without the consent of all co-owners and exemptions under Class 11 do not apply to fencing and drainage on commonage lands without legal consent of co-owners.
- No site inspection took place.
- Alleged that the roadway was engineered to facilitate a sale of the property and that it is not an agricultural development.
- There is no record of a Chief Executive's Order for the Council's decision and there is no reference to delegated authority, such that there was no legal authority to issue the declaration per Section 5(1) of the Act.
- The P.A. failed to assess the works in relation to fencing, trenching, water piping and surface water diversion and these works are not exempted.
- There was a failure to consult relevant environmental bodies despite the proximity to the Sraheens Bog NHA.
- No roadway has ever existed through the applicant's landholding and the area consists of private undeveloped land between the cottage and old stone structure and no laneway or access to other lands exists through the site.

- The development constitutes new construction without permission and is not maintenance of any existing road.
- The Development Plan has been contravened.
- All information relied upon by the Council is requested to be submitted with the opportunity to respond made available.
- The Council failed to open an enforcement file in relation to this matter contrary to statutory obligations under Section 152(2) of the 2000 Act.
- Attached enforcement complaint and correspondence from the Council.
- Letter from the Council outlining its response to the declaration request.
- Letter and aerial photo from the Roads Department have confirmed the extent of roadway taken in charge.
- Aerial photo in relation to landownership.
- Section 5 declaration request attached including photos of the applicable works.
- Following the referral, the P.A. supplied its Section 5 file to the Commission.
- Further correspondence between the applicant's agent and the P.A. is supplied relating to questions to the P.A. on what the applicant deems to be deficiencies in its process/decision.
- Correspondence is attached from the Planning Enforcement section. The Enforcement section notes it did not open a file as it considered the matters raised related to a land ownership dispute.

6.2. Planning Authority Response

None.

6.3. Owner/ occupier's response

A response to the referral was received from the landowner, John McNeela, which can be summarised as follows:

- He walked the roadway as a boy as part of a cattle walk and this was done every spring and early summer.
- The roadway in question was constructed by the Council/Board of Works c.80 years ago, see attached photos.
- No temporary track was created for the construction to the west as the road was already there.
- The house to the west is the last house on the roadway as will be verified by the 7 surrounding neighbours.
- No roadway was constructed in 2018, rather scrub and bushes were cleared removing the existing roadway to facilitate the clearing of existing drains.
- The Council were unable to resurface the road due to the gates and fencing erected by the applicant.
- The house to the west was never land locked as a right of way road existed.
- During the house renovation to the west, the owners had their own vehicle and drove back and forth to it daily during the renovation.
- Renovation at the house to the west stopped as the owner was involved in a serious road accident.
- The right of way was registered by the owners of the house to the west.
- No road resurfacing was carried out, no new drainage trenches were dug and only existing drains were cleaned. A collapsed stone drain was excavated and a drainage pipe was inserted into the existing opening and backfilled.
- Submission includes a photo from the house to the west during construction in 1998, a photo of the roadway from 1998, a 2009 Google Streetview image of the roadway and a photo of the house to the west during construction in 1998.
- It is not true that works on commonage were carried out without co-owner consent.
- In relation to consultation with environmental bodies, only existing drains were cleaned.

- The drain running towards Achill Sound flows naturally through McGinty's land, McNeela's land, Dever's land and not along the main road as stated.
- Land Direct map showing registered right of way.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

Section 2(1) states that

"structure" means inter alia "*any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and— (a) where the context so admits, includes the land on, in or under which the structure is situate*….

""works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure".

Section 3(1) states that ""*development" means—*

(a) 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, or

(b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021)".

Section 4 (2) (a) states that "*The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act…*

(b) Regulations under paragraph (a) may be subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.

(c) Regulations under this subsection may, in particular and without prejudice to the generality of paragraph (a), provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purpose being exempted development for the purposes of this Act".

Section 4 (3) states that *"A reference in this Act to exempted development shall be construed as a reference to development which is— (a) any of the developments specified in subsection (1) or (1A), or (b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act"*.

Section 4(4) states that "*Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required*".

7.2. Planning and Development Regulations, 2001-2026, as amended

Part 1 Exempted Development – General

Class 9 *The construction, erection, renewal or replacement, other than within or bounding the curtilage of a house, of any* gate *or gateway*.

This is subject to the restriction that "*the height of any such structure shall not exceed 2 metres*".

Class 13

The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving.

This is subject to the following restriction – *The width of any such private footpath or paving shall not exceed 3 metres*.

Class 16

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 needed temporarily in connection with that development during the period in which it is being carried out.

This is subject to the following restriction – *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.

Part 3 Exempted Development – Rural

Class 3 *Works relating to the construction or maintenance of any gully, drain, pond, trough, pit or culvert, the widening or deepening of watercourses, the removal of obstructions from watercourses and the making or repairing of embankments in connection with any of the foregoing works*. No restrictions are noted for this class.

Class 4 *The construction, erection or maintenance of any wall or fence, other than a fence of sheet metal, or a wall or fence within or bounding the curtilage of a house.* This is subject to the following restriction –

1. The height of the wall or fence, other then a fence referred to in paragraph 2, shall not exceed 2 metres.

2. The height of any fence for the purposes of deer farming or conservation shall not exceed 3 metres.

Class 11 *Development consisting of the carrying out of drainage and/or reclamation of wetlands.*

This is subject to the following restriction –

1. The area to be affected shall not exceed 0.1 hectares.
2. Where development has been carried out within a farm holding under this class, the total area of any such development taken together with the area of any previous such development within the farm holding shall not exceed the limits set out in 1. above.

Other Restrictions

Article 9(1) states that "*Development to which article 6 relates shall not be exempted development for the purposes of the Act—*

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

…(iii) endanger public safety by reason of traffic hazard or obstruction of road users,….

(vi) 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,

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

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

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

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

8.0 **Assessment**

8.1. **Is or is not development**

8.1.1. The first matter to be determined is whether the proposal, or part thereof, constitutes development or not. I will take each part of the works, as described, separately.

Installation of a roadway and surfacing on lands including commonage

8.1.2. I note that the Section 5 referral included a satellite photo with red line that marked the site area for the subject referral. This included the area of the purported roadway, the land/hillside to its north-west and the area of the drainage works along the north-east boundary of the field owned by Mr McNeela and partially along the L-1405 local road.

8.1.3. In relation to the area which the applicant states was constructed and surfaced in October 2018, I note the photos submitted in this regard which are used to suggest that this area was cleared and that a roadway and surfacing was then constructed. However, noting the photo from 2017 submitted by the applicant, I consider that this suggests a laneway was present, albeit one which is shown to be partially waterlogged on 14th October 2017. This is supported by publicly available street view imagery from 2009.

8.1.4. Based on the OS mapping, the two planning history files and associated mapping noted in Section 4.0 above, the letter from the Council's roads section and the photos submitted, it appears that this road or way is a private route. In my opinion it pre-dates the works cited by the applicant.

8.1.5. I note that on my site visit, the laneway area was mostly overgrown with gorse bushes although some grass area of it was visible and accessible. It was not passable to the south-west however due to the gorse bushes. I note the response to the referral from John McNeela and that one of his photos from 1998 suggests that a gravel roadway was in place at that time and he states that renovation works to the roadway took place at that time.

8.1.6. I note he suggests this was always a roadway and that his family used it for the movement cattle when he was a boy and that the roadway was constructed c.80 years ago. If this is the case, I note it would be a pre-1963 development which does not require permission. I note the applicant refers to the OSI map from 1997 to contend that the roadway did not exist. I note that the Site Layout Plan drawing submitted under reg. ref. 08/140 suggests such a route existed on the subject site and through the adjacent applicant's site. It refers to the route leading to the south-west to a cul de sac and to the north-east leading to Achill Sound. I note that the file

under reg. ref. 98/2111 shows an existing laneway at the south-west end of the subject site leading to the site where the house extension was proposed.

8.1.7. Whether this forms part of a continuous route through the adjacent applicant's site or not is not a matter for determination in this case. I note such a route is also suggested by the mapping on the file from the Property Registration Authority of Ireland although the current fencing blocking this way on the applicant's property would suggest otherwise.

8.1.8. In relation to the works alleged to have been conducted in October 2018, from the photos submitted I note some evidence of excavation. In my opinion the applicant's photos from 2018, 2019 and 2020 suggest that clearance and excavation work took place. It appears that the surface of the old roadway suggested by Mr McNeela was exposed by the works. I note the photos suggest that the works were carried out using heavy machinery. It may have been the case that some surfacing of the road took place although, in my opinion, this is uncertain.

8.1.9. Based on the totality of information available to me on the file, I consider that an old road or way existed along part of the subject site, that it became overgrown, was excavated and then more recently became somewhat overgrown again. While I note that on the day of my site visit that it did not function as a private roadway, in order for it to function as such, I consider that some limited cutting back of bushes and surface overgrowth would be required to restore it to the condition shown in the applicant's photos from 2020. Therefore, I do not consider the way to have been extinguished by the overgrowth. I consider that there is a private road or way on the site that was cleared, excavated and which may have been surfaced.

8.1.10. I note the definition of 'works' "*includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal*". Noting this, I consider that works involving excavation of the road or way took place. Therefore, I consider that these works constitute development per Section 2(1) of the 2000 Act, as amended. I consider such works, therefore, to meet the definition of development.

8.1.11. <u>Fencing and gates</u>

8.1.12. I note the fencing work which the applicant states was carried out along or in the vicinity of the boundary between the applicant's property and Mr McNeela's property,

i.e. to the north-east of the McNeela property. I also note the fencing work and gates along the south-east old roadway area.

8.1.13. Having visited the site and surroundings, I note that it was not readily apparent that this boundary was in place close to the applicant's adjacent house due to hedgerow although some fencing was visible along the old roadway. The gate referred to was not visible due to the growth of gorse blocking the way and obscuring visibility. It was clear that the fencing referred to was in place along the boundary area further to the south-east towards the public road.

8.1.14. I consider such fencing and gates to have required construction such that in my opinion this constitutes "works" as defined in Section 2(1) of the 2000 Act. I consider such fencing, therefore, to meet the definition of development.

8.1.15. <u>Drainage works including trenching through the applicant's property, installation of a water pipe, drainage works on the applicant's lands and along the L-1405</u>

8.1.16. I note that the applicant's section 5 referral documentation and photos suggest that some trenching has taken place, most notably along the old roadway area and along the north-east boundary of Mr McNeela's property or in its vicinity and up to the adjacent L1405 public road to the south-east and adjacent to it for a short distance to the front of the applicant's property. This is suggested by a comparison of the photos available of the before and after situation including from the photos submitted by the applicant, Mr McNeela and from publicly available street view photos from 2011 and 2009.

8.1.17. I note from my site visit that I observed a partially overgrown drainage channel inside the north-east hedgerow boundary on the subject site although no drainage channel or pipe was apparent along the old roadway or along the L-1405 due to overgrowth of hedgerow and the grass verge. I consider such trenching / drainage works to have required excavation such that in my opinion this constitutes "works" as defined in Section 2(1) of the 2000 Act. I consider such trenching / drainage works, therefore, to meet the definition of development.

8.1.18. I note that whether or not the above works in relation to the old roadway area, fencing and gates, and drainage works occurred on different properties and/or the applicant's property or commonage is irrelevant to the above and below

considerations in relation to development and exempted development provisions of the Act and applicable regulations.

8.2. **Is or is not exempted development**

Installation of a roadway and surfacing on lands including commonage

8.2.1. In relation to the old private roadway area noted in Section 8.1 above I have noted that excavation to reveal it took place. I note that this area was overgrown with grass and partially blocked by gorse bushes on the date of my site visit. I note that the applicant's photos up to 2020 show no such obstructions or overgrowth and that publicly available imagery and mapping suggests its existence. I note that the applicant has suggested there is no way through their adjacent site. Whether this is the case or not, I do not consider it relevant as to whether there is a private road on the subject site.

8.2.2. As I have noted that I consider that the private roadway referred to in the referral exists and existed prior to the carrying out of the works cited in the referral, I note that under Part 1, Schedule 2, of the Planning and Development Regulations, Class 13 provides for an exemption for repair or improvement of any private street or road or way provided that such private road or way be no greater than three metres in width.

8.2.3. I consider that the clearing of the private road or way and its excavation which revealed the old road surface, to be works to the road or way that was repaired and improved at the time relative to its previous condition. I therefore consider the installation of a roadway and its surfacing referred to in the referral to be exempted development noting that it is less than three metres in width.

Fencing and gates

8.2.4. In relation to the fencing noted in Section 8.1 above, I note that under Part 3, Schedule 2, of the Planning and Development Regulations, Class 4, the construction, erection or maintenance of any fence is considered exempted development provided that its height does not exceed two metres. As I observed from my site visit and noting the applicant's photos, it is clear that such fencing was/is below two metres in height. I therefore consider the fencing to be exempted development.

8.2.5. In relation to the gates noted in Section 8.1 above, I note that under Part 1, Schedule 2, of the Planning and Development Regulations, Class 9 refers to construction, erection, renewal or replacement of any gate or gateway as being exempted development provided that its height does not exceed two metres. As I observed from my site visit and the applicant's photos that it was clear that such a gate was/is below two metres in height, I consider the gate referred to along the old roadway to be exempted development.

Drainage works including trenching through the applicant's property, installation of a water pipe, drainage works on the applicant's lands and along the L-1405 road

8.2.6. In relation to the drainage works, including trenching and piping, noted in Section 8.1 above, I note that under Part 3, Schedule 2, of the Planning and Development Regulations, Class 3 refers to the construction or maintenance of any gully, drain, pond, trough, pit or culvert, the widening and deepening of watercourses, the removal of obstructions from watercourses and the making or repairing of embankments in connection with such works with no restrictions required in relation to same.

8.2.7. As Class 3 refers to exempted development, I am satisfied that the drainage works referred to in the referral constitute exempted development on this basis. I note the P.A. referred to Class 11 of Part 3 which relates to "drainage and/or reclamation of wetlands". I have no information before me to confirm that the site is a wetland and on my site visit it did not have the appearance or condition of a wetland. I note that this class is applicable in relation to drainage works. I note that it is not clear that the area of these works did not affect area of less than 0.1 hectares as required. Should the Commission wish to rely on this exemption, it may wish to seek further information on this matter.

8.3. **Restrictions on exempted development**

8.3.1. I have reviewed the Article 9 restrictions on the classes of exempted development above. I do not consider that the developments referred to in the referral would endanger public safety by reason of a traffic hazard or obstruction of road users. I do not consider the other restrictions applicable including in relation to views or prospects of special amenity value or special interest of which there are none and

noting that the works are of a type which have a negligible visual impact in the landscape in any event.

8.3.2. I note no protected sites on the site or in reasonable proximity to same. I note no Natura 2000 sites in proximity to the subject site. I note that Corraun Bog Plateau SAC is c.2.5km to the south-east and is across the river valley which could not reasonably be considered to be hydrologically linked to the subject site. I therefore consider that no appropriate assessment is required.

8.3.3. I note the nearest Natural Heritage Area, Sraheens Bog NHA is 1km away and is uphill from the site such that no hydrological connection exists that could effect it. I note from historic mapping, that the fencing in question, did not involve the enclosure of the commonage area uphill and to the north-west of the roadway area or of any land which was previously habitually open in the 10 years preceding the works. I note that no fencing or other works took place to obstruct any public right of way.

8.3.4. Therefore, I note that no Article 9 restrictions apply to the above exemptions.

8.4. **Other Matters**

8.4.1. I have noted the applicant's case put forward, including all the documentation on the file. I have previously noted that I do not consider the ownership of the areas of the works a relevant consideration in relation to whether they are development and exempted development or not.

8.4.2. In terms of alleged irregularities cited by the applicant such as a lack of site inspection, I note from the Planner's Report that the planner visited the surroundings of the site. I note I visited the site and that my assessment has been informed by same so if there were any limitations from the planner's assessment in this regard, I note that this assessment is not deficient in this regard.

8.4.3. I note that the applicant has suggested that no Chief Executive's order or express delegated authority was involved in their decision. I note that just because it was not stated in the decision that the decision maker was exercising delegated authority does not demonstrate that this was not the case. In any event my assessment constitutes a review of the planning matters relevant to this case such that I do not consider there to be any substantive deficiencies that would render a decision of the Commission in this case deficient.

8.4.4. In relation to whether or not the development is related to agriculture or the motivation for the works, I do not consider such matters relevant to the classes of development reviewed above other than to state the works took place on part of an agricultural site in a rural area.

8.4.5. I note that the applicant failed to state how the Development Plan was contravened and I have found no such contravention. I note matters in relation to enforcement are not a function of the Commission.

8.4.6. I do not consider that the drainage or other works, being relatively minor in nature and effect, would have a significant effect on the local water source referred to in the referral as being within 100m.

Water Framework Directive

8.4.7. In relation to the water framework directive, I have carried out an assessment of the developments with regard to the objectives set out in Article 4 of the EU Water Framework Directive. Having considered the nature, scale, and location of the developments, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters.

8.4.8. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects. In addition, the development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive. Accordingly, the development is considered to be compliant with the requirements of Article 4.

8.5. **AA Screening**

8.5.1. I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located at a significant remove from the nearest European site. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site. The reason for this conclusion is as follows:

- The small scale nature of works.
- The distance from the nearest European site and lack of connections.
- Taking into account screening report/determination by LPA.

8.5.2. I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

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

WHEREAS a question has arisen as to whether the installation of a roadway on lands including commonage, fencing, surfacing, drainage works including trenching through the applicant's property, installation of a water pipe and gates, drainage works on the applicant's lands and along the L-1405 is or is not development or whether it is or is not exempted development:

AND WHEREAS Margaret O' Donoghue requested a declaration on this question from Mayo County Council and Mayo County Council issued a declaration on the 6th day of October, 2025 stating that the matter is development and is exempted development:

AND WHEREAS the applicant referred this declaration for review to An Coimisiún Pleanála on the 3rd day of November, 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,

(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 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, including Classes 9 and 13 of Part 1 and Classes 3 and 4 of Part 3,

(f) the planning history of the site,

(g) the pattern of development in the area:

AND WHEREAS An Coimisiún Pleanála has concluded that:

the installation of a roadway on lands including commonage, fencing, surfacing, drainage works including trenching through the applicant's property, installation of a water pipe and gates, drainage works on the applicant's lands and along the L-1405 is development and is exempted development.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the installation of a roadway on lands including commonage, fencing, surfacing, drainage works including trenching through the applicant's property, installation of a water pipe and gates, drainage works on the applicant's lands and along the L-1405

is development and is 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.

Ciarán Daly
Planning Inspector

22nd July 2026

Appendix 1

Form 1 - EIA Pre-Screening

Case Reference	ACP-323837-25
Proposed Development Summary	The installation of a roadway on lands including commonage, fencing, surfacing, drainage works including trenching through the applicant's property, installation of a water pipe and gates, drainage works on the applicant's lands and along the L-1405.
Development Address	Shraheens, Achill, Co. Mayo.
	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)	☒ Yes, it is a 'Project'. Proceed to Q2. ☐ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ 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
☒ 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?	

☐ 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.**	
☐ 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**
☒ 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** *Class 10 Infrastructure Projects* *(dd) All private roads which would exceed 2,000m in length* *(f) (ii) Inland waterway construction not included in Part 1 of this Schedule which would extend over a length exceeding 2 kilometres. Canalisation and flood relief works, where the immediate contributing sub-catchment of the proposed works (i.e. the difference between the contributing catchments at the upper and lower extent of the works) would exceed 100 hectares or where more than 2 hectares of wetland would be affected or where the length of river channel on which works are proposed would be greater than 2 kilometres.* Estimated length of private road is estimated to be less than 70m. Drainage works are limited in extent with catchment well below 100 hectares.

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 ☐	**Screening Determination required (Complete Form 3)**
No ☒	**Pre-screening determination conclusion remains as above (Q1 to Q3)**

Inspector: _____ Date: _____

Appendix 2

Form 2 - EIA Preliminary Examination

Case Reference	ACP-323837-25
Proposed Development Summary	The installation of a roadway on lands including commonage, fencing, surfacing, drainage works including trenching through the applicant's property, installation of a water pipe and gates, drainage works on the applicant's lands and along the L-1405.
Development Address	Shraheens, Achill, Co. Mayo.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (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).	**Briefly comment on the key characteristics of the development, having regard to the criteria listed.** The limited size of the development with limited use and interference with natural resources involves no operational waste, pollution, nuisance or risk of accidents/disasters and to human health.
Location of development (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).	**Briefly comment on the location of the development, having regard to the criteria listed** The development is remote from designated environmental sites. It is uphill c.280m of the nearest coastal inlet. There are abundant natural resources in the vicinity and I have no concerns in relation to the absorption capacity of the natural environment.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity,	**Having regard to the characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects.** Limited magnitude and extent such that no significant effects likely.

duration, cumulative effects and opportunities for mitigation).	

Conclusion	
Likelihood of Significant Effects	**Conclusion in respect of EIA**
There is no real likelihood of significant effects on the environment.	**EIA is not required.** The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

Inspector: _____Date: _____

DP/ADP: _____Date: _____

(only where Schedule 7A information or EIAR required)