



An
Coimisiún
Pleanála

Inspector's Report ACP-324222-26

Question

Whether the proposed temporary construction compound area to the north of the application site is or is not development and is or is not exempted development.

Location

Ballymoneen Road (L5024), Keeraun and Ballynahown East, Galway

Declaration

Planning Authority

Galway City Council

Planning Authority Reg. Ref.

S5.5.26

Applicant for Declaration

Cairn Homes Properties Ltd.

Planning Authority Decision

Split Decision

Referral

Referred by

Cairn Homes Properties Ltd.

Owner/ Occupier

Cairn Homes Properties Ltd.

Observer(s)

None

Date of Site Inspection

13th July 2026

Inspector

Emma Gosnell

Contents

1.0 Site Location and Description	4
2.0 The Question	5
3.0 Planning Authority Declaration.....	5
4.0 Planning History.....	6
5.0 Policy Context.....	10
6.0 Natural Heritage Designations	11
7.0 Environmental Impact Assessment.....	11
8.0 The Referral.....	11
9.0 Statutory Provisions	13
10.0 Assessment.....	15
11.0 Recommendation	22

Appendix 1: Form 1 - EIA Pre-Screening Form 2 - EIA Preliminary Examination

Appendix 2: Appropriate Assessment Screening

1.0 Site Location and Description

- 1.1. This referral relates to a site, with a given area of c. 1.82ha, which is situated in the townlands of Keeraun and Ballynahown East in the outer suburbs to the west of Galway City, c. 5km from the city centre. It lies to the west of Ballymoneen Road (L5204) and is adjacent to the Bearna & Cnoc na Cathrach Gaeltacht Language Planning area.
- 1.2. The site is adjoined on its south-east and east sides by 2 no. detached residential dwellings both of which are accessed from the Ballymoneen Road and to its north-east by a further one-off dwelling and agricultural complex which are set further back off this road. To its south and south-west the site is adjoined by a large construction site (also in referrer's legal ownership) where houses and apartments are currently being built pursuant to the permission granted under Reg. Ref. 2460270 and ABP Ref. 321970-25 (as amended by Reg. Ref. 2560285) with works being at an advanced stage. Palisade fencing separates this construction from the site subject of the referral.
- 1.3. The site is bordered by undeveloped lands along the full extent of its western and northern boundaries. The immediate eastern context of the site is characterised by an area in transition with extensive recent residential development (Ard Cre and Maolchnoc housing estates) having taken place on the east side of Ballymoneen Road. There is an apartment block on the opposite side to the compound entrance.
- 1.4. The identified route of the permitted N6 Galway City Ring Road (GCRR) forms a significant portion of the site, effectively dividing the subject lands into two separate areas.
- 1.5. The site itself, which is relatively flat and cleared of vegetation, is currently occupied by an active construction compound (c. 1.69ha) and its vehicular entrance and access (c. 200m haul road with an area of c. 0.13ha) from the Ballymooneen Road. The entrance and gravelled access road to the compound is located on the northern-east side of the site. Material stockpiles and construction equipment are evident on its north-west side, with the main body of the construction compound (the car park, site offices, welfare units, WCs etc.) being located to the south/ south-west.

2.0 The Question

- 2.1. The applicant sought a declaration from the planning authority on the following question: *'[whether] the proposed temporary construction compound area to the north of the application site is exempted development under Class 16 of the provisions of the Planning and Development Regulations 2001 (as amended)'*.
- 2.2. The question relates specifically to lands outlined in red on the Site Location Map submitted as part of the referral which comprise of a temporary construction compound and its associated vehicular entrance and access road/ haul route from the L5024.
- 2.3. Notwithstanding the reference to a 'proposed' temporary construction compound area, I draw the Commission's attention to the fact that the temporary construction compound is existing and fully operational.
- 2.3.1. The 'application site' referred to in Section 2.1 above is the LRD development consented under Reg. Ref. 2460270 and ABP Ref. 321970-25. The full extent of the lands subject of the referral fall outside of the application red line area associated this LRD development, with both the lands subject of the consented LRD scheme and the referral are in the full legal ownership of the referrer.

3.0 Planning Authority Declaration

3.1. Declaration

- 3.1.1. The Planning Authority made the following declaration on 24th March 2026.

"It is considered that the proposed temporary compound area is an exempted development under Class 16, subject to the limitations and conditions of that class, of the Provisions of the Planning and Development Regulations 2001 (as amended), this exemption does not extend or include the haul road or vehicle entrance onto the Ballymoneen Road".

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

The determination of the PA was informed by a planning report (dated 26/05/2026) prepared by an Executive Planner. I note the following points from this report:

- The proximity and functional relationship of the lands subject of the referral to the Large Residential Development (LRD) scheme permitted on the adjoining lands to the south under Reg. Ref. 2460270 and ABP Ref. 321970-25 (and as amended by Reg. Ref. 2560285) is noted – specifically the location of the compound directly abutting the LRD scheme site.
- The nature and make-up of the temporary compound area are noted as is the proposal that all elements associated with works be fully removed and lands reinstated after the completion of the construction stage of the adjoining LRD scheme.
- The wording of Class 16 of Part 1, Schedule 2 of the Planning and Development Regulations (2001) as amended is considered in full together with the conditions and limitations which are relevant to that class of exempted development.
- It considered that the works undertaken, either alone or in combination with other plans and projects, will not have and have not had a likely significant effect on any European site.
- Having assessed the proposal against Schedule 7 criteria and taking account of the temporary and modest scale of the works, the low environmental sensitivity of the receiving environment, and the absence of any identifiable pathways, it is determined that the development is not likely to give rise to significant effects on the environment and EIA is not required.
- The concluding recommendation of the report distinguishes between the temporary compound area and the haul road and vehicular entrance.

3.2.2. Other Technical Reports

None on file.

4.0 Planning History

Referral Site

There have been no previous S.5 referrals on the subject site.

Recent and relevant planning applications of note are as follows:

ABP. Ref: 318220-23 – local authority road development application for Galway N6 Galway City Ring Road (which traverses the site) approved on 07/04/2026 without conditions.

ABP. Ref: 318217-23 - application for local authority road scheme (CPO) application for N6 Galway City Ring Road Motorway Scheme 2018 and Protected Road Scheme 2018 (which traverses the site) **approved** with modifications on 07/04/2026.

P.A. Ref. GLWC-C6-RZLT-3 (ABP Ref. VY61.316817) – appeal against inclusion of land at Ballymoneen Road, Galway City on the residential zoned land tax draft map determination of local authority **confirmed** on 21/08/2023.

P.A. Ref. 06/481 – application by C. Crehan Coolagh Construction Ltd for 210 no. residential units across 7 no. blocks, creche, doctors' surgery and 2 commercial units on 6.45ha, **granted** on the 15/03/2007 subject to 48 no. conditions. Revisions include omission of Apartment Block No. 2 and adjacent townhouse (9 units) in favour of four no 2/3 storey terraced townhouses. Omission of 2 Apartment units (192-193) in favour of one no 2 storey semi-detached house. Housing revised from 106 to 110 units; apartment revised from 104 to 94 units. Total number of units revised from 210 to 204. Reposition of pumping station and associated drainage details.

P.A. Ref. 12/21 – application by Kapstone Ltd. for an extension of duration of permission granted under P.A. Ref. 06481, refused on 29/03/2012 for 1 no. reason – apartments **granted** not meeting contemporary minimum floor area and standards under 'Sustainable Urban Housing: Design Standards for New Apartments' guidelines.

Adjoining Sites

Lands to South/ Southwest (In referrer's legal ownership)

P.A. Ref. 2460270 (ABP Ref. 321970-25) – application by Cairn Homes Properties Limited for LRD permission for demolition of 2 no. existing dwellings and construction of 156 no. residential units comprising 113 no. houses and 43 no. apartment units and provision of a creche (179 sqm) and all associated site works on lands of 4.11ha, **granted** permission on appeal on 16/06/2025 subject to 26 no. conditions.

P.A. Ref. 2560285 – application by Cairn Homes Properties Limited for the following amendments to apartment block permitted as part of the Large Scale Residential

(LRD) scheme under P.A. Ref. 2460270/ ABP Ref. 321970-25 which is located in the southern portion of the site: 1. The change of use of the of excess space at the plant room on the ground floor to 1 no. 1-bedroom apartment. 2. The proposed amendment will include modifications to the elevation of the ground floor of the apartment block to facilitate window and door openings for the additional apartment, **granted** permission on 11/12/2025 subject to 1 no. condition.

Relevant Decisions

I have searched and examined the Commission's database for referrals of a similar nature. There is an extensive list of Section 5 Referrals on this database that relate to similar issues. Whilst the circumstances of each case differ, I consider the following referrals to be relevant to the subject referral:

RL08.318452 – The Board determined that, the use of lands as a works compound in conjunction with KCC PA PL reg No: 22/55, is development and is exempted development on the basis that, inter alia, it comes within the scope of Classes 16 and 17 of Schedule 2, Part 1 to the Planning and Development Regulations 2001.

RL26.RL3607 – The Board determined that, the use of land as a construction compound at Belvedere Road, County Wexford facilitating the development of a site, was development and was not exempted development on the basis that the land on which the construction compound is located, does not constitute land adjoining the land on which the relevant development is being carried out, but is physically separated from that land, and therefore cannot be considered exempted development under Class 16, Schedule 2, Part 1 to the Planning and Development Regulations 2001 and does not come within any of the other exempted development provisions of the Act or Regulations.

RL06D.314387 – The Board found that the provision of temporary on-site structures used as site offices would constitute development and was not exempted development under Class 16 and Class 17, Part 1 of the Second Schedule to the Planning Regulations, as the land on which the site offices and associated compound are located does not constitute land adjoining the land on which the development is being carried out as it is physically separated from that land by a distance of approximately 180m.

RL15.301780 – The Board found that in relation to Class 16 of Part 1 of the Second Schedule to the Planning Regulations 2001, as amended, that the lands subject to the referral did not comprise a development site as no development consisting of works pursuant to a permission or exempted development were currently being undertaken.

RL3607 – The Board found that the change of use of the site to a construction compound would constitute development and was not exempted development under Class 16, Part 1 of the Second Schedule to the Planning Regulations as the land on which the construction compound is located does not constitute land adjoining the land on which the development is being carried out as it is physically separated from that land by a distance of approximately 76m.

RL3312 – The Board found that the erection of a temporary storage shed and a portacabin on lands in connection with construction works at Finnstown House, Lucan, a Protected Structure, was development and was not exempted development due to the separation distance from the permitted site and the intervening uses, including a Protected Structure, and the absence of any development works associated with the grant of permission.

RL16.RL2293 – The Board determined that, the erection of a construction compound, the laying of a waste pipe, the laying out of a road and other works at Rosspoint South, Co. Mayo, was development and is exempted development on the basis that, the compound consists of structures, works, plant or machinery which are needed temporarily in connection with the carrying out of works which are being or are about to be carried out pursuant to a development which is exempted development under Class 25 of Part 1 of Schedule 2 to the Planning and Development Regulations 2001 and comes within the scope of Class 16 of Part 1 of Schedule 2 to the said Regulations, and that the restrictions on development contained within article 9(1)(a) (vi) of the said Regulations do not apply in this case because it does not 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 the Mayo County Development Plan 2003 to 2009 because of the temporary nature of the development.

RL61.RL2138 – The Board determined that, the formation of a temporary access and access ramp during construction of development known as ‘Bailey Point’ from a section of private road between Rockhill Avenue and San Antonio Terrace, Salthill,

Galway is exempted development under Class 16 of Part 1 of Schedule 2 to the said Regulations, and the development does not consist of the formation, laying out or material widening of a means of access to a public road, or that the use of the access over a temporary construction period will endanger public safety by reason of traffic hazard.

5.0 Policy Context

5.1. Development Plan

The operative Development Plan is the Galway City Development Plan 2023 – 2029 (GCDP).

Zoning/ Site Specific Objective

The site is zoned 'Residential' (as per Land Use Zoning and Specific Objectives Map A) with a stated objective to *'To provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods'*. The lands to the immediate north and west of the site are zoned for 'Recreation and Amenity'.

Figure 11.7 (Undeveloped residentially zoned land North West of Western Distributor Road) of Section 11.2.8 provides that *"In this general area, residential development on the higher slopes shall, by means of density distribution, layout and design, assimilate into the topography of the site and protect the ridge view and provide for linkage and address to the adjoining RA zoned lands"*.

A reservation corridor in respect to the 'N6 Galway City Ring Road (N6 GCCR)' traverses part of the site in a north-east to south-westerly direction (this is a strategic transport project that is also identified in the NPF, NDP, RSES and MASP). Section 11.2 (Land Use Zoning General) states that *"Priority will be given to the reservation of the N6 GCRR designated strategic road corridor and any associated land requirements over other land use zonings and specific objectives"*.

The adjoining Ballymoneen Road is subject to an objective for 'Road Improvements'.

The property does not incorporate a Protected Structure, nor is it located in an Architectural Conservation Area. There are no objectives for preservation of views, or

objectives for the preservation of any sites or features of archaeological, cultural, geological, arboricultural, historical, scientific or ecological interest on the site.

6.0 Natural Heritage Designations

The site is not located within a European Site.

The following European sites are located in proximity to the site:

European Site	Site Code	Distance
Galway Bay Complex SAC	000268	c. 1.5km
Inner Galway Bay SPA	004031	c. 2km
Lough Corrib SPA	004042	c. 3.6km
Lough Corrib SAC	000297	c. 3.6km

The following Natural Heritage Areas and proposed Natural Heritage Areas are also located in proximity to site:

- Moycullen Bogs NHA (Site Code 002364).
- Galway Bay Complex pNHA (Site Code 000268).

7.0 Environmental Impact Assessment

The development subject of this referral has been subject to preliminary examination for environmental impact assessment (refer to Form 1 & Form 2 in Appendix 1 of this report). Having regard to the characteristics and location of the proposal and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposal, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

8.0 The Referral

8.1. Referrer's Case

The main points of the referrer's case are summarised below:

- Referrer seeks a determination from the Commission as to whether the proposed haul route and the ancillary vehicular entrance associated with the temporary construction compound constitute development, and if so, whether they are exempted development.
- The construction compound and haul route are integral to the safe and efficient delivery of the LRD scheme permitted on adjoining lands under Reg. Ref. 2460270 and ABP Ref. 321970-25.
- The proposal allows for complete separation between construction and residential traffic and minimises public/ traffic safety risks during the construction phase.
- Both the construction compound and haul route are temporary and will be fully removed with the lands reinstated following the completion of the construction stage in Q1 2027.
- The temporary haul route acts as an important construction access and is integral to the practical operation of the construction compound and to the safe, smooth and sequential delivery of the LRD scheme which may otherwise remain undeveloped, incomplete or unoccupied indefinitely.
- The temporary haul road is in line with Class 16 of the Planning and Development Regulations and does not exceed any of the restrictions set out under its conditions or limitations or under Article 9 of the Regulations.
- The temporary haul road is solely required for the purposes of construction and is not intended for public/ residential use.
- The temporary haul road does not consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 meters in width.

The following are enclosed with the referral:

- *Appropriate Assessment Screening Report.*
- *Preliminary Environmental Impact Screening Report.*
- *Architectural and Engineering Drawings.*
- *Construction Management Plan.*

8.2. Planning Authority Response

None received.

8.3. Further Responses

None received

9.0 Statutory Provisions

9.1. Planning and Development Act, 2000

- 9.1.1. **Section 2(1)** of the Act states: - In this Act, except where the context otherwise requires -

‘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...

‘structure’ means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined...

‘Public Road’ defined in Section 2 as having the same meaning as in the Roads Act, 1993.

Section 3(1) of the Act provides the following definitions of relevance:

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

Section 4(1)(a)-(i) set out what is exempted development for the purpose of the Act.

Section 4(2)(a) of the Act states –

The Minister may by regulations provide for any class of development to be exempted development for the purpose of the Act.

Section (4)(4) of the Act states –

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.

Section 5(1) of the Act states –

If any question arises as to what, in any case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of a prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

9.2. **Roads Act, 1993**

Section 2 (1) defines ‘public road’ as follows –

means a road over which a public right of way exists and the responsibility for the maintenance of which lies on a road authority.

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

Article 6(1) of the Regulations states:

Subject to Article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with certain conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Part 1 of Schedule 2 sets out exempted development to which Art 6(1) refers:

Temporary structures and uses

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.

Conditions and Limitations

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.

Class 17

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.

Conditions and Limitations

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.

Article 9(1) of the Regulations sets out the circumstances whereby 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-*

(ii) *consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 meters in width,*

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

(xi) *obstruct any public right of way,*

10.0 Assessment

10.1. Preliminary Matters

- 10.1.1. It should be noted that the purpose of this referral is not to determine the acceptability or otherwise of the proposal in respect of the proper planning and sustainable

development of the area, but rather whether or not the matter in question constitutes development, and if so, falls within the scope of exempted development.

10.1.2. The question before the Commission is whether *'the proposed temporary construction compound area to the north of the application site is exempted development under Class 16 of the provisions of the Planning and Development Regulations 2001 (as amended)'*.

10.1.3. A description of the works subject of the referral before the Commission is provided in the planning cover letter and in Section 2.2 of the AA Screening Report which were submitted on 08/05/2026. These involve of the creation of a temporary construction compound area comprising of various structures, works, plant and machinery and also the construction of an associated haul route leading from the Ballymoneen Road.

10.1.4. In light of the foregoing, it is clear that the scope of works subject of the referral before the Commission comprise of 2 no. distinct elements – firstly, the construction compound itself and associated works and secondly, the associated haul route and access leading from the Ballymoneen Road (L5024) to the east of the lands.

10.1.5. For clarity, it is suggested that the Question be reworded as follows:

'whether the proposed temporary construction compound area and its associated haul route/ access road and vehicular entrance onto the Ballymoneen Road is exempted development under Class 16 of the provisions of the Planning and Development Regulations 2001 (as amended)'.

10.2. **Is or is not development**

10.2.1. The first matter to consider is whether the provision of a temporary construction compound on the lands in question and the creation of a new site entrance and access route from the Ballymoneen Road comprises development.

10.2.2. I can confirm that, on the occasion of the site inspection, the site was in active use as a construction compound accommodating site offices, large quantities of construction machinery, materials and equipment.

10.2.3. Section 3(1) of the Planning and Development Act 2000, as amended ('the Act'), states that 'development' means the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land. Section

2 of the Act defines 'works' as 'includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...".

- 10.2.4. I am satisfied that the change of use of the subject site from undeveloped, greenfield lands to that of an extensive construction compound would constitute a material change of use as it gives rise to a significant intensification of activities from a planning perspective, and as such, it is considered development. I am also satisfied that 'works' have been undertaken to provide and install various structures, plant and machinery and to create of a new vehicular entrance and access route to the site off the Ballymoneen Road which, by definition, would also constitute development.
- 10.2.5. There is no dispute between the parties that the subject of this referral constitutes "development". Since there is no issue that the change of use and works carried out constitute 'development', as defined, the question to be decided is whether or not the proposal subject of the referral, stated to be the creation of a temporary construction compound area and its associated haul route/ access road and vehicular entrance, constitutes 'exempted development' for the purposes of the Planning Acts.

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

- 10.3.1. Section 4(1) of the Act sets out provisions in relation to exempted development. It is not considered that the use of the land in connection with a construction compound complies with any of these provisions.
- 10.3.2. 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.
- 10.3.3. It is set out by the applicant that the subject compound is considered exempt by virtue of Class 16 which states:

"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".

- 10.3.4. I also consider Class 17 which relates to: *“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”* to be relevant to the development subject of this referral.
- 10.3.5. I am satisfied that the use of the site as a temporary construction compound can be considered under Class 16, and that the use of the site as a compound is in connection with the residential development being carried out on the directly adjoining site to the south/ south-west pursuant to Reg. Ref. 2460270 and ABP Ref. 321970-25 (as amended by Reg. Ref. 2560285). I can confirm from my site visit, that the compound is used for structures, works, plant and machinery etc. needed temporarily in connection with the build out of the consented LRD scheme on this adjoining site which is also in the referrer’s legal ownership.
- 10.3.6. I am also satisfied that the temporary structures (e.g. portacabin site offices etc.) I observed on the site can be considered under Class 17 as they provide for temporary on-site accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the aforementioned permitted development.
- 10.3.7. Furthermore, I am of the view that it is reasonable that the haul route/ access road and the entrance from Ballymoneen Road be considered as an integral part of the operation of the temporary construction compound, notwithstanding its significant length (c. 200m) which I consider is explained by the relatively steep topography and level differences on the east side of the lands.
- 10.3.8. In both Class 16 and Class 17 the exemption is specific to the development being carried out on land ‘adjoining’ on which development is being or about to be carried out. The subject site is directly adjoining the site subject of the ongoing build-out pursuant to the permitted residential LRD scheme, and I have no concerns in this regard. Furthermore, I have no reason to believe the subject development will not comply with the conditions and limitations for each of the respective Classes, which

requires the removal of all structures, accommodation, works, plant and machinery and for the lands to be reinstated on expiration of the development period.

10.3.9. In conclusion, I consider that the development of the temporary construction compound area and its associated haul route/ access road constitutes exempt development under Class 16 and Class 17 of Schedule 2, Part 1 of the Planning Regulations.

10.4. Restrictions on exempted development

10.4.1. Article 9 of the Regulations sets out a number of restrictions on exempted development. I have reviewed these restrictions in relation to the subject development and examine those I consider relevant in detail below.

9(1)(a)(ii)

10.4.2. Article 9(1)(a)(ii) de-exempts development where it would consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.

10.4.3. The proposal subject of the referral includes the formation of a new vehicular entrance to the construction compound from the Ballymoneen Road (L5024).

10.4.4. The referrer contends that their temporary haul road is solely required for the purposes of construction and is not intended for public/ residential access or use. Whilst I accept that this is the case, the function of the newly created access road is not at issue, with the crux of the matter being the ownership status and width of the public road (L5024).

10.4.5. Having consulted the Galway City Council Taking In Charge Register (accessed 17/07/2026) which provides details of the public areas, structures and services etc. the local authority are legally responsible for, I note that the full extent of the Ballymoneen Road is taken in charge by the council from its junction with Bearna Road to the south to the Ragoon Road to the north – with the referrer's entrance and point of access being located along this stretch.

10.4.6. Therefore, I consider that the Ballymoneen Road constitutes a public road as defined in the Planning and Development Act (2000) and in the Roads Act (1993). I am also satisfied from my inspection of the site and its surrounds that the surfaced carriageway of the Ballymoneen Road exceeds 4m in width at this location.

10.4.7. In light of the foregoing, I am satisfied that the development comprising of the creation of a new vehicular entrance to the construction compound from the L5024, which is a public road, comes within the scope of Article 9(1)(a)(ii) and does not therefore constitute exempted development for this reason.

9(1)(a)(iii)

10.4.8. Whilst not cited as an issue in the PA's reports, I note that Article 9(1)(a)(iii) de-exempts development which is normally exempt if the carrying out of such development would endanger public safety by reason of traffic hazard.

10.4.9. The Construction Management Plan submitted with the referral provides details in respect to the general arrangements that have been put in place to manage the construction of the permitted LRD scheme. I specifically draw the Commission's attention to Section 3 of this document which sets out the referrer's justification for the location of the subject haul route outside the application red line boundary and partly within the N6 Route Protection Corridor. I acknowledge and accept the submitted rationale for segregating the scheme's construction traffic from its residential traffic.

10.4.10. Construction traffic travelling to and from the site subject of this referral will use the Ballymoneen Road (exclusively) and will undoubtedly have an impact on local pedestrian and road safety in the short term on account of the generation of additional traffic movements. Notwithstanding, having observed the splayed site entrance arrangements, I consider that traffic entering and existing the site has adequate visibility to ensure that vehicular manoeuvres are completed in a satisfactory manner and without any significant impacts on traffic safety. Furthermore, having considered the nature of the surrounding landscape and the existing and ongoing residential development (which is located and accessed from the Ballymoneen Road further to the south of the site entrance) in the vicinity of the existing access to the temporary construction compound, I do not consider that the development will endanger public safety by reason of traffic hazard.

9(1)(a)(xi)

10.4.11. The referral made to the Commission raises the matter of Article 9(1)(a)(xi). This de-exempts development where it would obstruct any public right of way.

10.4.12. As detailed in Section 1.0 of this Inspector's Report, the identified route of the permitted N6 Galway City Ring Road (GCRR) forms a significant portion of the site effectively bisecting the subject lands and is part of the associated compulsory purchase order under approved under ABP. Ref: 318217-23.

10.4.13. It is argued by the referrer that, given the CPO has not yet been enacted and that the subject lands still fall under the full control of the referrer, the development does not have the potential to obstruct any public right of way.

10.4.14. I am satisfied that, as the construction compound is temporary in nature and the development of the city ring road has not yet commenced, no issue in respect to the obstruction of a public right of way arises in this instance.

Environmental Impact

10.4.15. The restriction of exemption due to the requirement for Environmental Impact and Appropriate Assessment arises in Section (4)(4) of the Act. I have considered these issues separately below.

Environmental Impact Assessment

See Forms 1 and 2 (Appendix 1) on file. Whilst the development is a class for the purposes of EIA, it is considered to be subthreshold, and I have determined that it is not likely to give rise to significant effects on the environment and that EIA is not required.

Appropriate Assessment

The restriction of exemption due to the requirement for Appropriate Assessment arises in Section (4)(4) of the Act (and Article 9(1)(a)(viiB) of the Regulations). See Appendix 2 on file for AA Screening Determination.

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 development would not result in likely significant effects on any European Site and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The nature and extent of the works, including scale and duration.

- Intervening land uses and indirect connections to the European sites.
- The lack of impact mechanisms that could significantly affect a European Site.
- Taking into account screening determination by PA.

No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion. The provisions of Section (4)(4) of the Act do not apply.

11.0 Recommendation

11.1. 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 proposed temporary construction compound area and its associated haul route/ access road and vehicular entrance onto the Ballymoneen Road is exempted development under Class 16 of the provisions of the Planning and Development Regulations 2001 (as amended)':

AND WHEREAS Cairn Homes Properties Ltd. requested a declaration on this question from Galway City Council and the Council issued a declaration on the 24th day of March 2026 stating that the matter was development and that whilst the proposed temporary compound area is exempted development the haul road and vehicle entrance onto the Ballymoneen Road was not exempted development:

AND WHEREAS Cairn Homes Properties Ltd. referred this declaration for review to An Coimisiún Pleanála on the 17th day of April 2026:

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(1) of the Planning and Development Act, 2000, as amended,
- (d) Section 4(2) and 4(4) of the Planning and Development Act, 2000, as amended,
- (e) Article 6(1) and Article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (f) Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (g) Class 16 and Class 17 of Part 1 of Schedule to the Planning and Development Regulations, 2001
- (h) Section 2(1) of the Roads Act, 1993
- (i) the planning history of the site and adjoining sites,
- (j) the pattern of development in the area:

AND WHEREAS An Coimisiún Pleanála has concluded that:

- (a) The development comprising the provision of a temporary construction compound on the lands in question would constitute a material change of use that is development under Section 3 of the Planning and Development Act 2000 (as amended).
- (b) The works comprising the installation of various structures, plant and machinery and the construction of a new site entrance and haul road/ access route to the site from Ballymoneen Road would constitute works that are development under Section 3 of the Planning and Development Act 2000 (as amended).
- (c) Having regard to the nature of the development, which comprises of the provision of a construction compound used for structures, works,

plant and machinery and the construction of a haul road/ access route needed temporarily in connection with the carrying out of the development pursuant to permission granted under Reg. Ref. 2460270 and ABP Ref. 321970-25 (as amended by Reg. Ref. 2560285) on the adjoining lands, the Commission is satisfied that the development comes within the scope of Class 16, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001,

(d) Having regard to the nature of the development, which comprises of the provision of a construction compound and the placing on lands of portacabins, providing for temporary on-site accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the development pursuant to permission granted under Reg. Ref. 2460270 and ABP Ref. 321970-25 (as amended by Reg. Ref. 2560285) on the adjoining lands, the Commission is satisfied that the development comes within the scope of Class 17, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001,

(e) Having regard to the nature of the development, which comprises the creation of a vehicular entrance to a public road which exceeds 4 metres in width, the Commission is satisfied that the development is not exempted development by virtue of Article 9(1)(a)(ii) of the Planning and Development Regulations, 2001,

(f) does not come within any of the other exempted development provisions of the Act or Regulations.

(g) based on the documentation on file, the development would not be likely to have significant effects on the Galway Bay Complex SAC (Site Code 000268) and Inner Galway Bay SPA (Site Code 004031) in view of those sites' conservations objectives. In coming to this conclusion, the Commission took account of the limited extent and duration of the works, the lack of a pathway between the development and the European site, the distance to any qualifying interests and to the nature of those qualifying interests, and accordingly, considers that an appropriate assessment is not required in relation to the

development the subject of this referral. Accordingly, the de-exemption provisions of Section 4(4) of the Planning and Development Act, 2000, as amended, do not apply:

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 temporary construction compound area and its associated haul road/ access route to the north of the application site is development and is exempted development, and that the creation of a new vehicular entrance to the construction compound from the Ballymoneen Road 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.

Emma Gosnell
Planning Inspector

24th July 2026

Appendix 1

Form 1 - EIA Pre-Screening

Case Reference	ACP-324222-26
Proposed Development Summary	Existing construction compound, haul route and vehicular access.
Development Address	Ballymoneen Road (L5024), Keeraun and Ballynahown East, Galway
	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.	
☒ 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	
☒ 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)	Class 10(b)(iv) – urban development – threshold is 10ha in a built-up area and 20ha for development elsewhere. Class 10(dd) – private roads exceeding 2000m in length.

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: _____

Form 2 - EIA Preliminary Examination

Case Reference	ACP-324222-26
Proposed Development Summary	Existing construction compound, haul route and vehicular access.
Development Address	Ballymoneen Road (L5024), Keeraun and Ballynahown East, Galway

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).

Temporary construction compound, associated haul route and vehicular access on lands of c. 1.82ha.

Site clearance/ enabling works (creation of a vehicular access onto the Ballymoneen Road to the east) required to facilitate the construction of the compound and haul route.

The works did not generate significant levels of waste, emissions or pollutants and all construction activities and are managed in accordance with a Construction Management Plan and a Construction Environmental Management Plan (LRD).

The development is significantly below the class thresholds of Class 10(b)(iv) – urban development and Class 10(dd) – private roads exceeding 2000m and requires no demolition.

The development has been assessed in the context of the adjacent permitted development as detailed under Section 4.0 of the Inspector's report.

The nature of the development is temporary, and it is not exceptional within its existing suburban context.

The project due to its size and nature does not give rise to significant use of natural resources or production of waste during its construction and operation.

The development, by virtue of its type, does not pose a risk of major accident and/or disaster, and is not vulnerable to climate change.

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).

The site is located in an outer suburban area c. 5km from Galway city centre and comprises of undeveloped, residentially zoned lands adjoining low to medium density housing developments to the south and south-east. It forms part of a substantial bank of residentially zoned land at this location.

To its west and north the site is bordered by undeveloped lands and agricultural fields zoned for Recreation and Amenity which comprise of a mix of blanket bog, fen, wet grassland.

The Bearna Stream (EPA Code IE_WE_31B010200) is located c. 100m to the west of the site and flows in a southerly direction towards the Galway Bay Complex SAC and the Inner Galway Bay SPA.

There is no other nationally designated site, scenic route or protected view on or in the immediate vicinity of the appeal site. The site is also not within a

	designated ACA and there are no Protected Structures or other Cultural Heritage sites on or immediately adjoining the site. The site is traversed by a reservation corridor in respect to the 'N6 Galway City Ring Road' (N6 GCCR). There is a quarry located c. 800m to the north of the site.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Due to the nature and scale of the development, the site enabling and construction stages are not significant in terms of duration or complexity. The main operational impacts are limited to traffic safety and residential amenity which are assessed as part of the Inspector's Report without potential for significant environmental effects that would require EIA. In considering the potential for significant cumulative effects with other plans and projects, I note that the permitted LRD scheme on the lands generally to the south did not require EIA on the basis that it was subthreshold, with the proposal giving no material change in this determination, and I am also satisfied that as the identified route of the permitted N6 Galway City Ring Road (GCRR) bisects the site (dividing the subject lands into two separate areas) the temporary compound could not continue to operate (and would need to be immediately decommissioned) in circumstances where the N6 project moves to the implementation stage and as such that the two projects can be considered to be mutually exclusive and could not therefore give rise to a cumulative impact.
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.

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)

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: ACP-324222-26	
Brief description of project	Referral in respect of existing construction compound, haul route and vehicular access – see Section 2.0 of Inspector's Report for further details.
Brief description of development site characteristics and potential impact mechanisms	The referral site is located in an outer suburban area c. 5km from Galway city centre and comprises of undeveloped, residentially zoned lands adjoining low to medium density housing developments to the south and south-east. It forms part of a substantial bank of residentially zoned land at this location. Undeveloped and agricultural lands are located to the north and west of the site. The development subject of this referral involves the provision of a large temporary construction compound on undeveloped, greenfield lands and various site clearance/ enabling works (including the creation of a new access road/ haul route and vehicular access onto the Ballymoneen Road to the east) required to facilitate the construction of the compound and haul route. There are no watercourses or other ecological features of note on the appeal site that would connect it directly to European Sites in the wider area. The Bearna Stream (EPA Code IE_WE_31B010200) is located c. 100m to the west of the site and flows in a southerly direction towards the Galway Bay Complex SAC and the Inner Galway Bay SPA. It is considered that, due to the nature and scale of the works and given the intervening distance and bank of undeveloped land between the site and the Bearna Stream, there is no potential for it to provide a hydrological connection to the aforementioned European sites. Similarly, whilst the referral site and the Galway Bay Complex SAC and Inner Galway Bay SPA are underlain by the same groundwater body, the Spiddal groundwater catchment, due to the nature and scale of the works and the intervening distance between the site and this SAC and SPA there is no potential for likely significant indirect effects to occur on account of groundwater deterioration. There is considered to be no pathway to any other Natura 2000 sites in the vicinity of the appeal site due to the nature and relatively small scale of the development, the location of the appeal site relative to other European sites and the substantial separation

	distances involved which would give rise to significant intervening dilution effects.
Screening report	Yes
Natura Impact Statement	No
Relevant Submissions	No
Step 2. Identification of relevant European sites using the Source-pathway-receptor model Having regard to the source-pathway receptor-model, I consider that there are no European sites which have the potential to be affected, either directly or indirectly, by the construction compound, haul route or vehicular access.	
Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites No likely effects arise either alone or in-combination.	
Step 4 Conclude if the proposed development could result in likely significant effects on a European site I conclude that the development undertaken (alone or in combination with other plans and projects) would not result in likely significant effects on a European Site. No measures specifically intended to avoid or reduce harmful impacts of the development on European sites were taken into account in reaching this conclusion.	
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 development undertaken, individually or in combination with other plans or projects, would not be likely to give rise to significant effects on European Sites, and is therefore excluded from further consideration. Appropriate Assessment is not required. This determination is based on: • The nature and extent of the works, including scale and duration. • Intervening land uses and indirect connections to the European sites. • The lack of impact mechanisms that could significantly affect a European Site.	

