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**Saoirse Kennedy  
Galway County Council  
Planning and Development Section  
Prospect Hill  
Galway.**

**3<sup>rd</sup> January 2023**

**Re: EN16/021 - Colman Rock, Knockaunatouk, Gort, Co. Galway.**

Dear Saoirse,

You will be aware that the Enforcement Notice EN16/021 was listed for hearing in Gort District Court on Thurs 23<sup>rd</sup> November 2022. The outcome of this hearing required Mr Rock to apply for substitute consent in accordance with the requirements of section 177C(2)(b) of the Planning and Development Act, 2000, as inserted by Section 57 Planning and Development (Amendment) Act 2010.

However, we have some concerns regarding this direction, and must bring the matter to your attention in the best spirit of co-operation to resolve the issues at the Rock site.

The facility was granted permission under P01/393 and continues to operate as a steel fabrication workshop, with 4 employees (including Mr Colman Rock). The additional sheds constructed at the facility, subject of applications P16/834 (as appealed under P07.247214) and P18/905 are still on site and are the subject of the aforementioned EN16/021 notice as issued by Galway Co Council in February 2022.

Mr Rock has dis-continued the use of the shot blasting and coating equipment housed in Shed 2 (see attached site layout). Given the cessation of this activity, it is his intention to de-structure the building and remove the equipment housed therein from his site. It is also his intention to de-structure the Shed 3 on the site. Both de-structuring works would essentially comply with the EN 16/021 notice. However, the facility requires an open sided storage shed (such as Shed 3). Mr Rock needs to apply for permission to re-structure Shed 3 on the footprint of the former Shed 2. This would mean the visual aspect of the buildings on site is very significantly reduced. The use of the coating equipment on the site has been dis-continued, as the steel used is pre-galvanised off site, and tailored to meet orders in the permitted steel fabrication workshop at the site. The traffic management proposal previously submitted for P18/905 were implemented in full, with no vehicles waiting on the public road for site assess.

This re-organisation of the site means that the application for substitute consent for the buildings is unlikely to be considered by An Bord Pleanála, and the works program does not fall under the requirements of the Section 177(C) of the P & D Act 2000.

Mr Rock sought advice from his consultants in February 2022 in relation to the enforcement notice. Ms Burke<sup>1</sup> (Burke Environmental Services) advised him of the ongoing need to comply with the requirements of the Article 6(3) of the Habitats Directive (92/443/EEC) as implemented in Ireland under the Habitats Directive (92/43/EEC) as implemented in Ireland under S.I 477 of 2011, European Communities (Birds and Natural Habitats) Regulations 2011, namely

*Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.*

We are particularly mindful of the aforementioned planning applications (P16/834 and P18/905) seeking to authorise the development works at the Rock site and the attention paid by Galway Co Council Planning Authority to the requirements of Article 6(3) in their consideration of these applications, and particularly to the protection of the Qualifying Interests associated with the Natura Sites in the vicinity of the Rock workshop site (including but not solely Coole Garryland SAC (Site Code 000252), Coole-Garryland SPA (Site Code 004107) and East Burren Complex SAC (Site Code 001926).

In this context, we trust that the works program required by Galway Co Council under EN16/021 has been fully screened in accordance with the requirements of Article 6(3) of the Habitats Directive<sup>2</sup>, in the context of the site location and extensive works program required in the notice, as the requirement of the notice was removal of the buildings within 14 days. In February 2022, Ms Burke advised Mr Rock that the program of works required the preparation of a Demolition program and Waste Management Plan

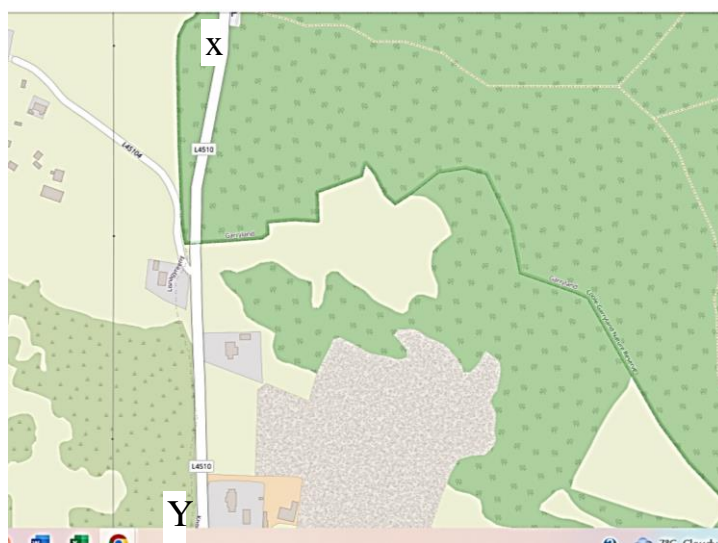
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<sup>1</sup> Mary Burke, (B.Sc Hon Chem, M.I.C.I, Employed 1994-2021 in area of environmental protection (County Clare), including ongoing monitoring and assessment of development impacts (direct and indirect impacts) on environment and amenity; preparation of EIAR and NIS Screening reports and long term monitoring of projects thereafter. Continuing professional development (CPD) training in various areas (NUI Galway Certificate in Biodiversity 2012; Operational Competence Certificates from British Examining Board in Occupational Hygiene in Toxic Metals, General Principles of Workplace Controls, Harmful Dusts/Vapours/Liquids/Gases/Mists, Asbestos, Noise & Vibration, Thermal Environment; 2007- 2009; FAS Certified in Site Suitability Assessment and Inspection of Domestic Waste Water Treatment System and FAS Certified in Waste Management Modules (Policy & Legislation, Regulation, Waste Management Planning, Communication & Consultation, Minimisation & Recycling, Recovery & Disposal, Biological & Thermal Treatment, Environmental Management Systems)

<sup>2</sup> Dismantling of buildings, breaking of concrete pads using a rock breaker, excavation of foundations, segregation and storage of waste streams pending movement from site, associated noise required during the works program, additional staff on site during the works program, potential dust emissions and lighting emissions- relevant in the context of timing of works, haulage of waste off site

(with appropriate time schedules) for the activity and that this plan should be fully screened to address potential impacts arising from the works program as required under the aforementioned Article 6(3) of Habitats Directive, and in accordance with the advice issued to Planning Authorities by the Office of the Planning Regulator in their *Appropriate Assessment Screening for Development Management (Practice Note PN01)*<sup>3</sup>.

The screening of this works program is particularly relevant to the Rock site as the Garryland Lodge Maternity Roost for *Rhinolophus hipposideros* (Lesser Horseshoe Bat) [1303] (listed as a Qualifying interest of the Coole-Garryland SAC and East Burren Complex SAC) is located some 550 metres due north of the Rock site. I have marked the letter X on the approximate location of this lodge in the appended map, and the letter Y on the Rock site location



The Garryland Lodge maternity roost has been subject of significant upgrading works (with the significant involvement of Galway County Council) and close monitoring since 2007. Restoration works on the lodge to provide the optimal conditions for the maternity roost have been extremely successful and the roost is now considered a long term stable roost, both as a maternity roost and a summer roost for the Lesser Horseshoe Bat species. The lodge is very important in the North Gort area, particularly during flood events, as caves used by the species for roosting may be flooded. Since 2011 regular monitoring of the lodge has been undertaken and in August 2019 (03/08/2019) the highest number of the species ever recorded were found at the site (200). The entire population of the species in the area North of Gort is estimated at 400, so that this roost caters for half the population of this area.

Any works in the area (including demolition works) requires consideration of potential impact on the nearby roost. This advice was provided to Mr Rock in February 2022, and also to the legal team representing Mr Rock, but was not provided to the court in November 2022. We can only assume that the Article 6(3) screening requirement was fulfilled prior to the issue of the EN16/021 notice

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<sup>3</sup> March 2021, Office of the Planning Regulator <https://www.opr.ie/wp-content/uploads/2021/03/9729-Office-of-the-Planning-Regulator-Appropriate-Assessment-Screening-booklet-15.pdf> (OPR 2021)

The current dilemma at the site is that Mr Rock cannot apply for substitute consent for buildings which he does not want to retain. In this context, we seek to clarify how to progress the re-structuring works (with removal of shed 2 and re-location of Shed 3) to enable the steel fabrication workshop to continue to operate in a manner which will enable compliance with Health, Safety and Welfare requirements for employees and protect the product on site. It is important to note that there is no material increase in throughput at the site, and no change in employee numbers. It is our intention to undertake the necessary Appropriate Assessment Screening for the proposed works. We welcome your response on the proposed works on site and any outcomes relevant to the site which have arisen during your Appropriate Assessment Screening prior to the issue of the EN16/021 notice

An aerial view of the site showing the transposed Shed 3 (and Shed 2 removed is attached hereunder, together with site layout referring to Sheds 1, 2, 3

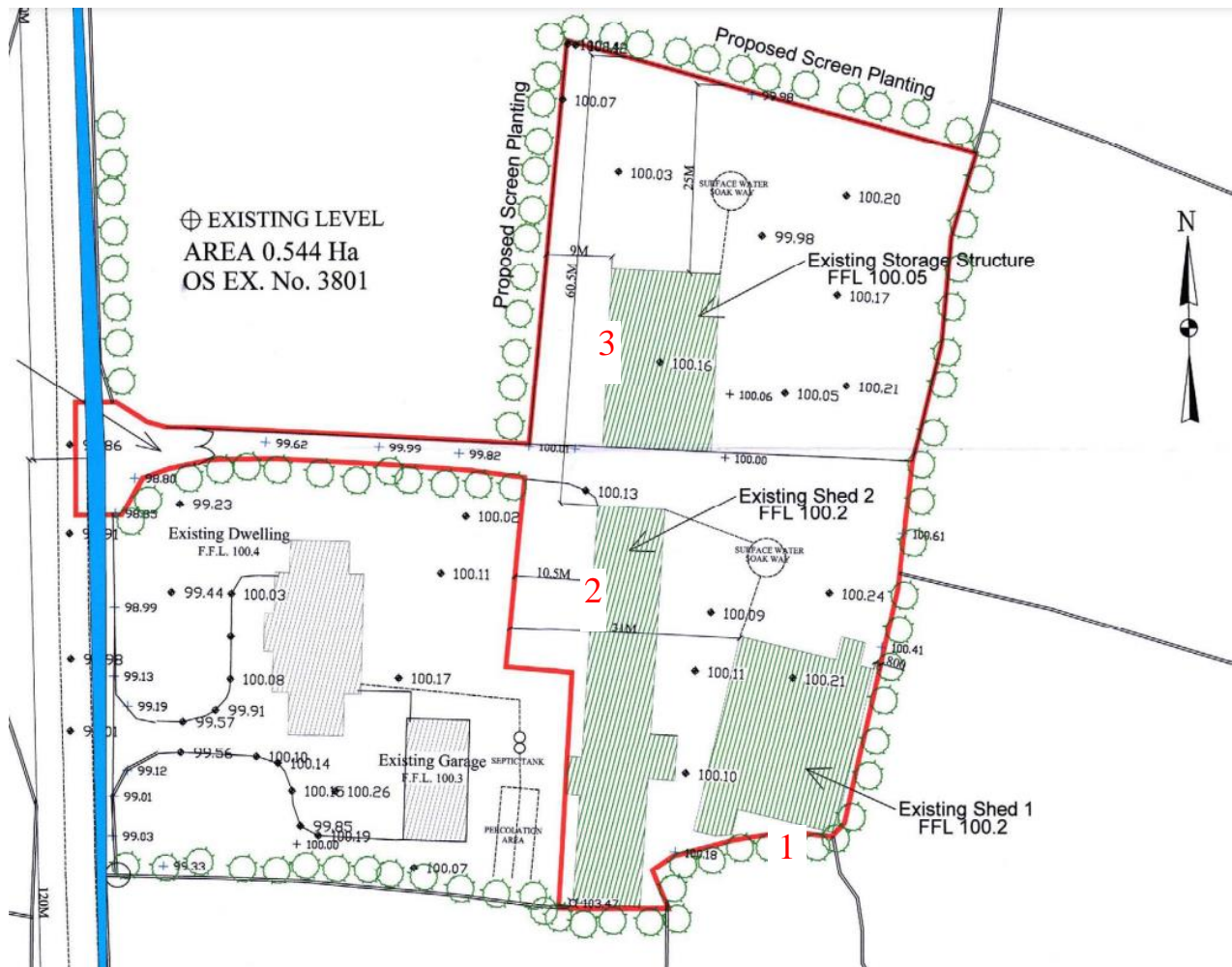
We look forward to your response and can meet with you at your convenience, if required. Should you require any additional information please contact our office.

Yours faithfully,



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**Mairtín Grealish B.E. M.I.E.I.**  
**Grealish Glynn & Associates**



Existing site layout with sheds numbered 1, 2 3



Aerial view with Shed 3 transposed to the proposed location