

**Cathy Carleton**

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**From:** Aoife Phelan <aoifehalligan@gmail.com>  
**Sent:** Sunday 26 October 2025 17:36  
**To:** Appeals2  
**Subject:** Case Ref: SU19.323676  
**Attachments:** SU19.323676\_Observation on The Application Form\_Lemanaghan Bog Heritage & Conservation Group.pdf

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### Observer Details

**Name** Aoife Phelan (on behalf of Lemanaghan Bog Heritage & Conservation Group CLG)

**Address** Lemanaghan, Ballycumber, Tullamore, Co. Offaly, R35W9P3

**Tel.** 0863320269

**Case Ref:** SU19.323676

Dear Sir/Madam,

Please find attached a PDF document containing the **Observer Details** for **Aoife Phelan**, submitted on behalf of the **Lemanaghan Bog Heritage & Conservation Group CLG**, in relation to the **Substitute Consent application (Case Ref: SU19.323676)** by **Bord na Móna Energy Limited** for **Lemanaghan Bog, Co. Offaly**.

This document relates to observations on "The Application form".

Further observations will follow on other areas of the substitute consent submission.

Please acknowledge receipt of this submission and keep me informed of any further stages in the process. My contact email is [aoifehalligan@gmail.com](mailto:aoifehalligan@gmail.com).

I understand that no fee applies to submissions/observations on substitute consent applications (per S.I. No. 648 of 2023). Thank you for your consideration.

Kind regards,

**Aoife Phelan**

Lemanaghan Bog Heritage & Conservation Group CLG  
aoifehalligan@gmail.com

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100

**Observer Details**

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**Name:** Aoife Phelan  
On behalf of Lemanaghan Bog Heritage & Conservation Group CLG  
**Address:** Lemanaghan, Ballycumber, Tullamore, Co. Offaly,  
**EirCode:** R35 W9P3  
**Email:** [aoifehalligan@gmail.com](mailto:aoifehalligan@gmail.com)  
**Date:** 26 October 2025

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**Application Details**

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**Applicant:** Bord na Móna Energy Limited  
**Case Ref:** SU19.323676  
**Type:** Substitute Consent under Section 177E, Planning and Development Act 2000  
(as amended)  
**Location:** Lemanaghan Bog and associated townlands, Co. Offaly

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The Secretary  
An Coimisiún Pleanála,  
64 Marlborough Street  
Dublin 1, D01 V902

Dear Sir/Madam,

I, Aoife Phelan, of the above address, wish to make this submission/observation on the above Substitute Consent application. I am making this submission on behalf of Lemanaghan Bog Heritage & Conservation Group (authorised representative).

Please acknowledge receipt of this submission and keep me informed of any further stages in the process. My contact email is [aoifehalligan@gmail.com](mailto:aoifehalligan@gmail.com).

I understand that no fee applies to submissions/observations on substitute consent applications (per S.I. No. 648 of 2023).

Yours faithfully,

*Aoife Phelan*

Aoife Phelan  
on behalf of Lemanaghan Bog Heritage & Conservation Group  
Email: [aoifehalligan@gmail.com](mailto:aoifehalligan@gmail.com)

*Formal Observation and Request for Refusal of Substitute Consent*

# Lemanaghan Bog – Substitute Consent Observations on ‘The Application Form’ document

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## **Substitute-consent Application – Lemanaghan Bog**

**Formal Objection:** The Application Form – Errors, Omissions, and Inaccuracies  
**Submitted to:** An Coimisiún Pleanála  
**Prepared by:** Aoife Phelan, on behalf of Lemanaghan Bog Heritage and Conservation  
Group CLG  
**Address:** Lemanaghan, Ballycumber, Tullamore, Co. Offaly,  
**Date:** 26 October 2025

## **Background on Lemanaghan Bog Heritage & Conservation Group CLG**

Lemanaghan Heritage & Conservation Group CLG is an Irish Company Limited by Guarantee and not having share capital, registered with the Companies Registration Office (CRO). The Group operates on a not-for-profit basis under the stewardship of a voluntary board of directors, with all activities governed by the principles of transparency, accountability, and community service.

Our membership includes local residents, turbary right-holders, landowners, heritage enthusiasts, and environmental volunteers who share a collective goal: to protect and promote the natural, archaeological, and cultural heritage of the Lemanaghan peatland landscape and its surrounding townlands in County Offaly.

We document site conditions through field surveys, photography, mapping, archival research, and citizen-science reporting. Our volunteers maintain a multi-year record of seasonal flooding, wintering bird use (including Annex I species), and the condition of legacy industrial infrastructure, and we report pollution or dumping to the appropriate authorities and track remediation. This evidence-led approach underpins our submissions to statutory bodies and supports meaningful public participation.

We also promote positive community engagement—organising heritage walks and talks, supporting education and responsible access, and encouraging best practice in peatland restoration consistent with national policy and EU environmental obligations.

Our work has been recognised both locally and nationally. **In 2024, the Lemanaghan Bog Heritage & Conservation Group was the runner-up in the National Heritage Week “Intangible Cultural Heritage Award” for our project “Lemanaghan Stories: Tales of Tradition, Routes and Connections.”** This achievement was further honoured at a **Civic Reception in 2025**, acknowledging the Group’s contribution to safeguarding and celebrating community heritage. **Additionally, we are a finalist in the Culture & Heritage category of the Offaly County Council Community & Voluntary Group Awards 2025**, reflecting the continued dedication of our volunteers and supporters.

In making this submission, we aim to assist An Coimisiún Pleanála with clear, evidence-based observations that support full compliance with the Planning and Development Code, the EIA and Habitats Directives, and the Aarhus Convention. We are not opposed to appropriate development; we advocate for transparency, accuracy, and lawful process so that environmental protection and community rights are upheld.

## Table of Contents

1. Introduction
2. Section-by-Section Review
  6. Person Responsible for Drawings and Plans
  7. Description of Development
  8. Legal Interest and Land Ownership
  - 9–11. Site Area, Building Details, and Development Class
  13. Archaeology and Heritage
  14. Site History
  15. Services (Water, Wastewater, and Surface Water)
  16. Details of Public Notice
  - 17–18. Application Fee and Declaration
3. Summary of Defects
4. Conclusion
5. Executive Summary
6. References

## 1. Introduction

The validity of this substitute-consent application hinges on the accuracy and completeness of the prescribed Form No. 7. The form itself warns that:

**“Failure to complete this form or attach the necessary documentation, or the submission of incorrect information or omission of required information will lead to the invalidation of your application.”**

This warning places a strict obligation on the applicant to ensure that all entries and referenced documentation are complete and accurate at the time of submission.

Upon detailed review, numerous sections of the application form are either factually incorrect, incomplete, ambiguous, or inconsistent. Each defect identified below undermines the integrity of the application and prevents proper environmental assessment and public participation. These deficiencies also prevent proper assessment under the Environmental Impact Assessment and Habitats Directives.

## 6. Person Responsible for Drawings and Plans

| 6. PERSON RESPONSIBLE FOR PREPARATION OF DRAWINGS AND PLANS <sup>3</sup> : |                  |
|--|------------------|
| Name   | Killian Devereux |
| Firm/Company   | MKO              |

Figure 1: Screenshot of Section 6 – Person Responsible for Drawings and Plans (Application Form)

The form lists MKO as responsible for drawings. However, these drawings appear inconsistent with current site conditions: certain features shown on the plan were **not observed on site** on [October 2025], while other features (e.g., a skip) **were observed** (see figures 1.1; 1.2). Please see Drawing [Drawing 200804-E-13, “Site Layout – Welfare Building (‘Tea centre’)] for comparison.



**Figure 1.1** Wide-angle view of the site showing skip, rusty container, and the welfare building (known locally as the 'Tea Rooms/Tea Centre').



**Image 1.2:** A skip bearing 'AES' branding was observed on the site (Figure 1.2). AES is a waste-management company operated by Bord na Móna (<https://www.bnmrecycling.ie/news/we-are-aes-recycling/>, accessed [18<sup>th</sup> October 2025]). This reference is provided for context only and does not imply responsibility for the placement or condition of the skip.

Under Article 23(1)(a) of the Planning Regulations, inaccurate or misleading drawings render an application invalid. This is explored in greater detail later in our objection.

## 7. Description of Development

| <b>7. DESCRIPTION OF DEVELOPMENT:</b>                         |  |
|---|--|
| <i>Brief description of nature and extent of development*</i> | <p>The development for which substitute consent is being sought consists of peat extraction activities and ancillary works including the following:</p> <ul style="list-style-type: none"> <li>(i) Industrial scale peat extraction (milled peat) at the Application Site from 1988 to June 2020;</li> <li>(ii) Installation, use and maintenance of surface water drainage infrastructure (drains, silt ponds, pumps) at the Application Site to facilitate peat extraction activity from 1988 to present day;</li> <li>(iii) Provision of a welfare facility building and associated septic tank, 2 no. storage containers;</li> <li>(iv) Use and maintenance of pre-existing railway infrastructure to facilitate peat extraction activity from 1988 to present day;</li> <li>(v) Control Measures associated with the above, inclusive of the IPC Licence measures (Ref. P0500-01) which commenced from May 2000 onwards to the present day; and,</li> <li>(vi) All associated site development and ancillary works.</li> </ul> <p>The application relates to development which is subject to an existing Integrated Pollution Control Licence (Ref. P0500-01) granted by the Environmental Protection Agency.</p> |

Figure 2: Screenshot of Section 7 – Description of Development (Application Form)

| Description of Development (as stated by Bord na Móna)  | Corresponding Objection / Comment   |
|---|---|
| <b>(i) Industrial scale peat extraction (milled peat) at the Application Site from 1988 to June 2020.</b> | <p>The applicant has failed to distinguish between lawful and unauthorised activities. Extraction prior to 1989 predated the EIA Directive and may have been lawful prior to the EIA Directive's transposition (S.I. 349/1989), while operations from 2000 onwards were regulated under EPA IPC Licence P0500-01.</p> <p>Substitute-consent cannot regularise activities that were lawful or already licensed. Only specific unauthorised development requiring EIA/AA may be considered.</p> |

|  |  |
|--|--|
|  | <p>Including the entire 1988–2020 period is overly broad and contrary to Section 177C of the Planning and Development Act.</p>   |
| <p><b>(ii) Installation, use and maintenance of surface water drainage infrastructure (drains, silt ponds, pumps) at the Application Site to facilitate peat extraction activity from 1988 to present day.</b></p> | <p>Substitute-consent may only address unauthorised works already carried out — not ongoing operations. The reference to 'use and maintenance ... to the present day' improperly includes active infrastructure still in use. Substitute-consent cannot retrospectively or prospectively authorise continuing drainage or pumping activities. <b>These must cease or be subject to a separate planning process.</b></p>  |
| <p><b>(iii) Provision of a welfare facility building and associated septic tank, 2 no. storage containers.</b></p>   | <p>The inclusion of a permanent serviced welfare building and storage containers appears <b>outside the intended scope</b> of the substitute-consent process. The building is a permanent structure with toilets, plumbing, septic tank, windows, gutters, doors, satellite dish, electricity, and water — <b>would ordinarily require planning permission or retention permission</b>, and may fall <b>outside</b> the scope of substitute consent.. The two storage containers as described in the drawings [Drawing No. 200804-e-13] do not even exist on the site, making the description <b>factually inconsistent</b> with current site conditions. Substitute-consent applies only to unauthorised development requiring EIA/AA, not permanent buildings or non-existent structures. A permanent serviced structure normally requires full planning permission or retention permission.</p> |
| <p><b>(iv) Use and maintenance of pre-existing railway infrastructure to facilitate peat extraction activity from 1988 to present day.</b></p>   | <p><b>Is this within the scope of substitute-consent?</b> Furthermore, reference to 'use and maintenance ... to present day' implies ongoing operation, which cannot be regularised under this process. It is our understanding that substitute consent is intended for <b>unauthorised development</b></p>  |

|  |   |
|--|---|
|  | <b>already carried out, rather than ongoing use; clarification is requested.</b>  |
| <b>(v) Control Measures associated with the above, inclusive of the IPC Licence measures (Ref. P0500-01) which commenced from May 2000 onwards to the present day.</b> | Having regard to <b>s.172(7) PDA 2000</b> and <b>s.83 EPA Act 1992</b> , matters regulated under an EPA licence are ordinarily considered <b>outside the planning assessment remit</b> . We request confirmation of the appropriate scope. We understand that such measures fall within the exclusive remit of the Environmental Protection Agency under the Environmental Protection Agency Act 1992 (as amended). |
| <b>(vi) All associated site development and ancillary works.</b>   | This phrase is impermissibly vague and fails to meet the statutory requirement for a clear, precise description under Section 177E(1)(a). Without clear definition of what is being regularised, neither the public nor the Board can carry out proper environmental assessment or public consultation. The wording should be rejected as overly broad and non-compliant.   |

Figure 3: Comparison of applicant's stated description versus corresponding objections/comments

### **(v) Control Measures Associated with the Above – Jurisdictional Deficiency**

The application includes the following item within the description of development:

"Control Measures associated with the above, inclusive of the IPC Licence measures (Ref. P0500-01) which commenced from May 2000 onwards to the present day."

It is **our understanding** that this element lies **outside the jurisdiction of An Coimisiún Pleanála**.

The term "*control measures*" appears to refer to environmental protection and pollution-prevention systems required under the applicant's **Integrated Pollution Control (IPC) Licence** (Ref. P0500-01), issued by the **Environmental Protection Agency (EPA)** under the **Environmental Protection Agency Act 1992 (as amended)**.

Such measures would typically include settlement ponds, silt traps, pumping systems, drainage controls, oil interceptors, and other operational systems designed to reduce or monitor emissions from industrial peat extraction.

It is our understanding that the **operation, regulation, and enforcement** of such measures fall within the **exclusive statutory remit of the EPA**, and not within the planning system.

Under Irish law, a clear separation exists between the **planning process** and the **environmental licensing regime**:

- **An Coimisiún Pleanála** and local planning authorities determine whether a development is acceptable in land-use and environmental impact terms.
- The **EPA** regulates how a licensed activity is operated, including its control measures, emissions, and environmental management requirements.

This distinction is set out in:

- **Section 83** of the *Environmental Protection Agency Act 1992 (as amended)*, which grants the EPA sole authority to license and regulate emissions from scheduled activities; and
- **Section 172(7)** of the *Planning and Development Act 2000 (as amended)*, which expressly provides that where a development requires an EPA licence, a planning authority or the Commission “*shall not consider the matters that are subject to that licence.*”

Relevant case law, including *O’Grianna & Others v An Bord Pleanála* [2014] IEHC 632, *An Taisce v An Bord Pleanála* [2020] IEHC 353, and *Environmental Trust Ireland CLG v An Bord Pleanála* [2021] IEHC 322, reaffirms this separation of functions and confirms that the Commission cannot assess or duplicate EPA licensing functions.

It is therefore our understanding that **including IPC-licensed control measures within a substitute-consent application is legally inappropriate**, as it would invite **An Coimisiún Pleanála** to act **ultra vires** (beyond its powers) by assessing matters that fall exclusively within the competence of the EPA.

Substitute consent applies only to **unauthorised development** that required, but did not obtain, planning permission and environmental assessment. It cannot retrospectively authorise or regularise activities already governed by an EPA IPC licence, nor can it extend to ongoing control or monitoring systems still regulated by that licence.

For these reasons, it is our understanding that this element of the application should be **excluded from the scope of substitute consent**, or that the application should be deemed **materially invalid** insofar as it seeks to regularise EPA-licensed control measures.

### **Description of Development – Conclusion**

Under **Section 177E(1)(a)** of the **Planning and Development Act 2000 (as amended)**, the description of development must **precisely identify the unauthorised works** for which substitute-consent is sought. This form **does not provide that clarity**, making it impossible to determine exactly what is being regularised.

Collectively, these elements blur the distinction between legacy peat-extraction works and the discrete development now under consideration, reducing transparency for assessment.

## 8. Legal Interest and Land Ownership

| 8. LEGAL INTEREST OF APPLICANT IN THE LAND OR STRUCTURE:   |  |             |
|--|--|-------------|
| Please tick appropriate box  | A. Owner ✓   | B. Occupier |
|  | C. Other ✓   |             |
| Where legal interest is 'Other', please expand further on your interest in the land or structure | The Applicant is the party who carried out the development on the lands which are outside of the Applicant's ownership. These lands were incidental to and supported the peat extraction carried out at Lemanaghan Bog. The Applicant's ownership boundary is indicated on Drawing No. 200804-e-02 submitted with this planning application. |             |

Figure 4: Screenshot of Section 8 – Legal Interest and Land Ownership (Application Form)



Figure 5: Landdirect.ie extract – Folio OY18069 showing “Burdens: Turbary” and “Applications Pending”

### Question to An Coimisiún Pleanála (Procedure on Rights-Holders):

The attached Landdirect.ie screenshot for Folio [OY18069] shows “Burdens: Turbary” and “applications pending.” In determining substitute consent for lands within the red-line boundary, the following questions arise:

1. Is it the correct procedure that all persons with turbary (and other registrable) rights within the application lands must be identified and notified, and their consent obtained where required?
2. Does Article 22(2)(b) of the Planning & Development Regulations 2001 require the applicant to lodge a Schedule of Owners and Right-Holders together with written consents for every affected parcel not in the applicant's ownership?

3. Where such rights-holders have **not** been identified/served, **should the application be limited or deemed invalid** insofar as it relates to those lands?
4. Does the **“applications pending on this folio”** note (Landdirect.ie) indicate that title/rights are in flux such that the Board should **seek clarification and updated proofs of legal interest/consent** before proceeding?



**An Coimisiún Pleanála:** The Landdirect.ie screenshot for Folio [OY23555F] shows “applications pending on this folio.”

- In these circumstances, can substitute-consent be granted over the full red-line boundary when title/ownership is in flux and legal interest has not been demonstrated for all plots?
- Has the applicant identified all owners/right-holders and lodged written consents for every parcel within the red line as required by Article 22(2)(b) of the Planning and Development Regulations 2001?
- If not: Should the Board limit or invalidate the application insofar as it relates to lands without proven legal interest/consent?
- It is unlikely that the site notice or newspaper notice could reasonably notify all right-holders, given that many were relocated to Lemanaghan Bog under the national Turf-Cutters Relocation Scheme (see Dáil Debates 22 Oct 2014 & 11 Mar 2015).

These parliamentary records are a matter of public record and confirm the State-facilitated relocation of turf cutters to Lemanaghan Bog.

The screenshot shows a parliamentary question and answer. On the left is a navigation menu with options like 'Committee debates', 'Find a vote', 'Dail votes', 'Seanad votes', 'Committee votes', 'Parliamentary questions', 'Written questions', 'Oral questions', 'Search tips', and 'Utterances having an adverse effect'. The question is from Sandra McLellan, Deputy, asking the Minister for Arts, Heritage and the Gaeltacht about the progress of turf cutter relocations. The answer, from the Minister, states that 3,064 applications have been received and that 12 turf cutters are expected to be accommodated at Lemanaghan Bog in 2016. The answer also mentions other bog special areas of conservation in Co. Offaly and Co. Galway.

**Figure 7:** Excerpt from Dáil Éireann Written Answers (11 March 2015) – Minister confirming that 12 turf cutters were to be accommodated at Lemanaghan Bog under the Turf-Cutters Relocation Scheme (Oireachtas.ie)

In this debate The Oireachtas record confirms that twelve turf cutters were to be accommodated at Lemanaghan Bog, under the national Turf-Cutters Relocation Scheme (2012–2016) indicating that multiple third-party interests exist within the red-line boundary. **This is additional to the local people who already had rights on this bog.**

**The absence of any schedule of rights-holders or owner consents raises a fundamental procedural issue under Article 22(2)(b).**

Furthermore, The community notification letter issued by Bord na Móna was dated “September 2025” but was not delivered to residents until **14<sup>th</sup> October 2025**. This delay reduced the time available for local residents to make informed observations within the statutory consultation period.

The timing of delivery is confirmed by CCTV footage from a standard domestic security camera, lawfully installed for property monitoring. Letters were delivered to residents on 14 October 2025, as confirmed by time-stamped domestic CCTV footage. The footage (faces redacted) can be provided to the Commission upon request. This evidence is retained securely and can be made available to An Coimisiún Pleanála or any relevant authority upon request.

Such a delay undermines timely and transparent public participation, as required under the Planning and Development Act 2000 (as amended) and the Aarhus Convention. I respectfully ask that An Coimisiún Pleanála consider this procedural irregularity when assessing the adequacy of public consultation for this application.

### **8.1 Defect Summary**

The applicant has ticked both “**Owner**” and “**Other**” and simultaneously states that the lands are “**outside the Applicant’s ownership.**” No documentary proof of legal entitlement (e.g., owner consents, lease/licence, wayleave, or control agreements) is provided. This is a **procedural defect.**

### **8.2 Regulatory Requirement**

Under **Article 22(2)(b) of the Planning and Development Regulations 2001 (as amended)**, an applicant who is **not** the owner must (a) **identify the owner(s)** of the land/structure and (b) **furnish written consent** from the owner(s) to make the application. For an application spanning multiple landholdings, the file must include a **clear ownership map** and **owner consents** for all affected plots.

### **8.3 Evidence on the File**

- **Conflicting status:** The form is marked both “**Owner**” and “**Other.**” (*Figure 5*)

- **Ownership not demonstrated:** The form admits the lands are **outside** the applicant's ownership, but **no consents** or legal agreements are exhibited.
- **No ownership map:** The application lacks a **red-line vs. ownership overlay** distinguishing Bord na Móna lands from **third-party plots**. (*Figures 6 & 6A*)
- **Omission of legal interests:** It is well established locally—and visible from **Landdirect.ie**—that numerous parcels within Lemanaghan Bog are in **private or unregistered ownership**, and many individuals hold long-standing **turbary rights** (including along the **Banagher Line**). These legal interests are **not identified** anywhere in the application.
- **Public participation impacted:** In the absence of a schedule of owners and right-holders, **affected parties cannot be notified or make informed submissions**.

#### **8.4 Consequences**

The applicant **has not demonstrated the necessary legal interest** to apply over the entire 1,111 ha site. Substitute-consent **cannot** be granted for development carried out on lands **without a lawful interest or owner consent**, nor can it regularise development on lands belonging to others **without their permission**. This **may render the application materially defective** insofar as it relates to lands without demonstrated legal interest/owner consent.

**9–11. Site Area, Building Details, and Development Class**

|   |                                   |
|---|-----------------------------------|
| <b>9. SITE AREA:</b>  |                                   |
| Area of site to which the application relates in hectares   | 1,111 ha.                         |
| <b>10. WHERE THE APPLICATION RELATES TO A BUILDING OR BUILDINGS:</b>  |                                   |
| Gross floor space <sup>3</sup> of existing building(s) in square metres   | 78.4 sq. m                        |
| Gross floor space of any demolition in square metres (if appropriate)   | N/A                               |
| <b>11. IN THE CASE OF MIXED DEVELOPMENT (E.G. RESIDENTIAL, COMMERCIAL, INDUSTRIAL, ETC), PLEASE PROVIDE BREAKDOWN OF THE DIFFERENT CLASSES OF DEVELOPMENT AND BREAKDOWN OF THE GROSS FLOOR AREA OF EACH CLASS OF DEVELOPMENT:</b> |                                   |
| Class of Development  | Gross floor area in square metres |
| N/A   | N/A                               |
| N/A   | N/A                               |

Figure 8: Screenshot of Sections 9–11 – Site Area, Building Details and Development Class (Application Form)

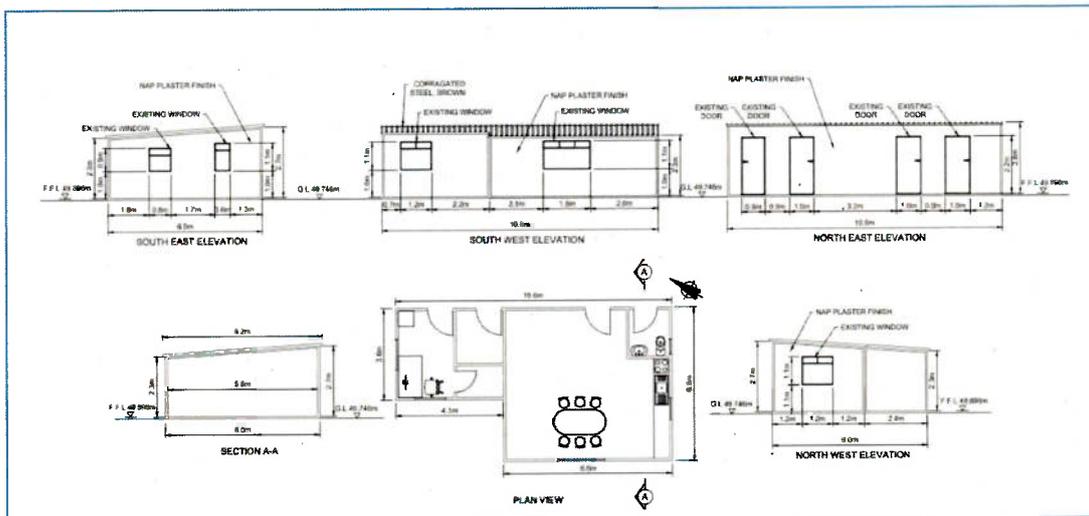


Figure 9: Extract from submitted drawing showing welfare-building footprint and internal layout

The declared site area of 1,111 ha is disproportionate to the 78.4 m<sup>2</sup> welfare building.

| Source  | Declared Area (m <sup>2</sup> ) |
|---|---------------------------------|
| Application Form  | 78.4                            |
| rEIAR Chapter 4   | 52                              |
| Drawing Measurement<br>(calculated from Drawing<br>200804-E-13) | 53.76                           |

This 25 m<sup>2</sup> discrepancy indicates a lack of accuracy and due diligence, undermining confidence in the form.

For clarity and public scrutiny, the applicant should distinguish between the 'storage' use and the 'industrial welfare facility'.

For clarity and public scrutiny, should the applicant not break down the mixed development into 'storage' and industrial welfare facility? The applicant fails to declare any development class elsewhere in the form.

The absence of a stated use or class leaves the nature of the 78.4 m<sup>2</sup> building undefined and prevents proper assessment, contrary to the information requirement under Article 22(2)(a).

### 13. Archaeology and Heritage



**Figure 10:** RMP Map – Lemanaghan Bog and surrounding area, showing the exceptional density of Recorded Monuments (red dots) within one of Europe's richest archaeological wetland landscapes. Source: National Monuments Service, Historic Environment Viewer ([archaeology.ie](http://archaeology.ie)).

| 13. DEVELOPMENT DETAILS:   |     |    |
|--|-----|----|
| <i>Please tick appropriate box</i>   | Yes | No |
| Does the development consist of work to a protected structure and/or its curtilage or proposed protected structure and/or its curtilage?   |     | ✓  |
| Does the development consist of work to the exterior of a structure which is located within an architectural conservation area (ACA)?  |     | ✓  |
| Does the application relate to development which affects or is close to a monument or place recorded under section 12 of the National Monuments (Amendment) Ac, 1994? <i>Please refer to Ch. 13 Archaeology and Cultural Heritage of the rEiAR</i> | ✓   |    |
| Does the application relate to work within or close to a European Site or a Natural Heritage Area? <i>Please refer to the rNIS enclosed</i>  | ✓   |    |
| Is the remedial Environmental Impact Assessment Report included with this application? <i>Please refer to rEiAR enclosed</i>   | ✓   |    |
| Does the development require the preparation of a remedial Natura impact statement? <i>Please refer to rNIS enclosed</i>   | ✓   |    |
|  |     |    |
|  |     |    |
|  |     |    |
| Does the application relate to a development which comprises or is for the purposes of an activity requiring a licence from the Environmental Protection Agency other than a waste licence? <i>IPC Licence Ref. P0500-01</i>                       | ✓   |    |
| Does the application relate to a development which comprises or is for the purposes of an activity requiring a waste licence?  |     | ✓  |
| Do the Major Accident Regulations apply to the development?  |     | ✓  |
| Does the application relate to a development in a Strategic Development Zone?  |     | ✓  |
| Does the development involve the demolition of any structure?  |     | ✓  |

Figure 10.1 S Screenshot of Section 13 – Site Area, Building Details and Development Class (Application Form)

Section 13 acknowledges proximity to monuments and a European Site but provides no archaeological report for the welfare building (Tea Centre). In a peatland with known archaeological sensitivity.

Lemanaghan Bog is recognised as one of the **richest archaeological wetland landscapes in Europe**, containing an exceptional concentration of **Recorded Monuments and Places (RMP)** identified by the National Monuments Service. The map in Figure 10 clearly demonstrates the density of archaeological features (shown as red dots) distributed throughout the bog and its

surrounding lands, including prehistoric trackways, platforms, and field systems, as well as early medieval ecclesiastical and settlement sites.

This archaeological sensitivity is formally acknowledged in the **Lemanaghan Conservation Plan**, which highlights the area as a **nationally significant cultural and heritage landscape** requiring careful management. Since the early 2000s, it has been **standard practice for all development proposals in or near Lemanaghan to undergo archaeological impact assessment prior to planning approval**. The omission of any archaeological report or impact assessment in the present substitute-consent application is therefore a serious procedural and heritage deficiency, contrary to Article 23(1)(c) of the Planning and Development Regulations 2001 (as amended).

The applicant's failure to include any archaeological assessment therefore conflicts with established practice and the Lemanaghan Conservation Plan.

**Form Section: 13 – Major Accidents and Natural Disasters**

**Issue:** "No" ticked for Seveso Regulations without any screening or HSA confirmation

**Regulation Breached:** Articles 22(2)(c) & 31(1)(b) of the Planning and Development Regulations 2001 (as amended)

**Consequence:** The applicant declares that the Major Accident (Seveso III) Regulations do not apply, yet provides no screening report, hazardous-substance inventory, or HSA correspondence to support this. Chapter 15 of the rEIAR merely *states* that the site is not Seveso — it does **not** demonstrate it. Given the site's industrial history under EPA Licence P0500-01, that the site historically contained industrial works, fuel and oil storage, and EPA-licensed peat-processing operations— all of which trigger Seveso screening requirements. A complete application must include a screening or letter from the HSA confirming that the Seveso Regulations do not apply.

No Seveso screening or HSA correspondence is included. The absence of supporting evidence leaves the 'No' response unsubstantiated and prevents full assessment. The absence of evidence **hampers** assessment of accident risk and **may limit** effective public participation, contrary to Article 6 of the Aarhus Convention.

## 14. Site History

|  |
|--|
| <b>14. SITE HISTORY:</b>   |
| <i>Details regarding site history (if known)</i>   |
| Has the site in question ever, to your knowledge, been flooded? Yes [ ] No [ <input checked="" type="checkbox"/> ]       |
| If yes, please give details e.g. year, extent.   |
| Are you aware of previous uses of the site e.g. dumping or quarrying? Yes [ <input checked="" type="checkbox"/> ] No [ ] |
| If yes, please give details.   |
| The application site was formerly used for industrial peat extraction  |

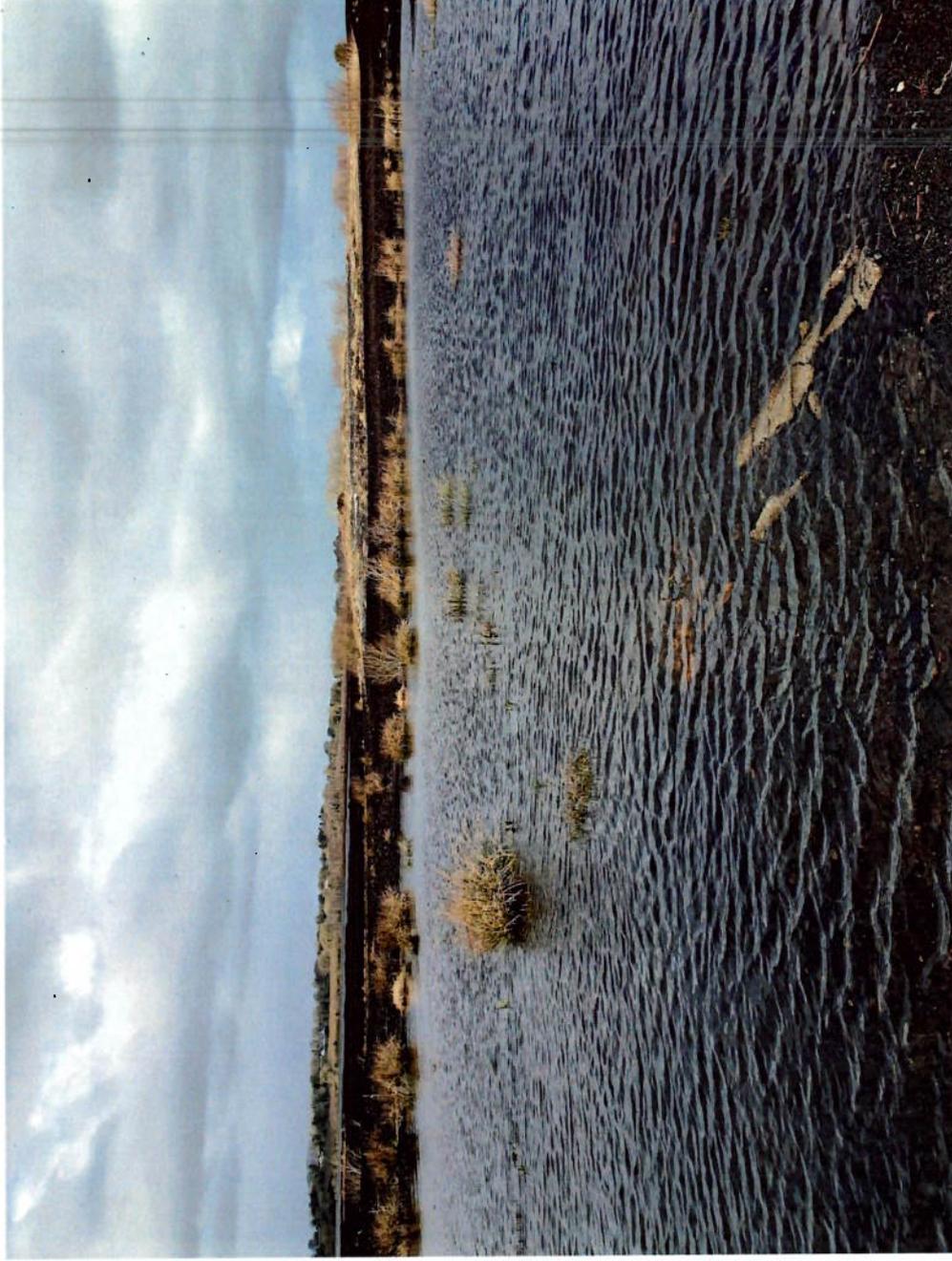
Figure 10.1: Screenshot of Section 14 – Site History (Application Form)



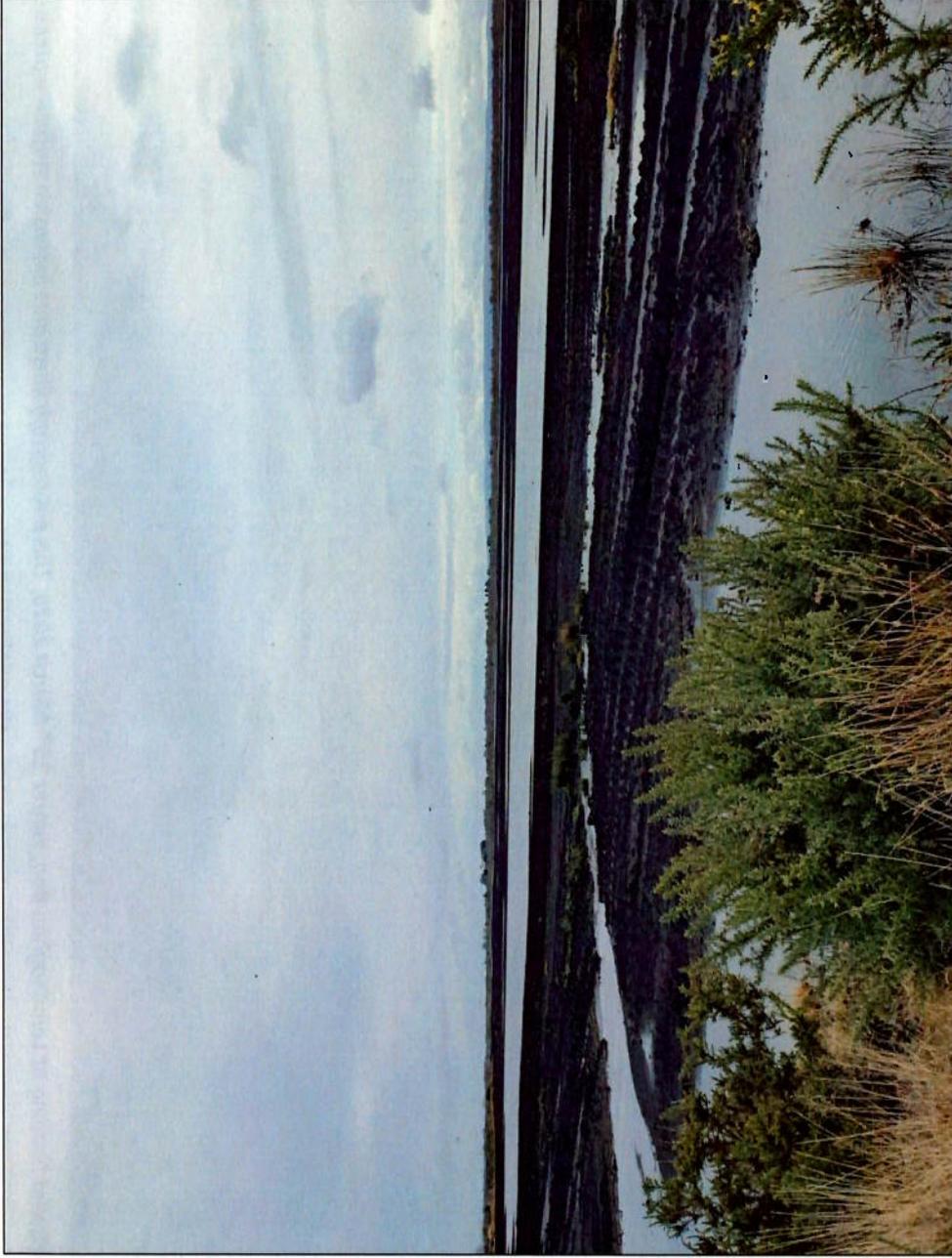
**Figure 10.2:** *Seasonal flooding at Lemanaghan Bog, winter October 27<sup>th</sup> 2019, This photograph has view to Lough Boora – you can see 2 Wind Turbines in skyline in the left background, with Slieve Bloom Mountain Range to the left background. It illustrates extensive surface-water accumulation on the application site.*



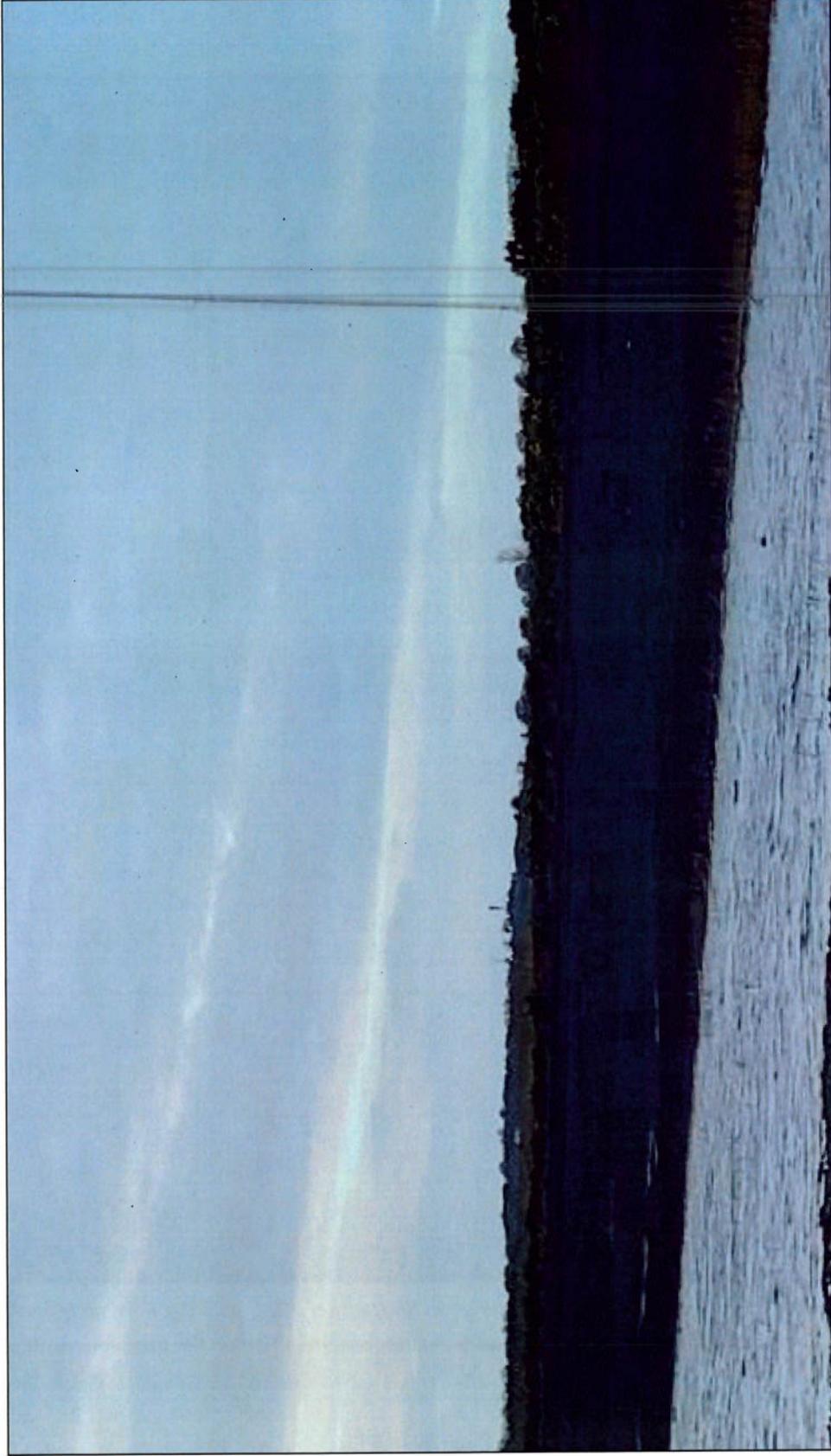
**Figure 10.3.** Seasonal flooding at Lemanaghan Bog, winter 19<sup>th</sup> January 2020, with the Bord na Móna wind measurement mast visible in the background. This photograph illustrates extensive surface-water accumulation on the application site.



**Figure 10.4:** Seasonal flooding at Lemanaghan Bog, winter 15<sup>th</sup> March 2020, This photograph illustrates extensive surface-water accumulation on the application site.



**Figure 10.5** Seasonal flooding at Lemanaghan Bog 24 February 2020



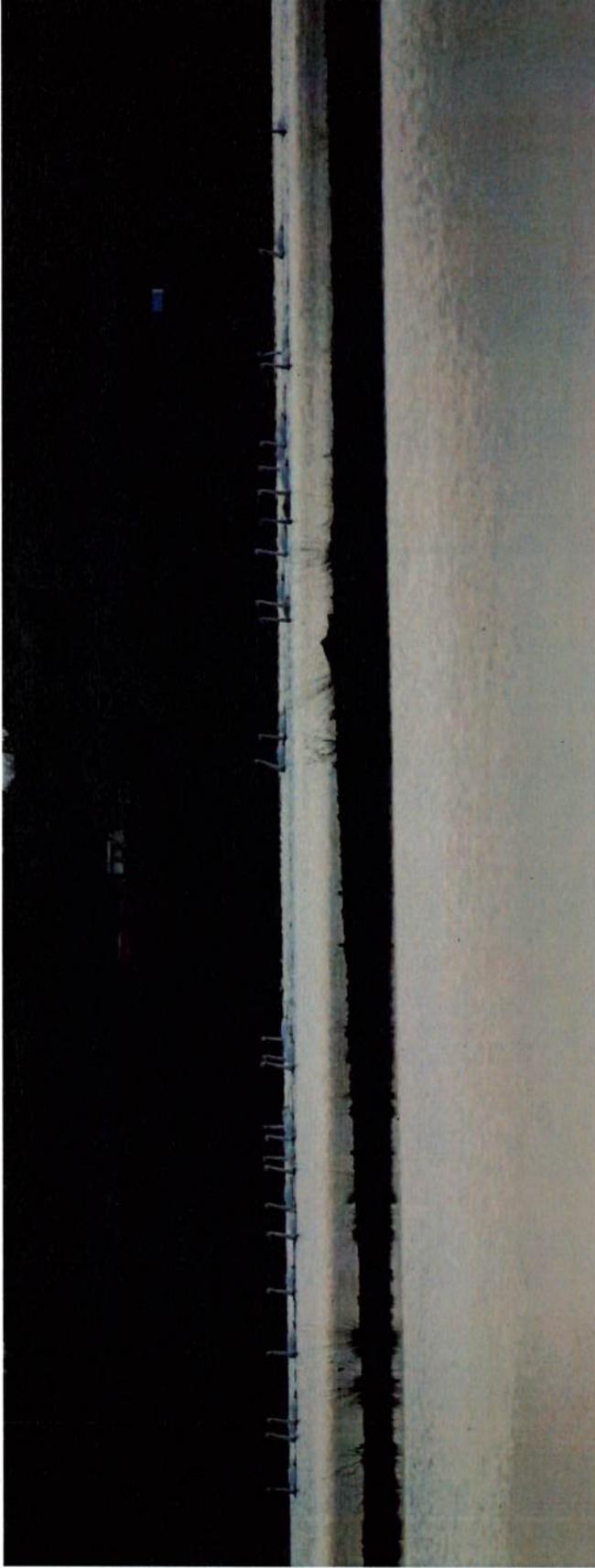
**Figure 10.6:** Seasonal flooding at Lemanaghan Bog, winter 2021, with the Bord na Móna wind measurement mast visible in the background. This photograph illustrates extensive surface-water accumulation on the application site.



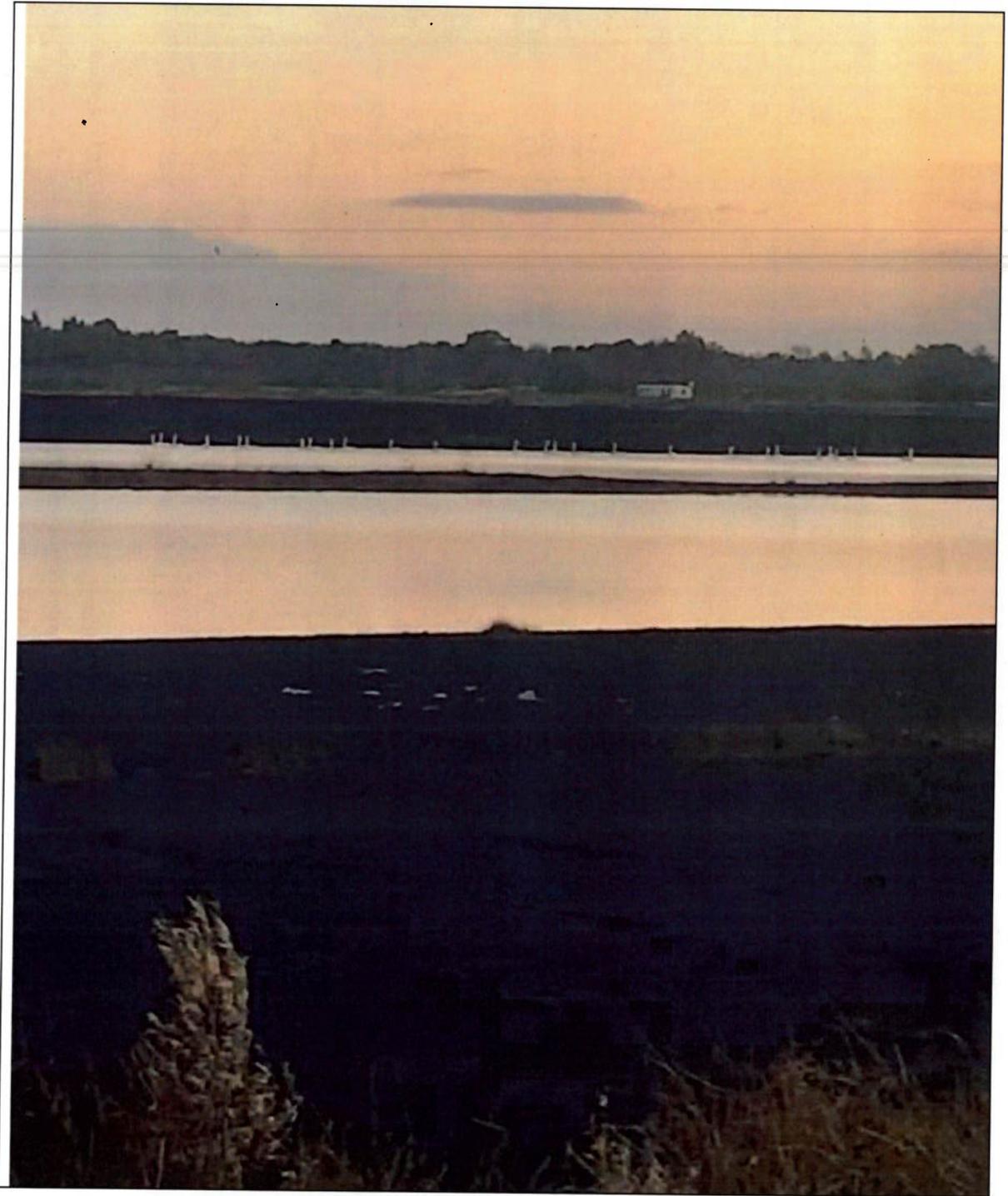
**Figure 10.7:** *Seasonal flooding at Lemanaghan Bog, winter 2021, with the Bord na Móna This photograph illustrates extensive surface-water accumulation on the application site*



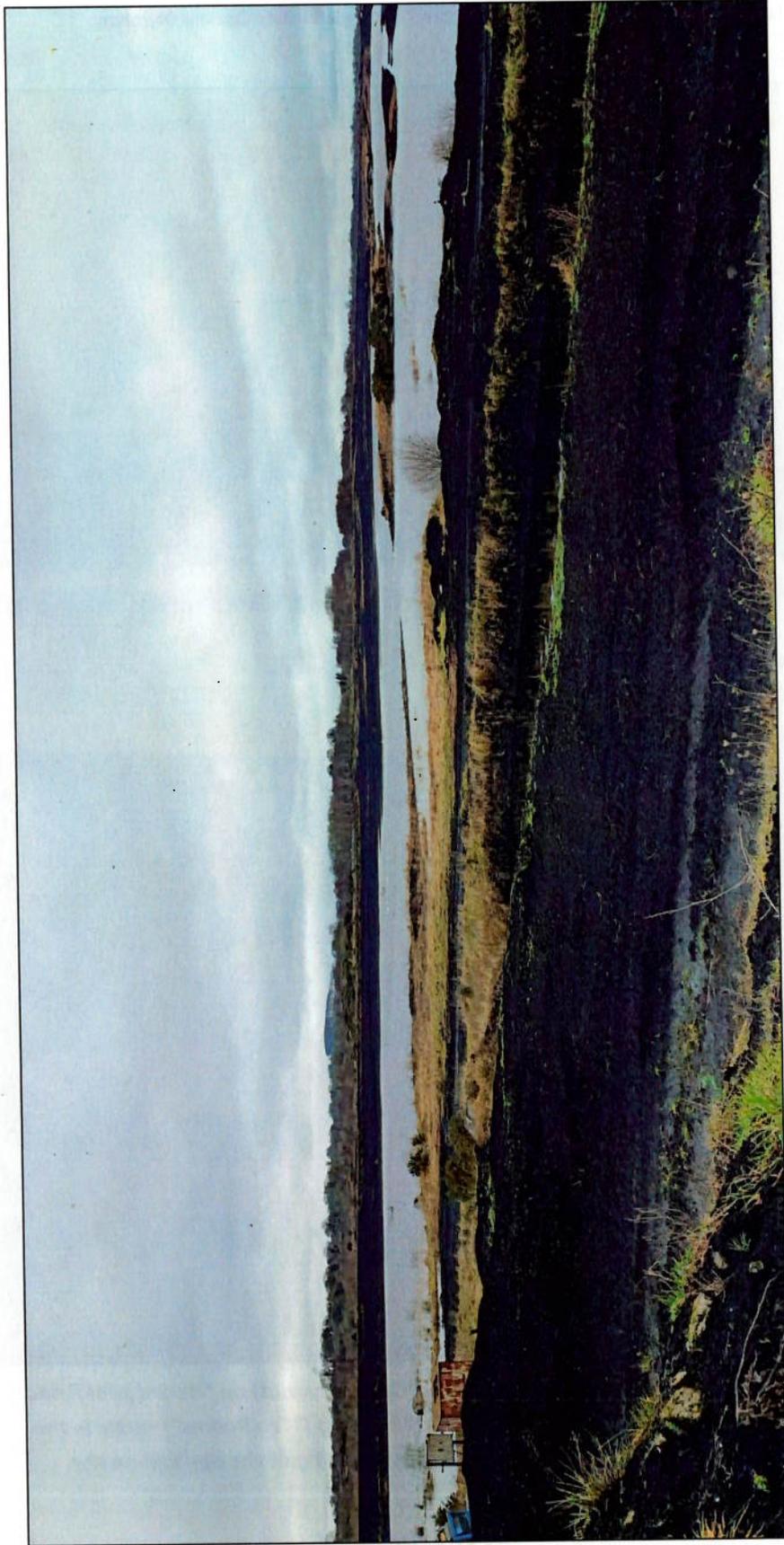
**Figure 10.8:** Whooper Swans (*Cygnus cygnus*) on flooded peat fields at Lemanaghan Bog, winter 2022, with the welfare building (“Tea Rooms”) visible in the background — demonstrating regular seasonal flooding at the application site.



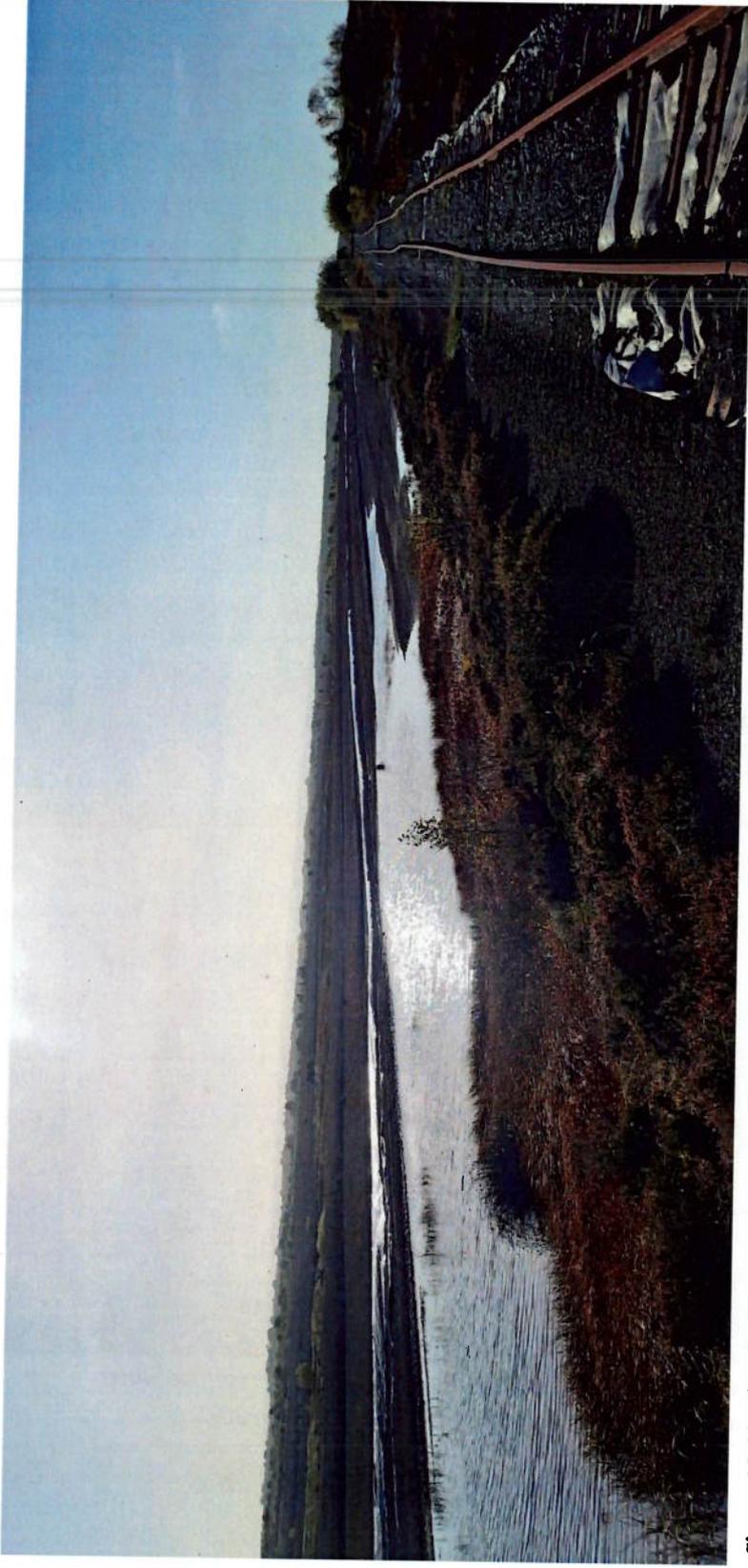
**Figure 10.9:** Wide angle view of *Whooper Swans* (*Cygnus cygnus*) on flooded peat fields at Lemnaghan Bog, winter 2022, demonstrating regular seasonal flooding at the application site.



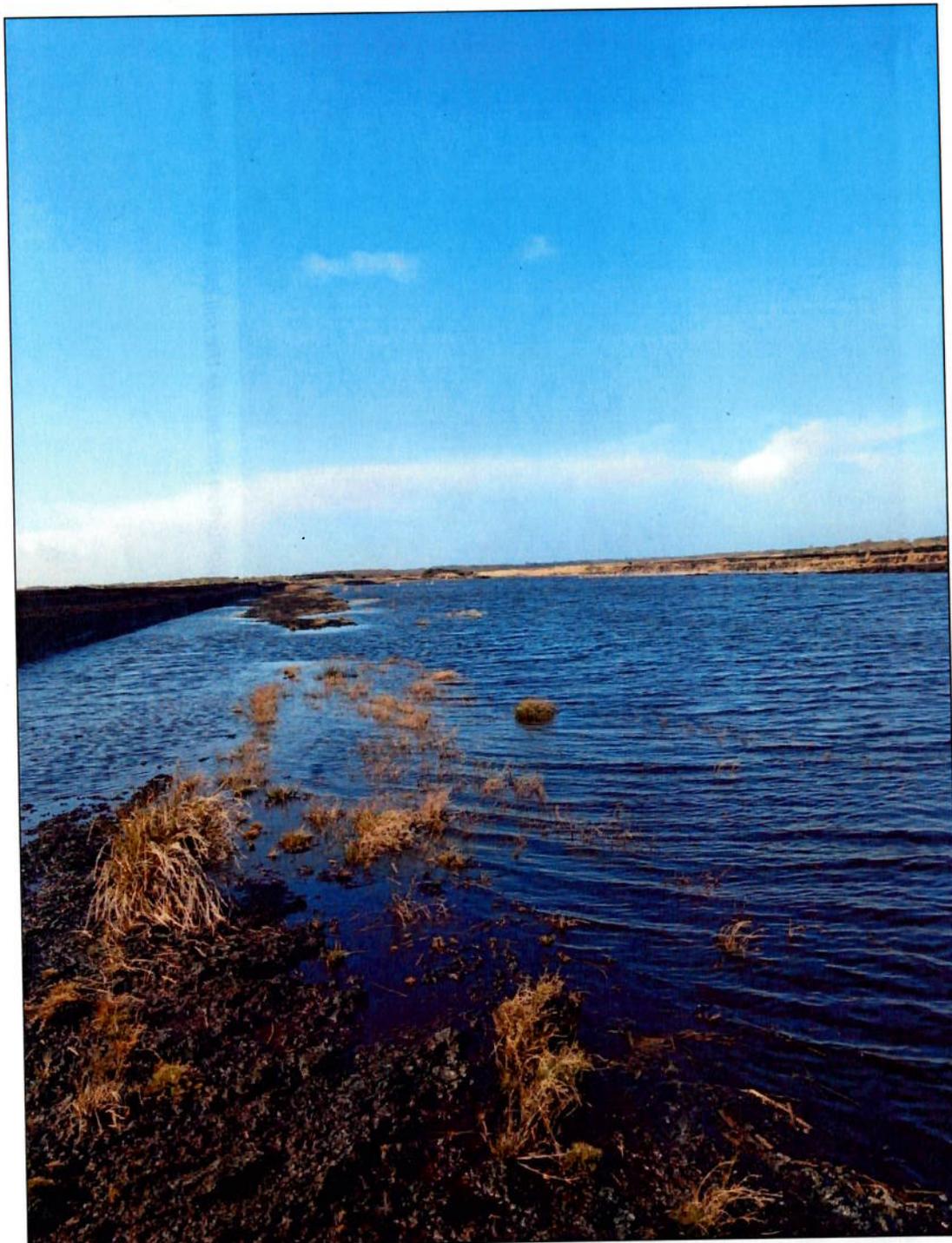
**Figure 10.10:** Wide angle view of Whooper Swans (*Cygnus cygnus*) on flooded peat fields at Lemanaghan Bog, winter 2022, with the welfare building ("Tea Rooms") visible in the background — demonstrating regular seasonal flooding at the application site.



**Figure 10.11:** This photograph illustrates extensive surface-water accumulation on the application site on a bright 08 November 2023 see landmark Bellair Hill in the background, whooper swans can be seen on the water.



**Figure 10.12** *This photograph illustrates extensive surface-water accumulation on the application site beside the rail bed. Date 19<sup>th</sup> October 2024*



**Figure 10.13:** *September 2025, This photograph illustrates extensive surface-water accumulation on the application site on a bright September morning 2025.*

Section 14 of the application form states that the site “has never been flooded.” Dated photographs (2019–2025) **appear inconsistent with** that statement. Within the red-line boundary, photographs and local observation logs indicate **recurring winter inundation** consistent with cutaway peatland hydrology. Photographs from 2019–2025 show extensive surface-water accumulation across milled-peat fields and adjacent infrastructure, indicating a recurring seasonal condition.

The flooded areas support wintering waterfowl. Photographs show swans with features **consistent with Whooper Swan (Cygnus cygnus)**. Given Annex I protection under the Birds Directive (2009/147/EC).

Locals can confirm that seasonal flooding occurs regularly. Therefore, the welfare building and associated septic tank **may** be at risk of contamination, and the area **may** support ecologically significant wetland and birdlife functions requiring assessment under the **Habitats Directive (92/43/EEC)** and **Birds Directive (2009/147/EC)**.

Under **Article 22(2)(c)** and **Article 31(1)(b)** of the Planning and Development Regulations 2001 (as amended), the submission of **inaccurate or unsupported information** may render an application materially incomplete. If the flooding information is inaccurate, this **may** affect the robustness of environmental assessment and public participation under the **Aarhus Convention** and **Articles 6–7 of the EIA Directive (2011/92/EU as amended by 2014/52/EU)**.

### **Previous Uses of Site**

In Section 14 (“Site History”), the applicant answers “*Are you aware of previous uses of the site e.g. dumping or quarrying?*” — Yes

But provides only “The application site was formerly used for industrial peat extraction.”

This is incomplete and misleading. There is documentary evidence of **illegal dumping** at Lemanaghan Bog, which the applicant fails to acknowledge.

### **Evidence of Illegal Dumping (2022)**

Attached **emails on next pages** are copies of correspondence confirming the incident:

- Email from a **local resident**, dated 1 July 2022, reporting illegal dumping at Lemanaghan Bog (53.30251° N, 7.73627° W).
- Response from Offaly County Council’s Environment Section (File No. LC-22-10663) acknowledging the report and confirming it was referred to Bord na Móna for action.
- Follow-up email from Council officer **Caroline Clancy**, 18 July 2022, confirming the waste was located on Bord na Móna property and that Bord na Móna had been contacted to remove it.

The correspondence indicates Offaly County Council **notified Bord na Móna** regarding the reported dumping. We respectfully **request the applicant to confirm** its awareness of the incident at the time of submission and to provide details of remediation.

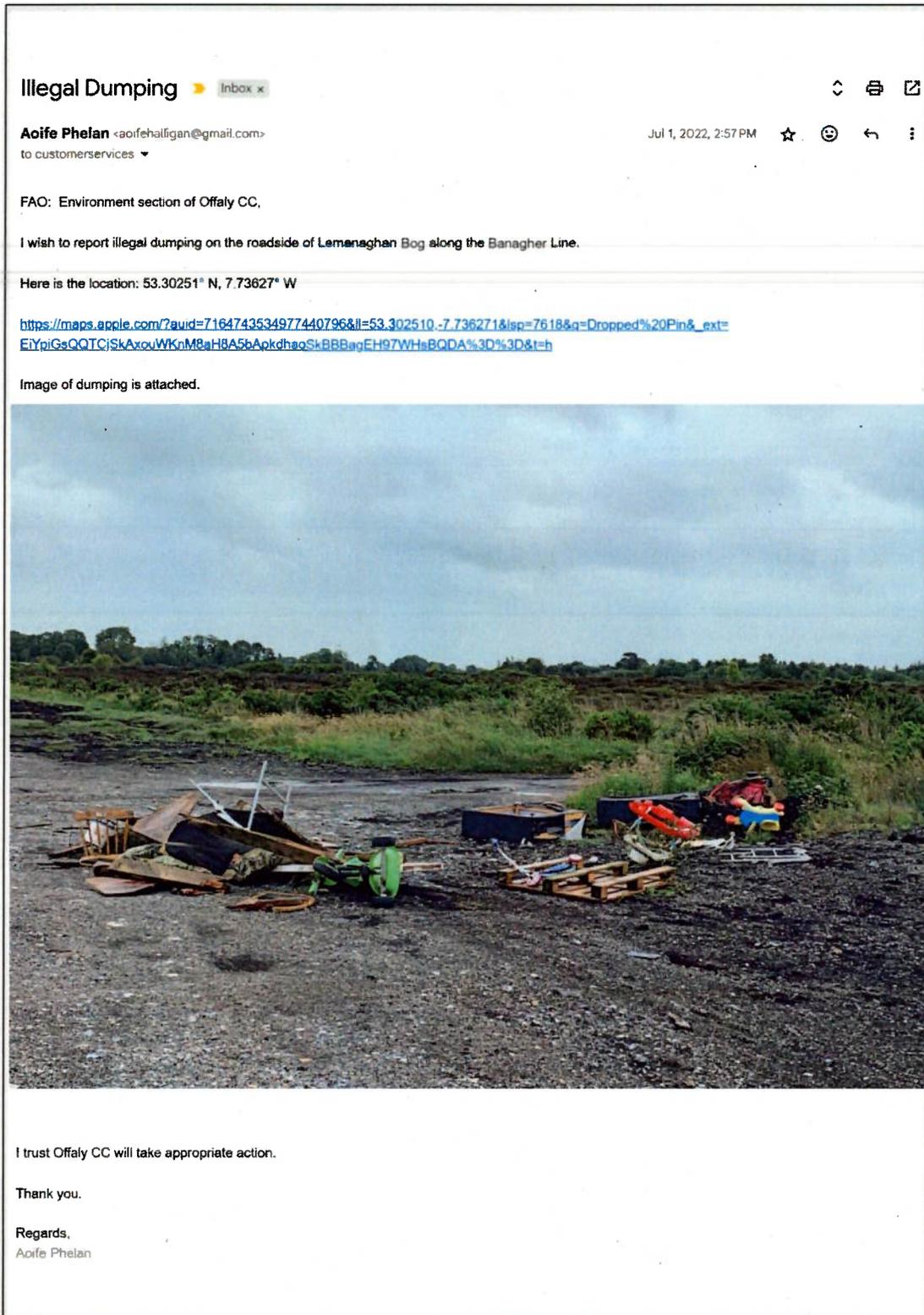


Image 10.14 Email reporting illegal dumping, 1<sup>st</sup> July 2022.

Lemanaghan Bog Heritage and Conservation Group – Substitute Consent Objection



Image 10.15 Email correspondence from Offaly County Council, acknowledgement of email, 4<sup>th</sup> July 2022.

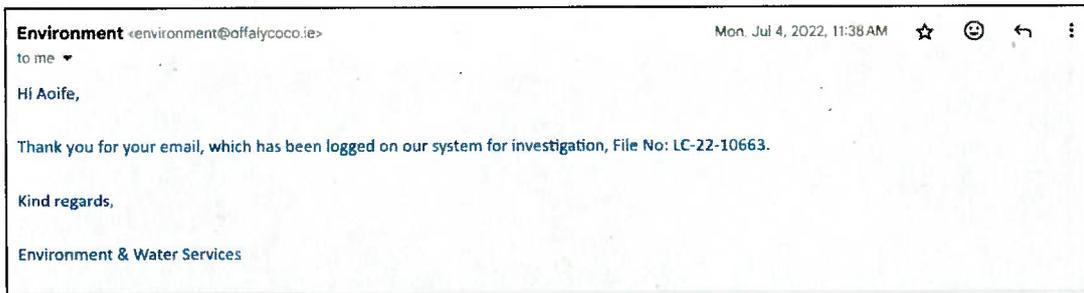


Image 10.16 Email with file number. 4<sup>th</sup> July 2022.



**Image 10.17** Image clearly stating Bord na Mona have been informed of illegal dumping. 18<sup>th</sup> July 2022.

Under the **Planning and Development Regulations**, applicants are required to provide full and accurate information.

Failure to declare known dumping:

- misrepresents the site history;
- undermines the credibility of the environmental assessment;
- could materially affect the substitute consent determination, as illegal dumping may indicate contamination, pollution, or inadequate environmental management.

We respectfully request that An Coimisiún Pleanála:

- treat this omission as a **material deficiency** in the application;
- require the applicant to correct the record and provide details of the illegal dumping incident and remediation;
- ensure the remedial EIAR addresses any contamination or waste issues arising.

The application cannot be properly assessed without full disclosure of all known site uses, including illegal dumping.

We therefore object to the application in its current form.

#### **Additional Incident —Lemanaghan Bog**

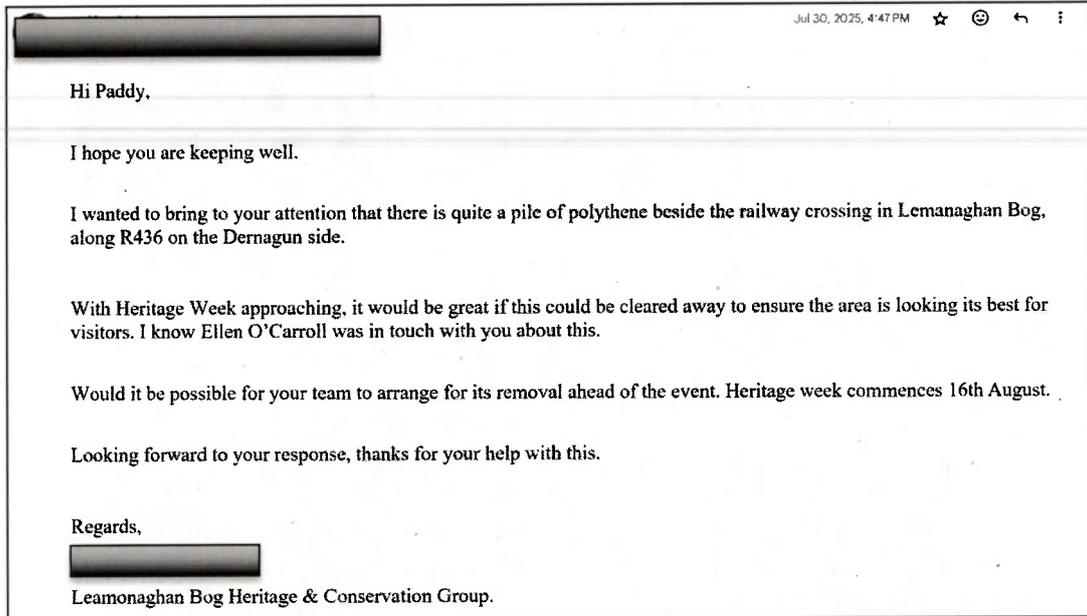
I also wish to draw attention to a further incident of **unauthorised waste (plastic polythene)** observed and reported by a local resident to Bord na Móna on the Lemanaghan Bog.

This waste remained in situ for several months following re-wetting and was only largely (not fully) removed **after a formal request in August 2025**.

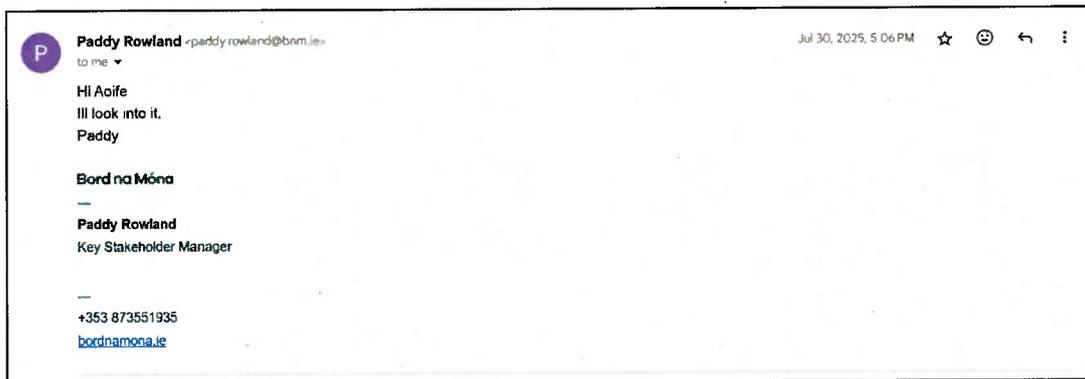


**Image 10.18:** Dumping observed at the railway crossing adjacent to the R436 regional road on the Dernagun side of Lemanaghan Bog. The material appears similar to geotextiles used in rail-bed works by Bord na Mona; its origin has not been verified, and we request the applicant to clarify.

These observations **raise questions** regarding waste management and remediation practices in the wider peatland complex. **Clarification is requested** from the applicant on responsibility, remediation measures, and timeframes.



**Image 10.19** Email dated 20<sup>th</sup> July 2025 requesting removal of dumping. *Personal identifiers redacted for data-protection reasons; unredacted copies can be provided to the Commission upon request.*



**Image 10.20.** Email response from Bord na Mona dated 30<sup>th</sup> July



**Image 10.21.** Taken 18<sup>th</sup> October 2025 with remains of pollution at the same location as image 10.18



**Image 10.22.** Photograph taken on 20 November 2022 at Lemanaghan Bog, demonstrating that illegal dumping remains an ongoing issue at the site and highlighting the need for stronger environmental oversight and remediation.



**Image 10.23:** Photograph taken 20 November 2022 at **Lemanaghan Bog**, showing a significant accumulation of dumped household waste near the former ‘Banagher Line’ railway alignment. This image illustrates the persistence of **unauthorised waste disposal on the site**, reinforcing community concerns regarding inadequate environmental management and site supervision.

Furthermore, Section 14 Site History omits any reference to the welfare/Tea centre ‘welfare’ building constructed between 2004–2009. We request that the applicant provide documentation confirming the construction date and any associated permissions. It is implausible that a semi-State company would have no record of when this building was constructed, given standard practices of asset auditing and financial record keeping.

| Are you aware of any valid planning applications previously made in respect of this land/structure?   |   |                             |
|---|---|-----------------------------|
| Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>   |   |                             |
| If yes, please state planning reference number(s) and the date(s) of receipt of the planning application(s) by the planning authority if known: |   |                             |
| Planning Ref.   | Description   | Planning Authority Decision |
| OCC Ref. 24/75  | Continued use of an existing guyed wind monitoring mast, with instruments, 100m in height for a further period of three years. The purpose of the mast is to assess the suitability of the company's adjacent lands for windfarm development. Previous planning application reference numbers: PL16/341                     | Granted - 17/09/2024        |
| ACP Ref. LS19 313412  | Leave to apply for substitute consent for peat extraction and all associated bog development works which forms part of the Boora Bog Group, within Lemanaghan Bog located north east of Ferbane in Co. Offaly   | Withdrawn - 15/01/2024      |
| OCC Ref. 16/341   | The erection of a guyed wind monitoring mast, with instruments, up to 100m in height. The purpose of the proposed mast is to assess the suitability of the company's adjacent lands for wind farm development   | Granted - 09/02/2017        |
| OCC Ref. 06/1812  | Construction of a single storey compressor room, extension to the side of an existing light industrial unit, new security fencing and wall to site boundary, on-site vehicle parking, new vehicular entrance, 2 no. vertical advertising signage poles and new company signage to front elevation of light industrial unit. | Granted - 09/05/2007        |
| OCC Ref. 93/367   | Temporary level crossing for railway  | Granted - 09/11/1993        |
| OCC Ref. 93/182   | Railway underbridge   | Granted - 09/09/1993        |
| OCC Ref. 91/220   | 3 No. Level Crossings   | Granted - 26/11/1991        |
| OCC Ref. 85/57  | Single Line Rail Underpass  | Granted - 07/06/1985        |
| OCC Ref. 81/375   | Erection of harvester repair bay and ancillary works at Lemanaghan  | Granted - 15/01/1982        |
|   |   |                             |

Figure 3.3: Screenshot of Section 14 – Site History referencing Planning Ref. 06/1812

## Section 14B: History of Site – Mapping, Ownership, and Planning Record Conflicts of ‘Lemanaghan Works’

This section examines questions surrounding the site boundaries, ownership details, and planning history presented by Bord na Móna in its substitute-consent application for Lemanaghan Bog — specifically at the ‘Lemanaghan Works’ area. It demonstrates that the mapping and ownership information contained in the applicant’s documentation is internally inconsistent and conflicts with Land Registry data. These inconsistencies create significant uncertainty about the actual extent of lands under application, hindering effective public understanding and participation, contrary to Article 6 of the Aarhus Convention.

### 14B.1. Overview

The ‘Lemanaghan Works’ complex adjoins the red-line area of the current substitute-consent application. According to Drawing No. 200804-E-02B, only the disused Bord na Móna rail bed is within the red-line boundary, while the blue line represents the applicant’s landholding boundary. However, Landdirect.ie shows that parts of this blue-line area, including the central works complex, are registered to ‘Kentek Engineering’.

This discrepancy raises a fundamental procedural question as to whether the applicant has demonstrated sufficient legal interest over the lands forming part of the substitute-consent application, as required under Article 22(2)(b) of the Planning and Development Regulations 2001.

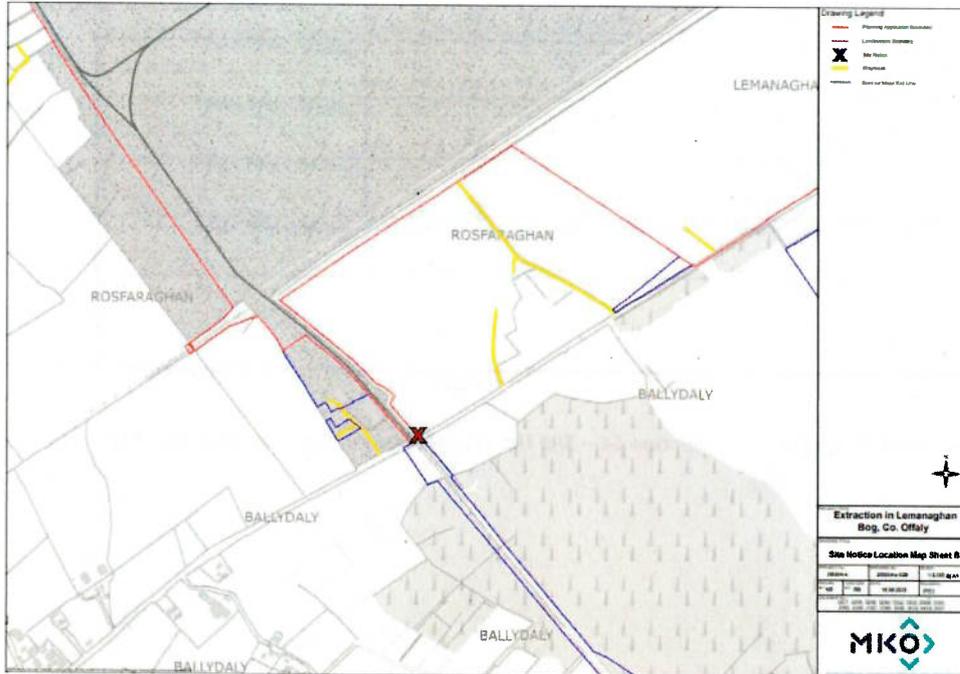


Figure 1: Application Drawing No. 200804-E-02B showing red-line and blue-line boundaries.



Figure 2: Landdirect.ie extract for Folio OY8610 shows Address as Kentek Engineering Ltd. [Date: 12October2025]

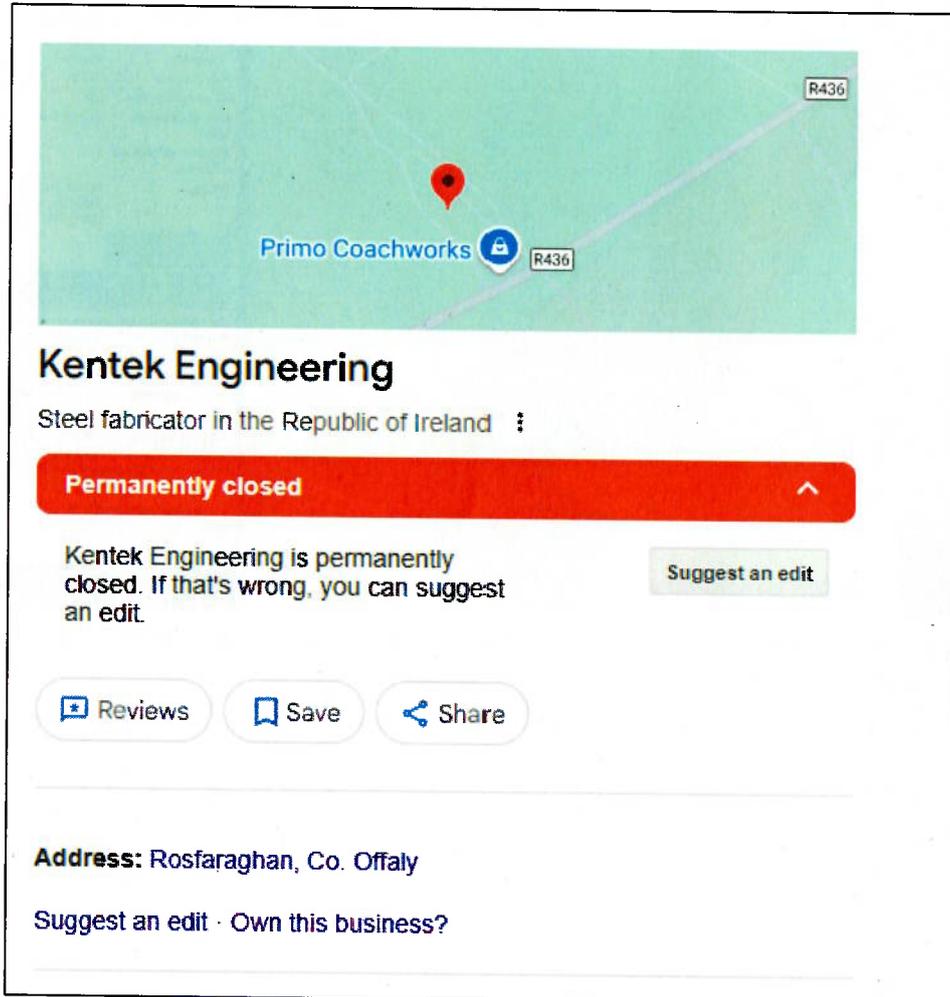


Figure 3 – Screenshot of location of Google Maps location of Kentek Engineering, behind Primo Coach works at Lemanaghan Works site location.



Figure 3.1 LOETB are now occupying the old 'Lemanaghan Works' Building.

#### 14B.2. Ownership and Mapping Contradictions

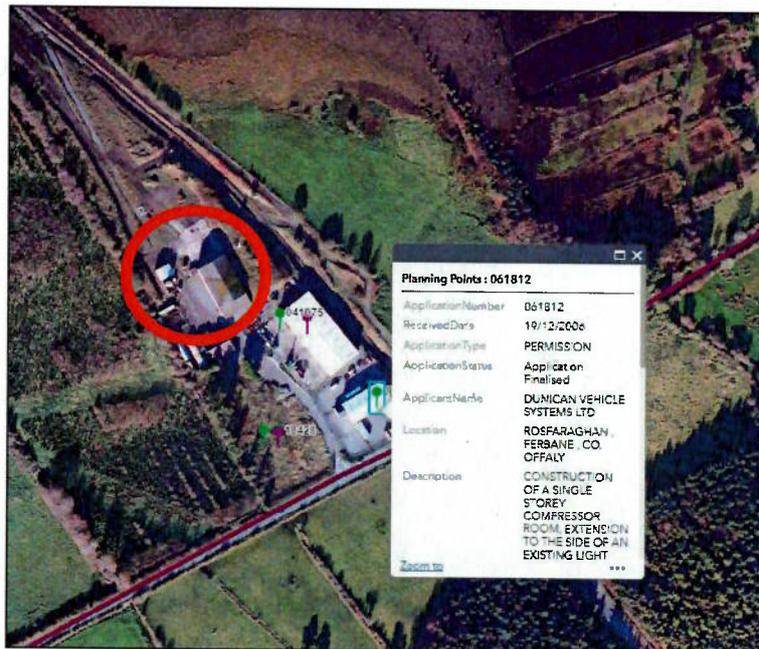
The rEIAR (Chapter 4, Section 4.2.3.1) acknowledges that part of the Lemanaghan Works site was sold by Bord na Móna to Offaly County Council in 2004 and another portion to a private third party in 2015.

However, no ownership map, Land Registry extract, or documentary proof of these transactions is included in the application file. Landdirect.ie continues to show parts of the Lemanaghan Works complex registered to third parties.

The absence of **ownership evidence** in the substitute-consent application, and of an **overlay** distinguishing Bord na Móna lands from third-party lands, prevents verification of the applicant's declared blue-line boundary. This omission limits transparency, prevents verification of land control, and hinders lawful public participation and procedural fairness under Article 6 of the Aarhus Convention.

### 14B.3. Inconsistent and Selective Planning References

In the rEiAR’s planning history section, the applicant lists **Planning Ref. 06/1812** (construction of compressor room and signage at a private industrial unit) as part of the Lemanaghan Works record. However, that permission relates to a privately owned site outside the red-line boundary and not in Bord na Móna ownership. Conversely, other relevant planning applications for nearby buildings have been omitted entirely, creating an inconsistent account of development history.



**Figure 3.2:** Lemanaghan Works Building Circled in Red, description of Pin 061812 in foreground.



Figure 4: Lemanaghan Works Building Circled in Red, description of Pin 061812 in foreground.

Table 1: Relevant planning permissions in the Lemanaghan Works area (selected from Offaly County Council records).

| Ref.    | Applicant (if known) | Description                                     | Decision / Date       | Notes   |
|---------|----------------------|---|-----------------------|---|
| 06/1812 | Private              | Compressor room, signage, security fencing      | Granted<br>09/05/2007 | Referenced by Bord na Móna though outside red-line boundary and not in its ownership. |
| 04/1075 | Private              | Commercial warehouse (office, canteen, toilets) | Granted<br>28/07/2005 | Within same cluster, omitted by applicant.  |
| 08/218  | Private              | Construction of warehousing units               | Granted<br>07/11/2008 | Within Works complex, not referenced.   |
| 19/493  | Private              | New warehousing units and wastewater connection | Granted<br>01/12/2020 | Adjoining the rail bed area, not included.  |

|                 |              |   |                    |   |
|-----------------|--------------|---|--------------------|---|
| 85/57           | Bord na Móna | Single Line Rail Underpass              | Granted 07/06/1985 | Historic BnM development, omitted from file.                |
| 93/182 / 93/367 | Bord na Móna | Railway underbridge and level crossings | Granted 1993       | Relevant to rail bed but excluded from application history. |

The table above summarises planning permissions associated with the Lemanaghan Works complex, drawn from Offaly County Council’s ePlan records.

The inclusion of Ref. 06/1812 — a permission on lands outside Bord na Móna ownership — while omitting relevant permissions on adjacent plots within the same industrial cluster, further obscures the relationship between the substitute-consent application and the wider development pattern at Lemanaghan.

#### 14B.4. Analysis

The planning history outlined in the application appears incomplete, as only one nearby private planning permission is referenced while several other relevant permissions in the same industrial cluster are not listed. This omission makes it difficult to determine the full development context of the Lemanaghan Works area and the relationship between privately owned lands and those within the substitute-consent boundary.

It is **not clear** whether the omission of other relevant permissions was inadvertent or due to oversight. We respectfully request clarification to ensure that the planning history presented is complete and transparent.

To ensure transparency and enable meaningful public participation in accordance with Article 6 of the Aarhus Convention and Section 177E(1)(a) of the Planning and Development Act 2000 (as amended), we respectfully request that the applicant provide a comprehensive schedule of relevant planning permissions for the Lemanaghan Works complex.

#### 14B.5 Consequence and Conclusion

Under Articles 22(2)(a) and (b) of the Planning and Development Regulations 2001, an application must clearly identify the extent of the lands, the nature of the development, and the ownership and rights associated with it.

**Landdirect.ie (accessed 11 October 2025)** lists *Kentek Engineering Ltd* as proprietor of **Folio OY8610**. This differs from the blue-line boundary shown on site boundary drawings; clarification is therefore requested.

If the blue-line ownership boundary is inaccurate, or if the planning history is incomplete regarding relevant permissions, this could constitute a **material defect** under Articles 22(2)(a), 22(2)(b), and 31(1)(b) of the Planning and Development Regulations 2001 (as amended).

Such discrepancies may undermine the integrity of any environmental assessment or public consultation based upon them. The resulting uncertainty limits meaningful public participation, contrary to Article 6 of the Aarhus Convention, and warrants clarification before the application proceeds.

## **Section 14C – Rail Infrastructure: Inadequate Description, Assessment, and Historical Accuracy**

### **Overview**

This section addresses the treatment of Bord na Móna’s rail infrastructure within the Substitute-Consent Application for Lemanaghan Bog.

It demonstrates that the applicant fails to provide an adequate description, mapping, or environmental assessment of the industrial rail network which once served the Lemanaghan-Boora peat operations.

Although explicitly included in the declared scope — ***“use and maintenance of pre-existing railway infrastructure to facilitate peat extraction activity from 1988 to present day”*** — the submission omits critical detail required for lawful environmental assessment and public participation.

### **Direct Reference from Application**

“(iv) Use and maintenance of pre-existing railway infrastructure to facilitate peat extraction activity from 1988 to present day.”

— *rEIAR Chapter 4, Description of Development*

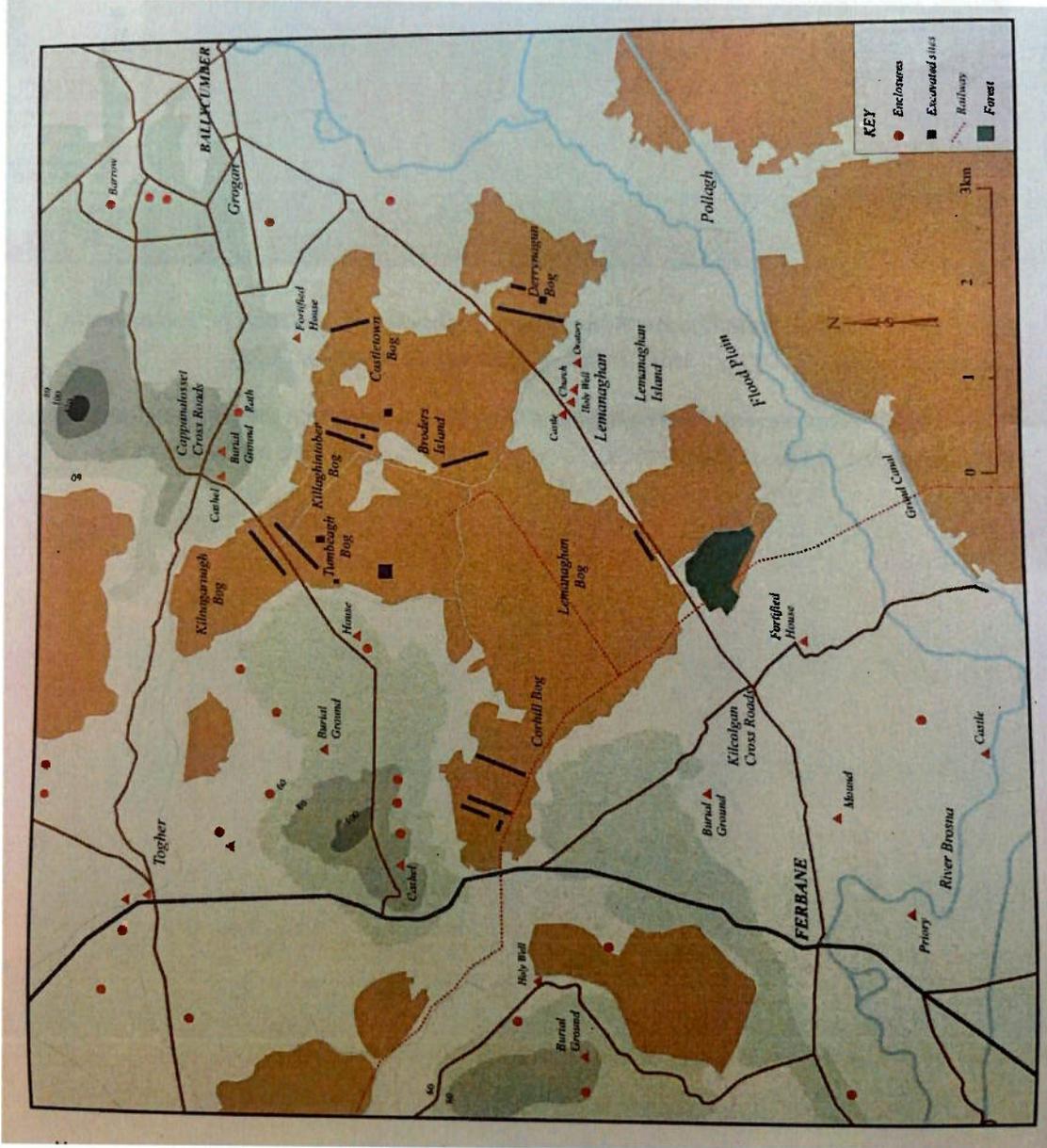
This single line constitutes the entire reference to the railway network across the entire application.

No condition reports, technical drawings, or environmental data are included.



**Figure 14C-1 – Extract from Chapter 4: Existing Infrastructure Map (Source: “Extraction in Lemanaghan Bog, Co. Offaly,” MKO, Figure 4.1, dated 04 September 2025)**

Figure 14C-1 – Map showing Bord na Móna rail line (in yellow) within the Lemanaghan Bog application area. No supporting technical or condition documentation accompanies this mapping.



**Figure 3 — Location of excavation areas within Lemanaghan Bog, Co. Offaly, showing Bord na Móna rail infrastructure and adjoining bog divisions.**

(Source: Whitaker, A. & O’Carroll, F., *Peatland Excavations 1999–2000, Bord na Móna Archaeological Monograph Series No. 3, 2009, p. 42.*)

The substitute-consent application includes the “use and maintenance of railway infrastructure to facilitate peat extraction activity from 1988 to the present day.” However, the mapping of these rail alignments **appears to differ** from that published in *Peatland Excavations 1999–2000* (Whitaker & O’Carroll, 2009), **suggesting** that sections of the Bord na Móna narrow-gauge rail network **may have been** altered after that period.

Any such alterations **could constitute** development that **may have required** planning consent and/or environmental screening. Accordingly, clarification is required as to whether any post-2000 alterations were previously consented or fell within a valid exemption. If the railway system is **claimed to be exempt**, the statutory basis for that exemption should be identified; if it is included within the application, the rationale for inclusion should be explained with reference to its planning status.

The planning record confirms that Bord na Móna previously sought and obtained permission for railway infrastructure at this site—specifically Planning Ref. **91/220** (Offaly County Council, 26 November 1991) for “3 no. level crossings” at Rosfaraghan, Lemanaghan, and Tumbeagh. This indicates that Bord na Móna has historically recognised rail infrastructure as development requiring planning permission, particularly where it interacts with public roads or land outside the bog boundary.

Given this precedent, any subsequent realignments, extensions, or new crossings constructed after 1991 would **ordinarily constitute** new development requiring separate permission. It is **not evident** how reliance on **Class 18** exemption under the Planning and Development Regulations (2001) is reconciled with simultaneous inclusion of the same infrastructure within a substitute-consent application; **clarification is requested**. If the railway system is claimed to be exempt, it should be **either excluded from the application** or accompanied by a clear explanation of why inclusion remains necessary.

**In the interest of clarity and meaningful public participation, The Commission could therefore require the applicant to:**

- **identify** when alterations to the rail network occurred;
- **confirm** whether those works were subject to EIA/AA screening and, where required, full assessment;
- **demonstrate** the statutory consent or exemption relied upon (with references to permissions/SIs); and
- **confirm** whether archaeological assessment was undertaken during planning and construction, and provide any associated reports.

**Table 14C-1 – Cross-References to Railway Mentions in Application Documents**

| <b>Document / Appendix</b>                  | <b>Reference or Observation</b>  | <b>Railway Mention or Omission</b>  |
|---|--|-------------------------------------|
| <b>Ch 4 – Description of Development</b>    | Mentions “use and maintenance of pre-existing railway infrastructure.” | One sentence only.                  |
| <b>Ch 14 – Material Assets</b>              | Notes link between peat transport and rail.                            | No environmental or safety data.    |
| <b>Ch 17 – Schedule of Mitigation</b>       | Generic reinstatement measures.  | No reference to railway.            |
| <b>App. 4-11 – Surface Water Procedures</b> | Mentions trackside drainage.   | Historic only.                      |
| <b>App. 4-12 – Site Layout Drawings</b>     | Partial rail near welfare building.                                    | No full alignment.                  |
| <b>App. 4-14 – Silt Control Study</b>       | Refers to narrow-gauge haulage.  | Historic; not assessed.             |
| <b>App. 4-15 – Drainage Study</b>           | Mentions drains beside embankments.                                    | No structural data.                 |
| <b>App. 4-18 – Regional Administration</b>  | Describes depot logistics and haulage.                                 | No mapping or permissions.          |
| <b>App. 8-1 – Flood Risk Assessment</b>     | Omits railway entirely.  | Fails to note flood-zone crossings. |
| <b>App. 13-2 – Photographic Record</b>      | No imagery of railway.   | Condition unverified.               |

Table 14C-1 – Summary of references (or absence) to railway infrastructure across the rEIAR and Appendices.

### **Planning Chronology and Compliance**

Historical records (Dooley, *Bog Men Be Proud*, 1999; EPA Licence P0500-01; Bord na Móna Annual Reports 2001–2003) confirm:

- Constructed in the **1940s–1950s**.
- Expanded during the **1970s–1980s**.
- Operated in limited capacity into the **early 2000s**, before closure and abandonment.

No planning records have been located in the public register for post-1964 extensions of the rail network, which would ordinarily have required consent under the Local Government (Planning and Development) Act 1963.

References 85/57 (rail underpass) and 93/182 / 93/367 (level crossings and underbridge) appear to relate only to isolated works.

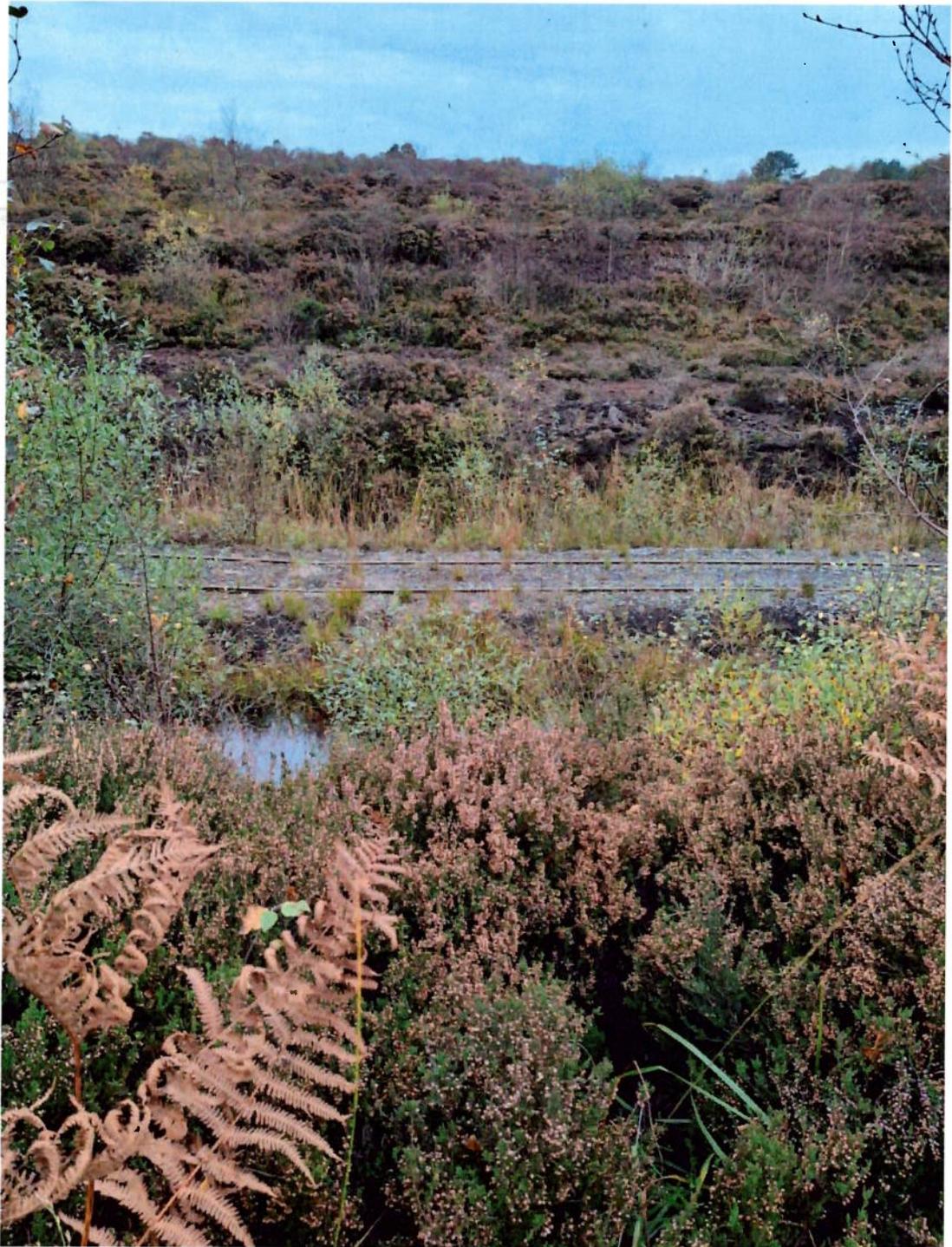
In the absence of evidence of additional permissions, it is unclear whether subsequent extensions were formally consented or exempt. **We respectfully request that the applicant or planning authority clarify the planning status of any post-1964 works before determining whether they may be considered under substitute consent.**

**Current Physical Condition (Photographs Taken 17 October 2025)**

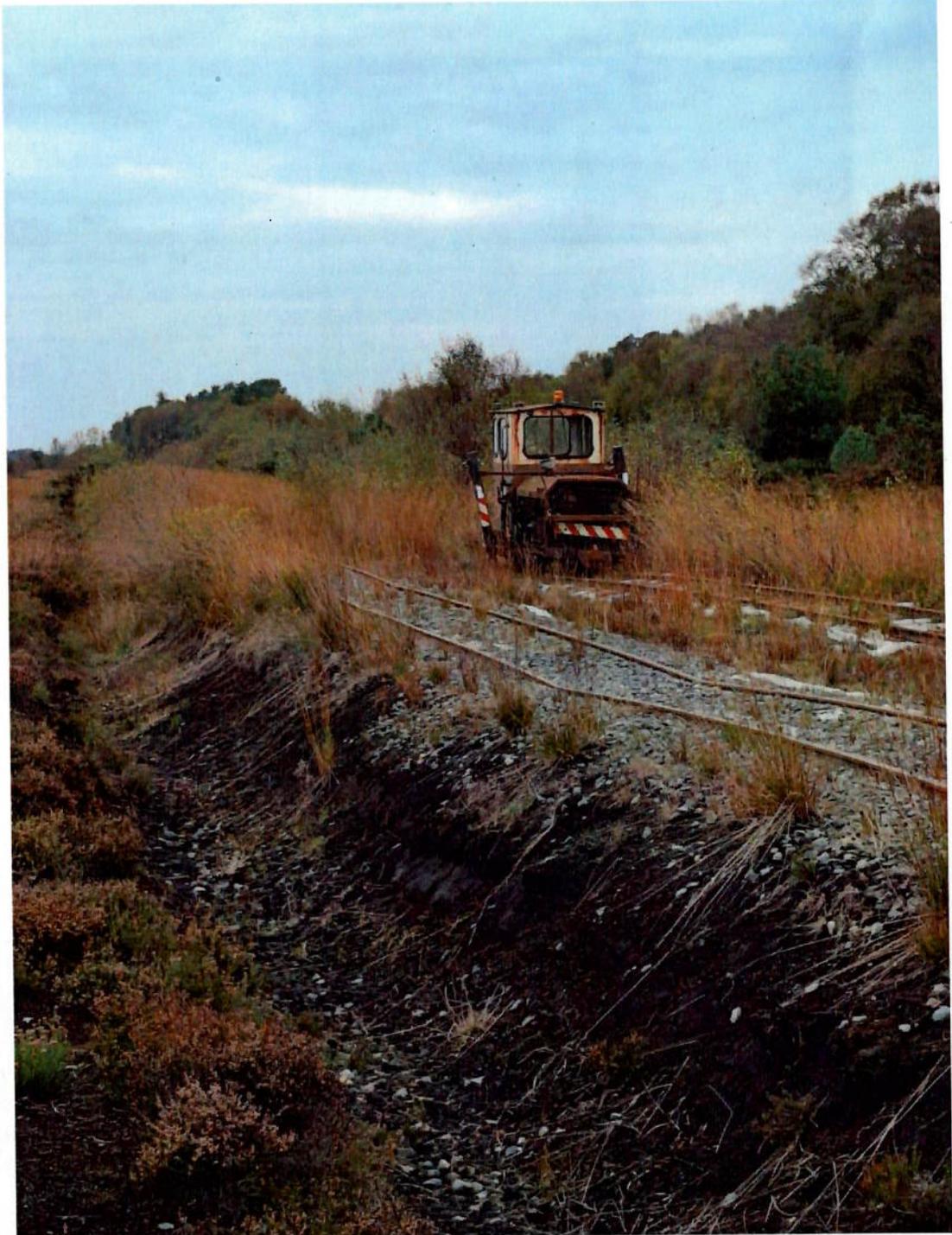
Field observations confirm dereliction and abandonment:



**Figure 14C-2** – Derelict rail sleepers and corroded rails buried in peat surface, overgrown with vegetation — clear evidence of long-term neglect.



**Figure 14C-3** – Flooded rail cutting showing self-seeded birch and heather growth encroaching on former alignment.



**Figure 14C-4** – Abandoned Bord na Móna locomotive standing on an overgrown section of the narrow-gauge track.



**Figure 14C-5** – Eroded embankment and degraded ballast along straight track section; sleepers visibly perished and overgrown.



**Figure 14C-6** – Disused rail junction with distorted switch gear and missing fastenings, confirming lack of maintenance.



**Figure 14C-7** – Derelict peat wagon overturned beside the line; trackside fabric torn and degraded.



**Figure 14C-8** – Fragmented rail stubs scattered across peat fields, indicating dismantled track sections. Wind measuring mast and flooding in background.



**Figure 14C-9** – Dislodged and heavily corroded rail buffer stop located at the western siding, no longer connected to operational track infrastructure. Debris in background.



**Figure 14C-10** – Overgrown alignment beside drainage channel with self-seeded conifers and saturated ground conditions.



**Figure 14C-11** Rusting memories of the railway past — disused rail lines piled beside the silent level crossing at Lemanaghan Bog.

Figures 14C-2 to 14C-11 – Photographs of the current derelict condition of the Lemanaghan rail system, taken 17 October 2025.

## Rail Ballast Condition

**Ballast** refers to the layer of **crushed stone or gravel** laid beneath and around railway sleepers. (Drawing ref 200804-e-17)

It performs four essential functions:

1. **Support** – distributes the weight of trains evenly across the ground;
2. **Drainage** – allows water to flow away from the track bed, preventing flooding or bog-softening;
3. **Stability** – holds sleepers and rails firmly in position, maintaining the correct gauge;
4. **Shock Absorption** – cushions vibration, reducing wear on the rails and structures.

At Lemanaghan Bog, site observations (see Figures 14C-2 to 14C-5) show the ballast is **eroded, compacted, and overgrown with vegetation**, with evidence of **ponding and peat subsidence**.

These conditions indicate the rail bed is **no longer functioning as engineered ballast**, confirming that no maintenance has taken place for many years.

Such deterioration undermines both the **structural safety** and **environmental integrity** of the railway formation, contradicting the applicant's claim of "ongoing maintenance to the present day."

## Conclusion

The treatment of railway infrastructure within the Substitute-Consent Application for Lemanaghan Bog is **materially deficient** because:

- The development description is **vague and inaccurate**.
- The claim of "use and maintenance ... to the present day" **appears inconsistent with dated field photographs**.
- No mapping, engineering assessment, or heritage survey is provided.
- The omission of baseline environmental data **precludes lawful assessment**.

These failures breach **Articles 22(2)(a), 22(2)(c), and 23(1)(a)** of the Planning and Development Regulations 2001 (as amended) and undermine **Article 6 of the Aarhus Convention**.

## Recommendation

As guardians of our local peatlands, the **Lemanaghan Bog Heritage and Conservation Group** respectfully urges **An Coimisiún Pleanála** to:

1. **Require Bord na Móna** to submit a full, verifiable condition and mapping survey for the rail network; or

2. Deem the substitute-consent application materially incomplete and invalid in respect of the railway infrastructure.

**15. Services (Water, Wastewater, and Surface Water)**

|   |
|---|
| <b>15. SERVICES:</b>  |
| <b>Source of Water Supply</b>   |
| Public Mains <input checked="" type="checkbox"/> Group Water Scheme <input type="checkbox"/> Private Well <input type="checkbox"/> Other (please specify): ...N/A.....                            |
| Name of Group Water Scheme (where applicable): ....N/A. ....  |
| <b>Wastewater Management/Treatment</b>  |
| Public Sewer <input type="checkbox"/> Conventional septic tank system <input checked="" type="checkbox"/>   |
| Other on-site treatment system <input type="checkbox"/> Please specify: Please see Ch. 4 of the rEiAR and planning drawings for detail.   |
| <b>Surface Water Disposal</b>   |
| Public Sewer/Drain <input type="checkbox"/> Soakpit <input type="checkbox"/>  |
| Watercourse <input type="checkbox"/> Other <input checked="" type="checkbox"/> Please specify: Please see Chapter 8 of rEiAR and planning drawings which detail drainage at the application site. |

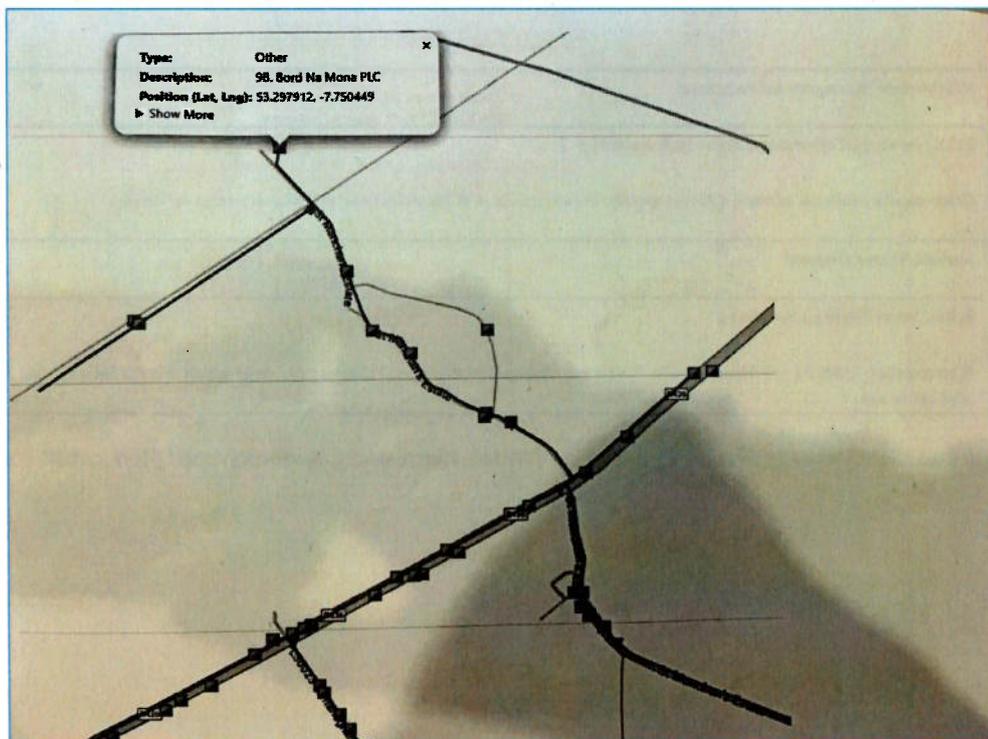
Figure 11: Screenshot of Section 15 – Services (Water, Wastewater, Surface Water) (Application Form)

### 15A. Water Supply

Section 15A of the application form indicates that the site is served by a “Public mains” water supply.

However, according to records from the **Boher–Lemanaghan Group Water Scheme** (see Figure 12), the welfare facility known locally as the “Tea Rooms” / “Tea Centre” appears to be connected to the Group Water Scheme rather than to a public mains supply.

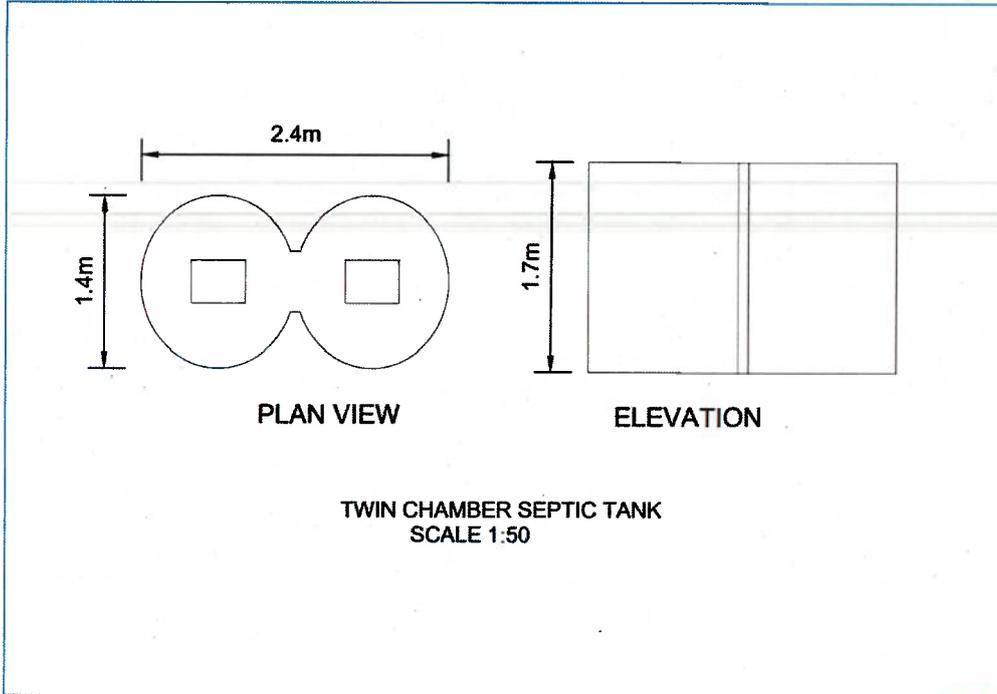
This suggests an **inconsistency** within the application documentation, and we respectfully request that **An Coimisiún Pleanála** seek clarification from the applicant to confirm the correct water-supply source.



**Figure 12:** Map of Boher–Lemanaghan Group Water Scheme connections including supply to welfare facility (“Tea Rooms” / “Tea Centre”)

This connection can be verified through **Offaly County Council Rural Water** records and the **National Federation of Group Water Schemes** public register. The inconsistency is also reflected in supporting material, where the applicant states “There is no public water supply” in the *Non-Technical Summary*, page 22 (xxii). We respectfully ask the Commission to clarify which description is correct.

**15B. Wastewater Disposal**



**Figure 13:** *Septic-tank schematic from planning pack (not referenced in Application Form)*



Figure 14: Site-layout extract highlighting location of septic tank serving the welfare Facility known locally as “Tea Rooms / Tea Centre”

The form refers to Chapter 4 of the rEIAR for details, but that chapter contains only vague mention of a septic tank. There are no percolation tests, no tank capacity data, and no EPA compliance evidence. There is also no indication that the installation complies with current EPA Domestic Waste Water Treatment Systems (DWWTs) certification requirements.

For clarity, please review Figure 14. It is our understanding that **“Lemanaghan Works” is no longer in the applicant’s ownership**. That complex historically included welfare facilities. However, the **additional welfare facility**—known locally as the **“Tea Rooms” / “Tea Centre”**—together with its **septic tank**, is the **unauthorised development** referenced in the application’s main description. **Chapter 4** uses the term **“welfare facilities” imprecisely**, making it difficult for a reader unfamiliar with the site to discern **which** building is being identified.

Under the EPA Code of Practice (2021), a full site-suitability and percolation report is required; none is included.

### 15C. Surface Water Disposal

The form refers to Chapter 8 of the rEIAR for drainage details; however, that chapter only covers bog-wide drainage systems for peat extraction. No site-specific surface-water proposal for the welfare building (Tea Centre) is provided.

No site-specific attenuation or discharge design has been submitted, so the Board cannot verify compliance with Article 22(2)(c).

## 16. Details of Public Notice

| 16. DETAILS OF PUBLIC NOTICE:                                       |                   |
|---|-------------------|
| <i>Approved newspaper<sup>2</sup> in which notice was published</i> | Tullamore Tribune |
| <i>Date of publication</i>  | 11/09/2025        |
| <i>Date on which site notice was erected</i>                        | 12/09/2024        |

The application documentation records the Site Notice date as 12 September **2024**, while the corresponding Newspaper Notice is dated 11 September **2025**.

Under **Article 31 of the Planning and Development Regulations 2001**, both notices must:

- be dated within the same **14-day window** prior to application lodgement, and
- clearly reference the same project description.

If the dates are mismatched by more than 14 days — or by an entire year, as appears here — then the application could be deemed **procedurally invalid**, because it fails to comply with statutory notice requirements.

## 17–18. Application Fee and Declaration

The inclusion of a separate Class 4 fee confirms that the welfare building is a standalone development.

The declaration that the form is “correct and accurate” **is not supported by the evidence provided, given the multiple factual inaccuracies identified**. Under Article 31(1)(b), An Coimisiún may deem the application invalid.

## Summary of Defects

| Form Section | Issue   | Regulation engaged | Consequence / Requested Action   |
|--------------|---|--------------------|--|
| 6            | Site drawings appear inconsistent with observed features on [date] (items shown not present; items present not shown) | Art. 23(1)(a)      | Potential material inaccuracy. Request updated, verified drawings and a short erratum note cross-referencing Figure [X]. |

|      |  |                                      |  |
|------|--|--------------------------------------|--|
| 7    | Description of development is ambiguous (scope spans potentially lawful/licensed eras; includes ongoing “use/maintenance”) | Art. 22(2)(a); s.177E PDA 2000       | Scope unclear. Request precise identification of the specific unauthorised works only; exclude/justify ongoing operations. |
| 7(v) | Inclusion of IPC-licensed “control measures”   | s.172(7) PDA 2000; s.83 EPA Act 1992 | Matters within EPA remit— seek confirmation of scope and exclude items regulated solely by EPA licence.                    |
| 8    | Legal interest/consents across red-line not demonstrated; turbary/other rights not scheduled                               | Art. 22(2)(b)                        | Procedural deficiency— request schedule of owners/right-holders with consents and an ownership overlay map.                |
| 9–11 | Building floor area figures inconsistent across documents; use/class not clearly stated                                    | Art. 22(2)(a)                        | Clarification required— request a single authoritative floor area and stated use/class.                                    |
| 13   | Archaeology: proximity acknowledged but no site-specific assessment for the welfare building                               | Art. 23(1)(c)                        | Information gap—request archaeological impact assessment or reasoned screening.  |
| 13   | Major Accidents/Seveso: “No” ticked without screening or HSA correspondence  | Art. 22(2)(c)                        | Screening/confirmation requested from HSA or equivalent evidence.  |
| 14   | Site history: “never been flooded” appears inconsistent with dated photographs/logs (2019–2025)                            | Art. 22(2)(c); Art. 31(1)(b)         | Correct the record and assess implications for DWWTS, surface water and ecology (Whooper Swan use).                        |
| 14   | Omission of known waste incidents and remediation details  | Art. 22(2)(c)                        | Request disclosure of incidents, dates, locations, and remediation outcomes.   |
| 14B  | Lemanaghan Works: ownership/mapping/planning history inconsistencies (e.g., Folio OY8610/Kentek; selective planning refs)  | Art. 22(2)(a)–(b); Art. 31(1)(b)     | Clarify blue-line ownership, supply Land Registry extracts/overlay, and provide a complete planning schedule.              |

|     |  |  |  |
|-----|--|--|--|
| 14C | Rail: “use and maintenance to present day” appears inconsistent with field condition; mapping differences vs. Whitaker & O’Carroll (2009)  | Art. 22(2)(a),(c); 23(1)(a)  | Provide condition survey, consent/exemption basis for post-1991 changes, and explain why rail is within SC scope.  |
| 15  | Water supply source inconsistent (public mains vs. Group Water Scheme)   | Art. 22(2)(c)  | Confirm supply source; align all documents; cite records (accessed [date]).  |
| 15  | Wastewater: no site-suitability/percolation or DWWTS compliance evidence   | Art. 22(2)(c)  | Provide EPA 2021 Code-compliant site report and system details.  |
| 15  | Surface water: no site-specific proposal for welfare building  | Art. 22(2)(c)  | Provide attenuation/discharge design (or reason none is required).   |
| 16  | he Site Notice date is recorded as <b>12 September 2024</b> , while the corresponding Newspaper Notice is dated <b>11 September 2025</b> — a discrepancy of twelve months. Both notices must be contemporaneous within a 14-day window prior to lodgement. | Art. 31 (1)(d)–(f);<br>Art. 22 (2)(a) — completeness of documentation. | The inconsistency may render the public notice procedure invalid and affect the Commissions jurisdiction to determine the application. Requested Action: Seek clarification from the applicant; require corrected notice and re-advertisement if verified. |
| 18  | Declaration of accuracy  | Art. 31(1)(b)  | Consider implications if corrections are required; update declaration as needed.   |

Each listed defect independently undermines the validity of the form; together, they demonstrate systemic non-compliance.

**Conclusion**

On the basis of the information available, the application documentation contains a number of inconsistencies and information gaps that engage Articles 22–23 and 31 of the Planning and Development Regulations 2001 (as amended), and Section 177E of the Planning and Development Act 2000 (as amended). In particular, clarifications are required on (i) the precise scope of unauthorised development to be regularised, (ii) legal interest/consents across the red-line lands (including turbary and other registrable rights), (iii) the water-supply source, wastewater arrangements and site-specific surface-water management for the welfare building,

(iv) archaeological assessment, (v) Seveso screening/confirmation, and (vi) the planning status and current condition of the rail network included in the description.

Having regard to these matters, we respectfully request that An Coimisiún Pleanála either:

1. deem the application invalid and require resubmission with the missing particulars; or
2. exercise its powers to seek further information/clarification, including updated drawings, schedules and technical reports, to enable lawful environmental assessment and meaningful public participation consistent with the Aarhus Convention.

Our objective is to ensure an accurate, transparent record so that any decision is taken on the basis of complete and reliable information.

## Executive Summary

This submission by the Lemanaghan Bog Heritage & Conservation Group addresses the substitute-consent application for Lemanaghan Bog. Our review of the prescribed Application Form and referenced documents identifies several issues that may constitute material defects and/or require clarification before the application can be properly assessed.

### Principal issues requiring clarification or correction

- **Development scope:** The description appears to conflate historic, licensed and potentially ongoing operations. Substitute-consent should be confined to specific unauthorised works that required EIA/AA (s.177C, s.177E PDA 2000).
- **EPA-licensed measures:** Items regulated under an EPA licence are ordinarily outside the planning assessment remit (s.172(7) PDA 2000; s.83 EPA Act 1992).
- **Legal interest/consents:** Demonstration of ownership/consent across the red-line lands (including turbary and other registrable rights) and an ownership overlay map are required (Art. 22(2)(b)).
- **Flooding/site history:** Section 14's "never flooded" statement appears inconsistent with dated photographs and logs (2019–2025); implications for DWWTS, surface water and ecology should be addressed.
- **Water/wastewater/surface water:** Source appears to be a Group Water Scheme rather than public mains; wastewater and building-specific surface-water details are absent (EPA DWWTS 2021; Art. 22(2)(c)).
- **Archaeology:** No site-specific assessment is provided notwithstanding proximity to a high-sensitivity wetland archaeological landscape (Art. 23(1)(c)).
- **Seveso (Major Accidents):** "No" is ticked without screening/HSA correspondence (Art. 22(2)(c)).
- **Rail infrastructure:** "Use and maintenance ... to the present day" appears inconsistent with observed condition; mapping differs from Whitaker & O'Carroll (2009). The basis for inclusion/exemption and any post-1991 consents should be set out.

We respectfully request that the Commission refuse to validate the application or seek comprehensive further information, as appropriate, so that public participation and environmental assessment can proceed on a complete and accurate record.

## References and Sources Consulted

### Legislation and Regulations

- Planning and Development Act 2000 (as amended).
- Planning and Development Regulations 2001 (S.I. No. 600 of 2001) (as amended).
- Environmental Protection Agency Act 1992 (as amended).
- Local Government (Planning and Development) Act 1963.
- European Union (Environmental Impact Assessment) Regulations, S.I. No. 349 of 1989.
- Environmental Impact Assessment Directive 2011/92/EU, as amended by Directive 2014/52/EU.
- Habitats Directive 92/43/EEC (Council Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora).
- Birds Directive 2009/147/EC (Directive on the Conservation of Wild Birds).
- Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention).
- Major Accidents Directive (Seveso III) 2012/18/EU.

### Irish Statutory and Administrative Sources

- An Coimisiún Pleanála, *Guidance for Substitute Consent Applications* (latest version, 2025).
- Department of Housing, Local Government and Heritage, *Development Management Guidelines for Planning Authorities* (2022).
- Environmental Protection Agency (EPA), *Code of Practice: Domestic Waste Water Treatment Systems (Population ≤10)* (2021).
- Offaly County Council, *ePlan Online Planning Register* (accessed October 2025).
- Offaly County Council, *Rural Water Programme – Group Water Schemes Records* (accessed October 2025).
- National Federation of Group Water Schemes (NFGWS) – *Public Register of Schemes* (accessed October 2025).

- Landdirect.ie – *Property Registration Authority of Ireland* (accessed 10–12 October 2025).
- Oireachtas.ie – *Dáil Éireann Debates, 22 October 2014 and 11 March 2015* (Turf Cutters Relocation Scheme).
- OPW – *CFRAM Flood Mapping* (Office of Public Works Flood Risk Management, accessed October 2025).
- National Monuments Service – *Historic Environment Viewer (archaeology.ie)* (accessed October 2025).
- Lemanaghan Conservation Plan (Heritage Council & Offaly County Council, 2003).

#### Corporate and Environmental Records

- Bord na Móna plc, *Integrated Pollution Control Licence P0500-01*, Environmental Protection Agency Licence Register.
- Bord na Móna plc, *Annual Reports* (2001–2003).
- Bord na Móna plc, *Environmental Rehabilitation and Peatland Restoration Plans* (where referenced).
- AES Environmental Ltd (Bord na Móna Group Company) – *Corporate Website*, [www.aesirl.ie](http://www.aesirl.ie) (accessed October 2025).
- MKO Ireland, *rEIAR: Extraction in Lemanaghan Bog, Co. Offaly* (September 2025).

#### Case Law

- *O’Grianna & Others v An Bord Pleanála* [2014] IEHC 632.
- *An Taisce v An Bord Pleanála* [2020] IEHC 353.
- *Environmental Trust Ireland CLG v An Bord Pleanála* [2021] IEHC 322.

#### Published Academic and Heritage Sources

- Whitaker, T. & O’Carroll, F. (2009). *Peatland Excavations 1999–2000: Archaeological Monograph Series*. Dublin: National Monuments Service.

- Dooley, T. (1999). *Bog Men Be Proud: The Story of Bord na Móna*. Dublin: Bord na Móna.
- Heritage Council (2024). *Heritage Week Awards: Intangible Cultural Heritage Category – National Finalists Report*.

#### **Community and Citizen Evidence**

- Lemanaghan Bog Heritage & Conservation Group (2019–2025). *Field Survey Photographic Records and Seasonal Flood Monitoring Logs*.
- Lemanaghan Bog Heritage & Conservation Group (2022–2025). *Citizen Science Observations: Wintering Whooper Swans and Wetland Use*.
- Correspondence with Offaly County Council Environment Section (Ref. LC-22-10663, July 2022).

#### **Online Mapping and Imagery**

- Google Earth Pro, *Aerial Imagery – Lemanaghan Bog Area* (Imagery dates: 2004–2024).
- National Parks & Wildlife Service (NPWS) – *Protected Sites Viewer* (accessed October 2025).
- GeoHive – *Ordnance Survey Ireland Basemaps* (accessed October 2025).