

Laura Grady Lawlor

From: David Linnane <linnanedavid@gmail.com>
Sent: Tuesday 19 August 2025 11:38
To: Appeals2
Subject: Re: ABP-322058-25
Attachments: Response to ACP (1).pdf

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Dear Sir/Madam,

To whom it may concern,

We wish to respond to the letter issued by An Coimisiún Pleanála (ACP) dated 23 July 2025.

Our response to the invitation to comment is attached.

Please respond confirming receipt of this email and the attached document.

Kind regards,
David

The Secretary
An Coimisiún Pleanála
64 Marlborough Street
Dublin 1

18th August 2025

Re: ABP-322058-25

Name & Address of Observer:

David Linnane & Aoife Tannian
Knockaunatouk,
Gort,
Co. Galway

Development Description:

"Substitute consent application under section 177E of the Planning and Development Act 2000 as amended for (i) retention of extension to existing workshop previously granted under 01/393; (ii) two new outbuildings operating as storage structures and (iii) associated site works The application is accompanied by a Remedial Natura Impact Statement."

Location of the Development:

Knockaunatouk,
Gort,
Co. Galway

Planning Authority:

Galway County Council

Name of the Applicant:

Coleman Rock

To Whom It May Concern,

We wish to respond to the letter issued by An Coimisiún Pleanála (ACP) dated 23rd July 2025. This enclosed a submission made by Galway County Council dated 17th July 2025. A response to the invitation to comment is set out below.

Again, we wish to reiterate that we are sick and tired of this long running unauthorized development on site, which has operated without authorization since before 2016, adjacent to our home where we reside with our 3 children. Since 2016, when Enforcement proceedings were initiated, the applicant has used the planning system to procrastinate the continuation of the unauthorized intensified and expanded industrial/commercial use on site. This substitute consent application is another example of this abuse.

Section 177(2)(b):

The Planning Authority's response to the latter provision of the Planning Act appears to be inadequate and incomplete. The Planning Authority simply quoted the Enforcement Case number and did not include any correspondence on Enforcement proceedings that it is required to do so.

Section 177 (2) (d):

The Planning Authority were obliged to provide information of *"current, anticipated or previous significant effects on the environment, or on a European site associated with the development or the site where the development took place or, where section 177E92A)(b) applies, is proposed to take place and, if relevant, the area surrounding or near the development or site."*

However, the planning authority fails to provide any information *"current"* or *"previous significant effects"* on the environment and/or the European Site, even though it recommended refusal of the retention application made under Pl. Ref. No. 16/834.

Instead, the Planning Authority "long lists" the qualifying interests for all of the Environmental designations within 15km of the substitute consent site, without commenting on any effects. It lists the habitats and species associated with the adjoining Coole-Garryland Complex SAC which is located adjacent and partly within the site, without commenting on its environmental effect.

The Planning Authority are also failed to provide information on *"any remedial measures recommended or undertaken"*, which it is required to do so.

Section 177(2)(e):

The planning authority are required to provide an *"opinion, including reasons"* as to *"whether or not substitute consent should be granted for the development"*. The Council did not provide an opinion and simply deferred to ACP and stated that *"An Coimisiuin Pleanala should be satisfied that the development has demonstrated that it **can be implemented** without adverse effects on the integrity of the European sites..."*. This is further evidence that the Council failed to consider *"previous significant effects"* on the Environment/ European Sites.

Planning Authority Conditions:

Condition No. 4 requires that noise levels *"shall not exceed 45dB(A)"* between 7am and 7pm and 35dB(A) at any other time. This is not credible especially when noise levels of 72.6 bB was recorded as part of the 2018 Noise Impact Assessment.

Condition No. 5 requires *"No accumulation of waste material, debris, derelict vehicles or plant shall be permitted on the site. No, goods raw materials or waste products shall be stored outside of the building."*

The Planning Authority fail to comment on the fact that such materials have littered the site (including the SAC) for the last 10 years, or provided any assessment on the previous effect on the environment/ SAC.

Condition No. 6 requires surface water drainage measures to prevent flooding or water pollution. However, it fails to require a petrol interceptor to protect the sensitive groundwaters associated with paintwork and hydrocarbons from parked/turning vehicles and stored oil drums on site.

This condition fails to acknowledge that as part of reason No. 5 of An Bord Pleanála's decision to refuse ABP 07.247214 on site, it had fundamental concerns that *"Having regard to the lack of information provided in relation to the habitats present on site prior to the development taking place, the potential flood risk concerns identified, the lack of adequate information in relation to wastewater and surface water disposal, and the lack of information provided in relation to the management of hydrocarbons and waste management generally on the site."*

These concerns have not been comprehensively addressed as part of the Substitute Consent application.

The Councils proposed condition also highlights that the Council failed to assess the groundwater pollution from the industrial/commercial activity on site on the environment/European site.

Condition No. 9 is a repetition of Condition No. 7. This condition relating to "sight lines" is allegedly made *"in the interests of public and road safety"*. However, this fails to recognize the fact that both the Council and An Bord Pleanála refused permission for this commercial development at this location by reasons that the development *"would endanger public safety by reason of traffic hazard."*

In the absence of the planning authority's failure to properly assess and/or provide the required information to inform the Substitute consent application, together with the imperfections of the recommended conditions, ACP will need to consider the following.

Exceptional Circumstances:

We are of the opinion that the applicant has not met the *"exceptional circumstances"* criteria set out in Section 177K of the Planning Act.

- *"Whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the **Habitats Directive**."*

The Habitats directive establishes the Natura 2000 network, a network of protected areas across the EU, and requires member states to maintain or restore these habitats and species to favourable conservation status. Unfortunately, the south-eastern section of the application site includes part of the Coole Garryland SAC and this area was used for the storage of industrial/commercial materials. This is a direct impact which contravenes the objectives of the Habitats directive. From the submissions made to date that applicant has not provided compelling evidence to demonstrate that Limestone Pavement within the SAC was removed/destroyed.

There is and has been artificial lighting illuminating the commercial/industrial yard. As this artificial lighting is located within a Class 4 Landscape Sensitivity area, and adjacent to an SAC, it does not and did not have the benefit of planning permission. Lesser Horseshoe Bats (LHB) are the sole species listed as a Qualifying interest the Colle Garryland SAC. LHB's are of international importance and are sensitive to disturbance by humans and a very photosensitive. The subject site is located within a known foraging range for the species. The retrospective lighting impact on LHB foraging habitat in the past (after sunset), could not and has not been assessed as part of the application.

In these circumstances, regularization of the development cannot be considered.

- *"whether the applicant had or could reasonably have had a belief that the development was not unauthorised;"*

Under planning reference 01/393, the applicant specifically applied for and received planning permission for an "engineering workshop" use. As part of this application, the planning authority asked questions about the nature of the use and attached conditions to control it. Therefore, the applicant was clearly aware that "engineering" use required planning permission. For the applicants agent to now state that the applicant "believed that the agricultural style sheds were exempted development" is simply not credible.

In these circumstances, regularization of the development cannot be considered.

- *"whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired;"*

The ability of ACP to carry out a comprehensive appropriate assessment has been substantially impaired by the submissions made to date of the application which fails to examine the retrospective impact of noise, surface water pollution (hydrocarbons, paints and zinc phosphate), light pollution and removal of limestone pavement on site. The ability of ACP to carry out a comprehensive assessment has also been impaired by the inadequate response prepared by Galway County Council. This represents a lacunae.

In these circumstances, regularization of the development cannot be considered.

- *"the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development."*

From the submissions made to date there is limited information on file for ACP to consider that adverse effects on the Coole Garryland SAC did not occur as a result of the carrying out of the development on site. Similar to Reason for refusal no. 5 issued by An Bord Pleanála on ABP PL07.247214, ACP cannot be satisfied *"that the development for which retention is sought **has not had**, and would not have in the future, either individually or in combination with other plans or projects, a significant effect on the Coole-Garryland Complex Special Area of Conservation (Site Code 000252)."*

In these circumstances, regularization of the development cannot be considered.

- *"the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated"*

As part of the Inspectors report on PL07.247214, it concluded that *"The development has prima facie entailed the removal of limestone pavement to facilitate the construction of an extended yard and the additional building denoted as no. 3."*

This is an irreversible adverse impact on the environment. The application has also failed to demonstrate that limestone pavement was not removed within the SAC area located within the application site (this would be a direct impact on a qualifying interest).

In this regard, the Remedial Natura Impact Statement relies on *"anecdotal evidence from the site owner (supported by aerial views of the site) indicates the rock in this area of the site was deposited during the construction works for the dwelling house/yard/workshop associated with the permitted works, under P01/393"*. This is problematic at the very least and represents a lacunae.

Image 1 below is taken from a 2013 aerial photo. This shows the extent of crushed limestone which was stored and piled to the north west of the site. As this work appears "fresh" from this photo, it is not credible that it was done as part of the original 01/393 permission, located further to the south, which had long expired at that stage.

Image 1:



Image 2:



This 2013 aerial (Image 1) also shows the storage of industrial/commercial material within the SAC part of the site along the eastern boundary.

The staining from paintwork/zinc phosphate residue from shotblasting is also visible on the ground within the site.

Image 2 above shows the condition of the northern part of the site prior to development of the northern storage shed and yard expansion (20th February 2016). This indicates limestone pavement outcrop in the foreground.

The direct impact of the storage of industrial/commercial materials within the SAC part of the site has also not been assessed. The applicant encloses a Derogation licences for the erection of a Wind Turbine at an undetermined location, but no such derogation appears to have been sought in relation to the encroachment into the SAC as part of the subject development.

Indirect adverse effects on the integrity of the European sites by reason of retrospective impact of noise, surface water pollution (hydrocarbons and paints) and light pollution has not been assessed. In particular, it is alarming that that applicant has failed to consider or comment on the impact of the use of Zinc Phosphate, which would have been associated with shotblasting activity on site. This is a chemical treatment that forms a protective layer on steel. However, if not managed correctly, Zinc Phosphate is known to contaminate groundwater, soil fertility, plant growth and biodiversity. In this regard, in the absence of assessment, significant adverse impact arising from the shotblasting activity which occurred on site, cannot be ruled out. Having regard to this lacunae, the extent of remediation cannot be quantified.

In these circumstances, regularization of the development cannot be considered.

- *"whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development;"*

As part of Pl. Ref. No. 01/393, the applicant was granted permission for a modest engineering workshop with 12 no. conditions attached. The applicant extended this workshop and intensified the use of the permitted structure in breach of the planning permission and Condition No. 1.

Condition No. 3 required that *"storage of raw materials shall be screened from public view"*. This condition was not adhered to.

Condition No. 4 confined the use of the workshop *"as defined in the documentation lodged in support of this application..."* This condition was not adhered to.

Condition No. 8 stipulated that *"Noise levels during operation hours (8am to 8pm, Monday to Friday), shall not exceed 50db along the site boundary"*. This condition was not adhered to.

Condition No. 11 referred to requirements for a septic tank and percolation area (separate to the one permitted for the applicants dwellinghouse). As per the site layout which accompanies the substitute consent was never implemented. This poses a public health issue. Again, the potential overloading of the septic tank and percolation area serving the house, together with impact on groundwaters and indirect impact on the SAC has not been assessed.

In these circumstances, given the extent of non-compliance with a previous planning on site, regularization of the development cannot be considered.

Contrary to Rural Enterprise Policy

As per the current Galway County Development Plan 2022-2028, the relevant Policy Objective for Commercial Developments in Rural areas is "CD1 Rural Enterprises".

This sets out to *"Consider and support the establishment of small scale rural orientated enterprises in unserviced rural areas outside of town or village settings which can be accommodated in existing farm buildings or can be established on a brownfield site, subject to satisfying the following criteria:*

(a) Compatibility and general suitability to an unserviced rural area (primary consideration will be given to agriculture, renewable and marine resources, forestry, tourism, recreation or food production related enterprise activities and services);

(b) Scale of development (assimilate appropriately into a rural setting);

(c) Nature of development (raw materials sourced locally);

(d) Consideration of social and environmental impacts (enterprise must not have a significant adverse impact on the environment or rural amenity);

(e) The enterprise must not constitute a road safety hazard or have a major adverse impact on the road network, road capacity and traffic levels; (f) Residential amenity (enterprise must not have a significant adverse impact on residential amenity)."

In response, from the submissions made to date the Substitute Consent applicant fails to meet any of the above referenced "Rural Enterprise" criteria. On this point we refer to Section 7.1.12 of the Inspectors report on ABP PL07.247214 on site which concluded that *"I do not consider that the expanded engineering use can be categorised as a rural enterprise"* and *"I do not consider that the expanded engineering use can be categorised as a rural enterprise."*

As such, this commercial /industrial development seeking retrospective planning permission would materially contravene Policy Objective CD1 of the County Plan and must be refused on this basis.

Conclusion:

The applicant was originally granted planning permission for a small workshop in 2001. It is clear that his business has greatly expanded and has outgrown this rural unserviced location. This significant industrial/ commercial expansion and intensification within a confined rural site, without the benefit of any planning permission, has become intolerable and has resulted in an adverse environmental impact, and must be refused.

Contrary to the opinion of the applicant, the proposed development would be out of character at this rural, open countryside, Class 4 Landscape sensitivity and ecologically sensitive area. As stated in our original submission, the developer should not be rewarded for his large-scale unauthorised development with a retrospective grant of permission.

In recent days, the applicant installed a crane, removed the roof from Shed No. 2 and removed all or part of the Shotblasting machine. The shed roof has now been replaced. This has been done in the absence of any ecological mitigation/monitoring measures.

We trust ACP will uphold An Bord Pleanála's previous decision to refuse permission the industrial/commercial development on site (ABP PL 07.247214).

While it is our preference that the application is refused, in the event that the Board are mindful to grant permission with conditions, the adherence of these should be subject to a strict timeframe for implementation of c. 3 months of the decision date.

Yours faithfully,

David Linnane & Aoife Tannian

