



An  
Bord  
Pleanála

## Inspector's Report ABP-310203-21

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<b>Development</b>	Civic amenity site/recycling centre.
<b>Location</b>	Kininch, Gort. Co Galway.
<b>Local Authority</b>	Galway Co. Council.
<b>Type of Application</b>	Application for approval made under Section 177(AE) of the Planning and Development Act, 2000 (local authority development requiring appropriate assessment).
<b>Prescribed Bodies</b>	Department of Housing, Local Government and Heritage.
<b>Observer(s)</b>	Ciaran O' Donnell E.van Hout. Gort River Walk Development Group
<b>Date of Site Inspection</b>	July 8 <sup>th</sup> , 2021.
<b>Inspector</b>	Breda Gannon

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## 1.0 Introduction

Galway County Council is seeking approval from An Bord Pleanála to undertake the development of a civic amenity site/recycling centre in Kinincha, Gort. Co Galway. The proposed development site is approximately 1km from Coole-Garryland Complex SAC protected under the Habitats Directive (92/43/EC) and 1.4km from Coole-Garryland SPA protected under the Bird Directive (2009/147/EC). There are several other designated European sites (SPAs and SACs) in the vicinity of the site (see further analysis below). A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on a European site.

Section 177AE of the Planning and Development act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority, the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act, 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

## 2.0 Site Location and Description

The site is located on the Kinincha Road (L-85314) to the north of Gort town centre. It has a stated area of 0.168ha and is located immediately south of the town's wastewater treatment plant. The site is bounded to the west by the public road and to the east and south by agricultural land. The Kinincha stream, which is a tributary of the Gort River lies c 200m to the east. The site, which is surrounded by a palisade fence has been use for fly tipping in the past and contains a number of trees.

The Kinincha Road connects into the R-458 (Crowe Street) to the south and thereafter to the M18 interchange to the northwest. It provides access to The Grove housing scheme, Lidl supermarket, a number of retail developments and an existing bottle bank. Further north, the road narrows and there are no footpaths or public

lighting facilities. It provides access to the existing wastewater treatment facility, a local authority depot and some residential properties and farm holdings.

### 3.0 Proposed Development

The proposed development comprises a Civic Amenity Site for mixed household waste streams, with a maximum capacity of 700 tonnes per annum. It would include a 15 sq.m. mobile pay station/welfare unit, car parking, internal paved concrete roads and lay down areas, surface water collection system, mobile bunded containers, transportable waste skips, CCTV, public lighting and landscaping works.

Internally the area will be provided with the relevant moveable containers/skips which will be accessible by the public and will be accessed by a dedicated set down area located off the internal access road. The facility will be connected to the existing public water and foul sewer system. No processing of waste will occur on the site.

The proposed development will take c 4 months to complete. The facility will require a Certificate of Registration (CoR) from the EPA.

Accompanying documents:

- Planning Report
- Natura Impact Statement
- EIA Screening
- Flood Risk Assessment
- Planning drawings

### 4.0 Planning History

**201625** – Planning permission granted for a River Walk Trail on the east side of the Gort River including a clear span footbridge crossing the river and ancillary works necessary for the provision of a footpath and seating.

**191812** – Permission refused by Galway Co Council for a Biogas plant on a site of 10.1ha to the northwest of the proposed civic amenity site. There were 5 no. reasons for refusal relating to traffic hazard, visual amenity, potential adverse effects on European sites and insufficient information and assessment of potential impacts on

environmental factors in the EIAR. The decision is currently the subject of an appeal to the Board (ABP-308942-20).

## 5.0 Legislative and Policy Context

### 5.1. Legislation

5.1.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).

5.1.2. **European Communities (Birds and Natural Habitats) Regulations 2011:** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.

5.1.3. **Planning and Development Acts 2000 (as amended):** Part XAB of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.

- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura impact statement in respect of the proposed development.
- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.

- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:
  - The likely effects on the environment.
  - The likely consequences for the proper planning and sustainable development of the area.
  - The likely significant effects on a European site.

## 5.2. Policy/Development Plans

The **Galway County Development Plan 2015-2021** at Section 6.18 supports sustainable waste management through the prevention, minimisation, reuse, recycling, recovery and disposal of waste.

### **Objective WM-3 -Provision of Recycling Centres**

*Strive to provide and maintain an equitable distribution of recycling centres throughout the County and support the provision of additional recycling centres in the south Connemara and south Galway areas of the county.*

**Gort Local Area Plan 2013-2019 (extended to 2023)** - The site is located within an area zoned 'Public Utilities' (Map IA Land Use Zoning), with an objective (LU8) to '*facilitate the provision and maintenance of essential public utility infrastructure together with necessary ancillary facilities and uses, as appropriate*'. Recycling and Bring Bank Facilities are 'open for consideration' in this zone.

Other relevant objectives include:

**Objective UI15** - Promote the prevention, reduction and recycling of waste in new developments.

**Objective UI16** – Facilitate the installation of bring bank facilities at suitable locations within the Plan area and where they will not adversely affect residential amenities.

## 6.0 Natura Impact Statement

- 6.1. Galway Co Council's application for the proposed development was accompanied by an NIS prepared by Roger Goodwillie & Associates, dated September 2020. A total of 21 no. European sites within a 15km radius of the development site were identified. Of the 21 no sites, 19 were screened out on the basis of lack of connectivity, distance and the small-scale nature of the project.
- 6.2. It was concluded that the potential for significant effects on the Coole-Garryland Complex SAC (Site Code: 000252) and Coole-Garryland SPA (Site code 004107), could not be excluded and the project was therefore considered to require Appropriate Assessment. The NIS describes the proposed development, the project site and the receiving environment. It identifies and characterises the possible implications of the proposed development on the European sites in view of the sites' conservation objectives and provides information to enable the Board to carry out an AA of the proposed development.

## 7.0 Further Information

- 7.1. The Board sought further information on the development on September 15<sup>th</sup>, 2021. The applicants response which was received on October 18<sup>th</sup>, 2021 included the following:
- Revised Natura Impact Statement prepared by Roger Goodwillie & Associates.
  - Bat Roost Assessment and Survey report by FGE Consulting.
  - Letter from IE Consulting in regard to Flood Risk Assessment.
  - Supplementary report covering remaining matters raised in the submissions.
- 7.2. The response provided clarity on the matters raised by the DUA and the public submissions, which are considered in further detail below.

## 8.0 Consultations

The application was circulated by Galway Co. Council to the following bodies:

- An Taisce.
- EPA.
- Failte Ireland.
- The Heritage Council.
- Health Service Executive.
- Inland Fisheries Ireland.
- Department of Arts, Heritage and Gaeltacht (DAU) Communications.
- National Parks and Wildlife Service.
- Waterways Ireland.
- Office of Public Works.

A response was received from the Department of Housing, Local Government and Heritage, which is summarised as follows.

### **Department of Housing, Local Government and Heritage**

- The exact distances between the development site and the European sites and the nature of the source-pathway-receptor should be clarified.
- The NIS does not include the screening for AA report and it is unclear how the screening process has concluded that there is potential for significant effects on the Coole-Garryland SAC (Site code 000252) and SPA (004107).
- There is potential for impacts to these European sites due to threats to water quality in the stream to the east of the site. Mitigation of these threats has been addressed through the design of the surface water collection system.
- The NIS has not assessed the cumulative impact of the road works to facilitate access to the site.



- In terms of other environmental considerations, there are known recorded Lesser Horseshoe Bats within the 1km square of the proposed development. It is also likely that other bat species would use the scrub and perimeter vegetation of the site for foraging and commuting.
- There are potential impacts with respect to direct loss of habitat for bats and potential displacement of species due to inappropriate lighting. The DAU recommends that the Board considers the requirement for a bat survey and report to establish bat usage of the site and the potential for mitigation and bat enhancement measures.

### **Public Submissions**

Submissions were received from 3 no. observers. All of the observers welcome the recycling centre and its potential to reduce illegal dumping. The main concerns raised relate to the following:

#### Access road to planned civic amenity site

- It is proposed to widen the access road to the site which is the only country road within walking distance of the town. The amenity value of this road was recognised with the awarding of the Gort's Golden Mile and the ongoing development of the Gort Riverwalk Loop Project. Widening the road will lead to a degradation of the road and its amenity status.
- The Gort LAP supports the establishment of an accessible network of greenway linkages and amenities that provide safe and attractive circulation routes for pedestrians and cyclists. This network includes an amenity walking circular route along the Kinincha Road returning via the river bank to George's Street.
- Additional traffic on the road will present a danger to pedestrians, cyclists and motorists and is contrary to the idea of amenity networks.
- Recommends that a safe walking/cycling path be provided along the 300m from the existing bottle bank to the recycling centre, that existing dry stone walls are replaced following road widening, that the site be screened with indigenous trees and shrubs and that appropriate weed control be undertaken.

### Effects on foraging bats in the area

- There has been no proper research on the presence of bats in the area. The EIAR for the Biogas Plant and the Gort River Walk and previous correspondence from the Department of Culture, Heritage and the Gaeltacht refer to the use of the area by foraging and commuting bats.
- The site is in close proximity (2.5km) to a roost of international importance within Kiltartan Cave (Coole) SAC (Site code 000286).
- The planned lighting for the site has the potential to impact on bats. Any lighting provided needs to be bat friendly.

### Flooding risk on access road

- The access road to the site is within Indicative Flood Zone A. There is no assessment of the potential flooding of the access road and potential isolation of the site for extended periods.
- Flooding occurred along the Kinincha Road in the past including the entrance to Lidl, The Grove estate and extending as far as the site of the bottle bank (photos attached).

### Possible dumping at gate during closed times

- There is potential for dumping events to increase at the new facility which is isolated and not overlooked. The potential for dumping is further exacerbated by the limited opening times (3 days a week), wider catchment and the types and volumes of waste the facility can accept.
- Measures will be required to prevent dumping at the gate.

## **9.0 Assessment**

### **9.1. Introduction**

In making a decision in respect to an application for approval under section 177AE of the Act, the Board is required to consider the following:

- The likely effects on the environment

- The likely consequences for the proper planning and sustainable development of the area
- The likely significant effects of the proposed development on a European site.

## 9.2. The likely effects on the environment

Galway Co. Council submitted an EIA Screening Report to determine whether the proposed development, which is sub-threshold, is likely to have significant effects on the environment. Regard was had to the criteria set out in Schedule 7A of the Planning and Development Regulations, as amended.

I have examined the proposal under the criteria set out in Schedule 7 & 7A of the Regulations which are as follows:

- Characteristics of the proposed development.
- Location of project.
- Characteristics of impact.

### **Characteristics of the proposed development**

#### Size and design of the proposed development

The proposal is to develop a civic amenity site on a small site (0.168 ha) with the development boundary of Gort. The development, which is small scale and located adjacent to the existing municipal wastewater treatment plant, will not be at variance with the existing pattern of development in the area. Having regard to the nature, limited scale and design of the proposed development, I do not consider that significant environmental effects are likely to arise.

#### Potential for cumulative impacts with other existing and/or approved projects

Planning permission has recently been granted for a river walk trail along the Gort River including a clear span footbridge across the river (20/1625). The development of the proposed civic amenity facility will be confined to the boundaries of the site and will not act in combination with the proposed river walk to result in significant effects on the environment.

Nature of any demolition works, use of natural resources, production of waste, pollution and nuisances

There are no existing buildings/structures on the site that would require *demolition works*. Site preparation would require excavation and shallow foundations.

Having regard to the nature and limited scale of the proposed development, there would be minimal use of *natural resources*. Concrete for foundations and roadways within the site would be imported and presumably sourced locally. The development of the site will not result in the significant *production of waste* during construction and once operational the facility will have positive and beneficial effects on the environment associated with waste reduction and recycling.

The potential for the generation of *pollution and nuisance* arising from the project is limited. There would be temporary increases in noise and emissions to air (dust, vehicle emissions) associated with construction, but these will be temporary and short lived. Effective management would be required to ensure the site does not cause nuisance or result in pollution during the operational stage

Risk of major accidents and/or disasters, significant risks to human health

Having regard to the nature of the proposal there is no *risk of major accidents and/or disasters*. A strip along the site boundaries may be susceptible to inundation during a 0.1% AEP (1 in 1000 year-Flood Zone B) fluvial flood event and this is considered in more detail below.

There is no significant risk to human health associated with the proposal. All containers storing oils, paints etc will be appropriately banded and surface water discharges will pass through hydrocarbon interception prior to discharge to the adjoining wastewater treatment plant.

Having considered the characteristics of the proposed development, I accept the conclusion reached by the planning authority that no significant environmental effects are likely to arise that would generate the need for EIA.

**Location of the Proposed Development**

The proposed development would not be incompatible with the *existing land use* on the adjoining site which accommodates the municipal wastewater treatment plant. While the civic amenity site would have the potential to impact on the amenities of

the proposed circular amenity walk along the Gort River including Kinincha Road, this will be minimised by screen planting and the effective management of the site.

The development would be confined to the boundaries of the development site and will not impact on the *relative abundance, quality and regenerative capacity of natural resources in the area*.

With regard to the *absorption capacity of the existing environment*, the site is located in a relatively flat rural landscape and at a remove from the built up area of the town. No designated landscape or scenic views will be impacted by the proposed development. No land take or loss of habitats which would impact on wetlands, riparian areas, river mouths, coastal zones or the marine environment is proposed. The development is well removed from mountain and forest areas, nature reserves and parks. No landscapes or sites of historical, cultural or archaeological significance will be impacted by the proposal.

The nearest European sites are located on the opposite side of the M18 to the west of the town. There is hydrological connectivity between the Gort River and Coole-Garryland SAC and SPA, which is considered in more detail below under Appropriate Assessment.

Having considered the location of the proposed development, I accept that no significant environmental effects are likely to arise, which would necessitate the need for EIA.

## **Types and Characteristics of Potential Impacts**

### Magnitude and spatial extent of the impact

The extent of the impact in terms of *geographical area and the size of the population* likely to be affected is limited to the immediate environs of the site.

During the construction stage there is potential for impacts on *population and human* health associated with noise, dust and vehicle emissions. Having regard to the location of the proposal outside the built-up area of the town and the nature and limited size and scale of the proposal, these impacts will not be significant. The impacts, which will be temporary and short lived in nature, will be capable of effective mitigation by normal good construction and best practice methodologies.

*Visual impact* during construction will be limited to the footprint of the development site and will not be significant. The impact will be highly localised and not visible from the built-up area of the town. Appropriate operational and maintenance practices will ensure that the proposed development will not have negative impacts on the visual amenities of the area.

In terms of *biodiversity*, the site has been subject to fly tipping in the past and currently has limited vegetation. No protected habitats, species or birds (associated with the SPA) were recorded during the site survey. The bats surveys indicated that the site is used by foraging and commuting bats, which is considered in more detail below. The site is hydrologically connected to 2 no. European sites and this is considered in more detail under Appropriate Assessment.

The development would be confined to the boundaries of the site and there would be negligible impacts on *land and soil*. There is potential for contaminated discharges to enter watercourses, however due to the mitigation measures proposed which includes bunding of containers and the discharge of surface water via hydrocarbon interception with final discharge to the wastewater treatment system, no significant effects on surface water or ground water systems are considered likely.

Having regard to the limited scale of the works and the nature of the proposed development, which will essentially function as a repository for materials to be recycled, no significant impacts on *air and climate* are likely to arise.

There are no sites of archaeological, architectural or cultural significance in the vicinity of the site. There is therefore no potential for significant effects on *cultural heritage*.

The proposed development would not have a significant effect on *material assets*. The site will be connected to the existing water and surface water/foul water networks.

Having regard to the types and characteristic of potential impacts, no significant effects on the environment are predicted that would necessitate EIA.

## **Conclusion**

Having regard to the characteristics and location of the proposed development and the type and characteristics of potential impacts as described above, I accept the

conclusion reached by the planning authority that the development of the civic amenity site as proposed is not likely to give rise to significant environmental impacts to warrant EIA.

### 9.3. **The likely consequences for the proper planning and sustainable development of the area:**

This section of the report addresses the following matters:

- The principle of the development
- Flooding
- Roads
- Ecology and
- Amenity

#### **Principle of the development**

The provision of the civic amenity site in this location is entirely consistent with the objectives of the Galway County Development Plan, which is supportive of such waste infrastructure and identifies a need for additional facilities in the south of the County.

Having regard to the zoning provisions applicable to the site and its location adjacent to the established municipal wastewater treatment system, I consider that the proposed development is acceptable in principle in this location. The proposed development is well removed from residential and other sensitive land uses and is therefore consistent with the zoning objectives of the Gort LAP. It will not impact on residential amenities and will make a positive contribution to the area in terms of promoting the recovery and recycling of materials.

#### **Flooding/Surface water drainage**

The issues raised in the submissions relate to potential flooding of the site and adjoining access road resulting in the potential isolation of the civic amenity site. The submission from E. van Hout includes a map which shows the site and the access road located within Flood Zone A, with a high probability of flooding. It is also supported by photographs which shows flooding on the Kinincha Road to the south of the site.

In the response to further information, IE Consulting notes that the map submitted by E. van Hout is an extract from the Gort LAP 2013-2019. The flood zones in the plan were identified using the OPW Preliminary Flood Risk Assessment (PFRA), which are indicative only and not intended to be used on a site-specific basis.

A site-specific Flood Risk Assessment supports the planning application. As part of the screening assessment, various sources of information were reviewed to establish the level of flooding risk that may exist for the site. These included OPW, EPA and local authority hydrometric data as well as OS historic and GSI mapping.

The Flood Risk Assessment identifies the primary flooding risk as an extreme fluvial flood event in the Gort River and Kinincha River to the east of the site. The more recently published Western CFRAMS predictive flood maps indicates that the site does not fall within a 1 in 10 year or 1 in 100-year fluvial flood zone with sections of the site's periphery susceptible to flooding during a 0.1% (1 in 1000-year) fluvial event.

The CRAMS study also provides information on predicted water levels for flood events at a number of nodes along both rivers to the east of the site (Table 3). Using a Digital Terrain Model for the site, developed from topographical survey information, in conjunction with 1 in 100 year and 1 in 1000 year predicted extreme flood levels in the rivers to the east, the 1% AEP and 0.1% AEP flood zones within and adjacent to the site are delineated.

The analysis indicates that a strip along the site boundaries may be susceptible to inundation during a 0.1% AEP (1 in 1000 year-Flood Zone B) fluvial flood event in the Kinincha River. The lowest point within the development site is 19.179m OD in the north western area and the highest point is 20.716m OD in the south-west. The peak 1 in 100-year and 1 in 1000-year flood events adjacent to the site are predicted at 19.313m OD and 19.77m OD respectively. It is recommended that the civic amenity centre is constructed to a minimum of 150mm above the 1 in 100 year (1% AEP) flood level of 19.315m OD to a level of 19.465m OD to ensure sustainable development and to allow for potential future climate change.

It is acknowledged in the response to further information that flooding occurred on Kinincha Road in 2009, which coincided with significant flooding events throughout



the country. The rainfall return period in the vicinity of Gort was in excess of a 1 in 500-year event (Met Eireann report).

The potential for secondary flood risk associated with a surcharge/failure in the urban drainage network or due to a blockage in a farm access bridge to the east was also considered in the assessment. A water main/foul sewer extends from the sewage treatment plant located to the north of the development site, along the local road to the west. Any surcharge/failure in the network is likely to result in spill out onto the public road and potentially within the treatment plant compound. The pluvial risk with such a surcharge is considered to be low as the development site is at a higher elevation and not likely to be impacted.

Similarly, it is anticipated that flood risk associated with a bridge blockage would be low. In such an event, flood waters would surcharge/ back up along the watercourse and spill into adjacent lands. The top of the bridge is 0.47m below the lowest point on the site and therefore overtopping of the bridge does not pose a flood risk to the site.

The flood risk assessment has been carried out in accordance with the guidance provided in 'The Planning System and Flood Risk Management-Guidelines for Planning Authorities', (November 2009) with a staged approach adopted identifying potential flood risk and providing an assessment of the risk. The Western CFRAM flood maps suggest that the site is located within Flood Zone B where there is a moderate probability of flooding. I accept that the proposed civic amenity site would be classified as 'less vulnerable' in accordance with the guidance (waste treatment, except landfill and hazardous waste) and a justification test is not therefore required in respect of the proposal.

All surface water generated on the site will be passed through a hydrocarbon interceptor and discharged to an attenuation tank prior to discharge to the wastewater treatment plant.

Subject to the implementation of the minimum ground levels within the site as recommended in the flood risk assessment report and the attenuation of surface water discharges as proposed, I accept that the flood risk to the site is low and the development is not likely to contribute to, or exacerbate flooding downstream.

## **Roads**

The access road to the site is narrow but serves a limited amount of development to the north of the site. This includes a small number of residential properties and farm holdings, the municipal wastewater treatment plant and a Co. Council materials depot, both of which are served by heavy goods vehicles.

The proposed civic amenity site will generate additional traffic on the adjoining roadway. This is estimated at circa 43 no. vehicles per day, which represents a maximum of the daily averages collected over a three-year period for a similar facility which operates three days a week on the outskirts of Ballinasloe (Appendix G). These movements will be spread out over the opening hours of each day.

It is intended that following approval of the application that works to improve access to the site would be carried out including the provision of 2 no. pull-in space for vehicles and resurfacing of the carriageway. While I accept that it would be preferable that the modifications to the approach road were carried out in advance of the proposed development, the works are not part of the proposal.

Having regard to low potential for significant volumes of traffic on the existing roadway, the limited stretch of road impacted by the development (c 300m) the limited opening hours associated with the civic amenity centre and the commitment of the local authority to improve access following consent for the proposal, I do not consider that the proposed development would have a serious impact on roads and traffic in the area.

## **Ecology**

The potential impacts on foraging, roosting and commuting bats were raised by the DAU and by some of the observers. The site is located in a rural area adjacent to the existing wastewater treatment plant. There are no structures on the site and no significant vegetation. Both sides of the access road are defined by hedgerows and there is a small area of scrubland to the south. No roost sites were recorded on the site.

The results of a bat survey were submitted in response to further information. The surveys included bat activity surveys (walked transects) and static/passive activity surveys using bat detectors at fixed locations to record bat activity remotely over a period of 14 days between dawn and dusk. A low-moderate level of bat activity on

the site was observed during the walked transect surveys and 5 no. species were recorded (Leisler's bat, common pipistrelle, soprano pipistrelle, Natter's bat and Whiskered bat). The majority of the activity was around the scrubland area to the south of the site and the tall vegetation along the roadside.

A moderate level of activity was recorded during the static surveys and seven species were recorded over 14 days, which included brown long-eared bat and lesser horseshoe in addition to the 5 no. species recorded during the transect surveys.

The mitigation measures are primarily directed at the road proposals which are not part of the current proposal. These relate to the timing of the works, the positioning of passing bays at widened sections of the road to minimise vegetation removal and replanting with native hedgerow species. It is recommended that hedgerows be planted around the development site to improve connectivity. During the operation stage, mitigation to protect bats is essentially associated with the control of artificial lighting on the site, which I consider can be adequately addressed by condition.

Issues have been raised regarding the potential impacts of the development on Kiltaran Cave (Coole) SAC (Site code 000286), which is selected for Lesser Horseshoe Bat. The SAC is located c 2.5km to the north of Gort and the cave is used as a hibernating site for the species. The bat survey indicated very low levels of usage of the development site by Lesser Horseshoe Bat (2 no.) over the 14-day static survey.

Having regard to the limited use of the development site by Lesser Horseshoe Bat, it is considered that subject to the habitat enhancement measures referred to above, which will improve connectivity for all bat species, coupled with measures to control lighting on the site, the proposed development is not likely to have significant effects on Lesser Horseshoe bats within the SAC

### **Amenity**

Concerns are expressed that road widening works will detract from the amenities of the area which is used by local walkers. The proposal before the Board is for a civic amenity site and does not include improvements to the adjoining road network. I would note that the works intended to be carried out are minor in nature and will not significantly alter the rural character of the area. The works will not prejudice the

achievement of Objective CF9 of the Gort LAP which supports the development of an accessible network of greenway linkages and amenities that provide safe and attractive circulation routes for pedestrians and cyclists.

The proposed development will replace the existing bottle bank facility located in a more prominent location closer to the town on Kinincha Road. It will be capable of accepting a wider range of waste material for recovery/recycling, which would have positive impacts on the environment and amenity of the town by reducing potential indiscriminate dumping. The site is well removed from existing residential properties located on Kinincha Road and will not detract from their amenities. I note that it is proposed to introduce native hedgerow planting in addition to some tree planting behind the proposed boundary fence (Dwg E092020-6 Landscaping Plan). This will help to screen the site from the public road and minimise impacts on the visual amenities of the area.

Concerns have also been raised regarding potential impacts on amenities associated with dumping outside opening hours. In response, Galway Co Council state that they currently operate two other recycling centres in similar settings on the outskirts of towns on a similar number of days per week and have no registered complaints of dumping at these facilities. The site will be supervised by a dedicated operator and no waste will be allowed to accumulate outside the site. It is also stated that warning notices and CCTV will act as deterrents, if required.

#### 9.4. **The likely significant effects on a European site**

The areas addressed in this section are as follows:

- Compliance with Articles 6(3) of the EU Habitats Directive
- Screening the need for Appropriate Assessment – Stage 1
- The Natura Impact Statement
- Appropriate Assessment

#### **Compliance with Articles 6(3) of the EU Habitats Directive:**

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with, or necessary to the

management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

The proposed development is not directly connected to or necessary for the management of any European site and is therefore subject to the provisions of Article 6(3) and Part XAB of the Planning and Development Act, 2000 as amended.

### **Screening the need for Appropriate Assessment - Stage 1**

The first test of Article 6(3) is to establish if the proposed development could result in significant effects on a European site. This is considered Stage 1 of the appropriate assessment process i.e., screening. The screening stage is intended to be a preliminary examination. If the possibility of significant effects cannot be excluded on the basis of objective information, without extensive investigation or the application of mitigation, a plan or project should be considered to have a likely significant effect and AA carried out.

Stage 1 Screening for Appropriate Assessment identified 21 no. European sites within 15km of the subject site. Details of the European sites, the potential for impacts from the proposed development and the distance from the proposed development site are set out in Table 1 below.

Table 1: European sites considered for Stage 1 screening:

<b>European site (SAC/SPA)</b>	<b>Potential Impact</b>	<b>Distance</b>
<b>Coole-Garryland Complex (Site code: 000252)</b>	<b>Yes. Deleterious material from the site entering the Gort River and Coole Lough downstream</b>	1.0km
<b>Coole-Garryland SPA (Site code: 004107)</b>	<b>Yes. Deleterious material from the site entering the Gort River and Coole Lough downstream</b>	1.4km
<b>Newhall-Ballylee Turlough SAC (Site code: 002293)</b>	No likely impact.	3.1km

<b>European site (SAC/SPA)</b>	<b>Potential Impact</b>	<b>Distance</b>
<b>East Burren Complex (Site code: 001926)</b>	No.	3.4km
<b>Caherglassaun Turlough SAC (Site code: 000238)</b>	No likely impact	3.8km
<b>Ballinduff Turlough SAC (Site Code: 002295)</b>	No.	4.0km
<b>Slieve Aughty SPA (Site code: 004168)</b>	No.	4.2km
<b>Lough Cutra SAC (Site code: 000299)</b>	No	4.4km
<b>Lough Cutra SPA (Site code: 004056)</b>	No.	4.4km
<b>Cahermore Turlough SAC(Site code:002294)</b>	No.	5.0km
<b>Termon Lough SAC (Site code: 001321)</b>	No.	5.3km
<b>Lough Coy SAC (Site code 002117)</b>	No.	5.5km
<b>Peterswell Turlough SAC (Site code 000318)</b>	No.	5.7km
<b>Drummin Wood SAC (Site code 002181)</b>	No.	6.8km
<b>Gortacarnaun Wood SAC (Site code: 002180)</b>	No	6.9km
<b>Ardrahan Grassland SAC (Site code:002244)</b>	No.	8.2km
<b>Inner Galway Bay SPA (Site code :004031)</b>	No likely impact	9.5km

European site (SAC/SPA)	Potential Impact	Distance
Galway Bay Complex SAC (Site code:000268)	No.	9.5km
Lough Fingall Complex SAC (Site code: 000606)	No.	10.5km
Sonnagh Bay SAC (Site code:001913)	No.	11.1km
Castletaylor Complex SAC (Site code :000242)	No.	11.3km

A total of 16 no. of the European sites were excluded from further assessment on the basis that no hydrological links exist between the development site and these European sites. The remaining 5 no. European sites are considered further as they are located downstream of the site. These include

- Newhall -Ballylee Turlough SAC (Site code:002293),
- Caherglassan Turlough SAC (Site code: 000238)
- Inner Galway Complex (Site code: 004031)
- Coole-Garryland Complex SAC (Site code :000252) and
- Coole Garryland SPA (Site code 004107)

Three of these were eliminated for further consideration. Newhall -Ballylee Turlough SAC (Site code:002293) is fed by a different river system (Boleyneendorrhish River). The Gort River discharges into Coole Lough which feeds into Caherglassan Turlough SAC (Site code: 000238) before it travels underground and discharges into Galway Bay c 9.5km downstream. It is considered unlikely that any potential significant effects are likely to penetrate through to Caherglassaun Lough SAC or to the Inner Galway Complex (Site code: 004031) due to distance and dilution effects, which is considered reasonable.

Having regard to the nature and scale of the development and the distance from the development site, I accept that significant effects on these sites are not likely to occur.

The Stage 1 Screening Assessment concluded that there is potential for significant effects on the remaining 2 no. European sites, the Coole-Garryland Complex SAC (Site code :000252) and Coole Garryland SPA (Site code 004107) due to a hydrological link via the Gort River which flows into Coole lake which is part of the SAC/SPA. No other source-pathway-receptor linkages have been established and the other European sites were eliminated for further assessment on the basis of lack of connectivity with the proposed development site.

### **Conclusion on Stage 1 Screening**

Having regard to the information available, the very modest nature and size of the proposal, its location relative to European sites, the source-pathway-receptor principle and sensitivities of the ecological receptors, I consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No(s) 002293, 001926, 000238, 002295, 004168, 000299, 004056, 002294, 001321, 002117, 000318, 002181, 002180, 002244, 004031, 000268, 000606, 001913 and 000242 in view of the site(s) conservation objectives and a Stage 2 Appropriate Assessment is not therefore required for these sites.

No measures designed or intended to avoid or reduce any harmful effects on a European Site have been relied upon in this screening exercise.

### **Natura Impact Statement**

I have examined the NIS and revised NIS report and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would conclude that a Stage 2 Appropriate Assessment is required for Coole-Garryland Complex SAC (Site code:000252) and Coole Garryland SPA (Site code: 004107).

### **Appropriate Assessment - Stage 2**



The AA Screening report concluded that it is not possible to rule out the potential for significant effects on the Coole-Garryland Complex SAC and the Coole-Garryland SPA. The sites are described below (NPWS-Site synopsis).

### **1. Coole-Garryland Complex SAC (Site code: 000252)**

The Coole-Garryland Complex is situated in a low-lying karstic limestone area west of Gort in Co. Galway. It contains a series of seasonal lakes (turloughs) which are fed by springs and a partly submerged river, surrounded by woodland, pasture and limestone heath.

The turlough system at Coole-Garryland is considered to be the most diverse in the country, for both its physiography and vegetation; it is unique in that it is so closely associated with woodland. The juxtaposition of these two distinct habitats has led to the development of interesting plant and animal communities that include a suite of rare insect, plant and fungal species. The site is selected for seven habitats (\* = priority) that are listed on Annex 1 of the E.U Habitats Directive. The habitats are as follows:

- [3150] Natural Eutrophic Lakes
- [3180] Turloughs\*
- [3270] *Chenopodium rubric p.p* and *Bidention p.p* Vegetation
- [5130] Juniper Scrub
- [6210] Orchid rich Calcareous Grassland \*
- [8240] Limestone Pavement\*
- [91J0] Yew Woodlands\*

Site specific conservation objectives have not been published for the site. The generic objective is to maintain or restore the favourable conservation condition of the Annex 1 habitats and/or Annex 11 species for which the SAC is selected.

### **2. Coole-Garryland SPA (Site code: 004107)**

The site largely coincides with the SAC as described above. The site is of special conservation interests for Whooper Swan. Site specific conservation objectives have not been published for the site and the generic objective is the maintain/restore the favourable conservation condition of the bird species for which the site is selected.

## **Assessment**

The Coole-Garryland Complex SAC is located west of Gort and is separated from the town by the M18 motorway. At a distance of c 1km there is no potential for any direct effects on any of the qualifying habitats of the SAC arising from the proposed development. The potential for indirect effects has been identified associated with the Kinincha Stream/Gort River which run to the east of the site and which feed into Coole Lough within the SAC. The DAU queried why these sites were brought forward for Appropriate Assessment and the revised NIS submitted in response to further information states that the only potential impact would be if deleterious run-off was to enter the river systems and affect the ecology of Coole Lough downstream. There are no watercourses on the site connecting it to the Kinincha River/Gort River to the east.

The proposed facility will accept a variety of waste streams. While the majority of the materials that will pass through the site do not create any potential for adverse effects, there is potential for impacts on water quality associated with the storage of oils, filters, aerosol and paint substances.

The design of the site incorporates the recommended site levels to reduce flood risk and the potential for contaminants to be mobilised via overland flow. The site is also designed to ensure that all run-off generated on the site will be contained within the site. The internal paved surface of the facility will consist of 200mm of reinforced concrete, graded to a network of surface water collection gullies. Surface water will be discharged via hydrocarbon interceptor to an attenuation tank that will be provided on site and sized to accommodate a 1 in 100-year event. Final discharge will be to the wastewater treatment system on the adjoining site. Paints and oils will be stored separately in bunded storage containers, which will contain level monitoring equipment. Subject to these measures, I consider that any potential effects arising from the operational phase will be effectively and appropriately mitigated.

The NIS does not consider potential effects during the construction stage. It is stated that construction will be predominantly groundworks and will be contained within the site. It is acknowledged that a construction method statement and waste management plans will be required to be prepared prior to commencement of works.

I note that trial holes were excavated on the site and bedrock was encountered between 1 to 1.6m (Appendix I). The water table was not encountered and there are no watercourses identified on the site which would act as a conduit for sediment or other pollutants to enter the Kinincha Stream/Gort River during the construction stage.

The proposal involves a small site and subject to recognised and best practice construction methodologies, implemented in accordance with a Construction Method Statement, I consider that the potential for adverse effects can be appropriately and effectively mitigated.

Having regard to the nature and limited scale of construction required, the absence of any watercourse on the site which would act as a pathway for sediment and pollutants to adjacent watercourses and the measures proposed to reduce flood risk and manage and treat surface water discharges, I consider that potential adverse effects on the Coole-Garryland Complex SAC are not likely to occur.

The Coole-Garryland SPA coincides largely with the SAC and there is no potential for direct effects on its qualifying interest Whooper Swan arising from the proposed development. Existing habitats on the site consist of scrub with some trees. The site was subject to fly tipping in the past and there are stones and materials grown over by vegetation. These habitats will be cleared for the construction of the proposed development.

These habitats would not be suitable for foraging Whooper Swan. Therefore, no adverse effects on the species is predicted through direct loss of habitat on the development site. There is potential for indirect effects on habitats through reduced water quality. However, subject to the measures proposed to contain and treat surface water discharges on the site and to ensure that hazardous substances such as aerosols, oils, paints etc are appropriately stored in adequately banded containers, significant adverse effects on the conservation condition of Whooper Swan is not likely.

The proposed development will not of itself generate significant effects on a European site and there is therefore no potential for it to act in combination with other projects permitted in the area.

## **Conclusion on Appropriate Assessment**

Having regard to the nature of the proposed development and the mitigation measures proposed, the information presented with the application, including the Natura Impact Statement, as amended by the further details submitted, which I consider is adequate to carry out an assessment of the implications of the proposed development on the integrity of European Sites, I consider that it is reasonable to conclude that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the Coole-Garryland Complex SAC ( Site code: 000252) and the Coole-Garryland SPA (Site code: 004107) or any other European site, in view of the site's Conservation Objectives. There is no reasonable doubt to the absence of such effects.

This conclusion is based on:

- The weak ecological connection between the proposed development site and the Coole-Garryland Complex SAC and the Coole-Garryland SPA.

The conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of such effects.

## **10.0 Recommendation**

On the basis of the above assessment, I recommend that the Board approve the proposed development subject to the reasons and considerations set out below and subject to conditions including requiring compliance with the submitted details and with the mitigation measures as set out in the NIS.

### **Reasons and Considerations (Draft Order)**

In coming to its decision, the Board had regard to the following:

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,

- (d) the conservation objectives, qualifying interests and special conservation interests for the Coole Garryland Complex SAC (site code: 000252) and the Coole-Garryland SPA (site code: 004107)
- (e) the policies and objectives of the Galway County Council Development Plan Development Plan 2015-2021 and the Gort Local Area Plan 2013-2023 (as extended)
- (f) the nature and extent of the proposed works as set out in the application for approval,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (h) the submissions and observations received in relation to the proposed development, and
- (i) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter

**Appropriate Assessment:**

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Coole-Garryland Complex SAC (site code: 000252) and the Coole-Garryland SPA (site code:004107) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and revised Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Coole-Garryland Complex SAC (site code:000252) and the Coole-Garryland SPA (site code: 004107), in view of the site's conservation objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's Conservation Objectives using the best available

scientific knowledge in the field. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European Sites, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the site's conservation objectives.

**Proper Planning and Sustainable Development/Likely effects on the environment:**

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution, would not be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, and would be acceptable in terms of road traffic and safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as amended

by the further details submitted on the 18<sup>th</sup> day of October 2021, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures set out in the revised Natura Impact Statement or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

**Reason:** In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. All mitigation measures identified in the revised Natura Impact Statement shall be implemented in full as part of the proposed development.

**Reason:** In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of European sites.

3. The finished ground level of the proposed development shall be 19.465m OD, to details to be placed on file as part of the public record.

**Reason:** To reduce risk of flooding.

4. All works shall have regard to Inland Fisheries Ireland's published guidelines for construction works near waterways (Guidelines on Protection of Fisheries during Construction Works in and adjacent to Waters, 2016)

**Reason:** To protect water quality.

5. The perimeter of the site shall be planted with native indigenous trees and shrubs. Details of the species, variety, size, number and locations of all species and shrubs to be planted together with a timescale for implementation shall be incorporated into a landscaping plan which shall be placed on the file as part of the public record.

**Reason:** In the interests of protecting the visual amenities of the area and to enhance biodiversity.

- 6.. Artificial lighting on the site and at the entrance shall be restricted. Directional fixed lights only shall be used during operational hours. The lights shall be suitably cowled to prevent overspill outside the site. Lights with low/minimal ultra-violet spectrums shall be used.

**Reason:** In order to mitigate impacts on bats in the area.

7. The local authority and any agent acting on its behalf shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

**Reason:** In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European sites.

8. Prior to commencement of development, the local authority, or any agent acting on its behalf, shall prepare a Construction Method Statement which shall be placed on the file as part of the public record. The plan shall provide details of the intended construction practice for the development including;

- (a) Proposals to contain surface water discharges within the site;
- (b) Location of the site materials compound including areas identified for the storage of construction waste;
- (c) Location of area for construction site office and staff facilities;
- (d) Measures to prevent the spillage or deposit of material on the public road network;
- (e) Traffic management measures;
- (f) Details of appropriate mitigation measures for noise, dust, vibration and monitoring of such levels and
- (g) Details of how it is proposed to manage excavated materials

A record of daily checks that the works are being undertaken in accordance with the Method Statement shall be maintained on file as part of the public record.

**Reason:** In the interests of protecting the environment and the European sites.



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Breda Gannon  
Senior Planning Inspector  
17<sup>th</sup>, November 2021.