



**Environmental Management Services**  
*Comhairleoirí Comhshaoil*  
**Environmental and Planning Consultants**

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**Statement by Mr Jack O’Sullivan to the Joint Oireachtas  
Committee on Public Petitions, Thursday 09 December 2021**

**Public Petition Numbers P0009/21 “Unauthorised Development” and  
P0023/21 “Unauthorised Development on the River Shannon”**

**On behalf of Mr Michael Barrett, Petitioner, Lakeside Marina, County  
Westmeath**

**SUMMARY AND CONCLUSIONS**

**INTRODUCTION**

Chairman, Members,

Thank you for the opportunity to make this brief statement on behalf of Mr Michael Barrett, Petitioner, who has drawn the attention of the Committee to allegedly unauthorised developments at Killinure Lough, the inner part of Lough Ree, River Shannon.

My name is Jack O’Sullivan, and I am an experienced environmental scientist, practicing independently as a consultant since 1977, following some years as a science policy analyst with the former National Science Council. Much of my work is on the interface between planning and environment, and I have undertaken and evaluated Environmental Impact Assessment reports, Screening Reports for Appropriate Development, and Natura Impact Statements, under the Habitats Directive. In my work for clients, I have always stressed the need for strict compliance with planning and environmental legislation, both Irish and European.

**A. Development of a Marina at Portaneena, Killinure Lough,  
County Westmeath**

1. The construction of a marina at Portaneena, on the eastern margin of Killinure Lough, part of Lough Ree, River Shannon, was confirmed by Westmeath County Council and Waterways Ireland to be unauthorised development, as neither planning permission nor a foreshore lease had been granted;
2. The initial development of this marina, and its subsequent expansion, had taken place within and adjacent to the Lough Ree Special Area of Conservation (SAC) and Lough Ree Special Protection Area (SPA) for wildlife, both of which are conservation sites of European Community interest (Natura 2000 sites);

3. An Environmental Impact Assessment Report (EIAR), and a screening report for Appropriate Assessment should have been completed, and also a Natura Impact Statement, before the marina was constructed; no EIAR was prepared, and a screening report for Appropriate Assessment was prepared later;
4. It would have been possible for the marina owner and operator to apply to An Bord Pleanála for leave to make an application for what was then termed “*Substitute Consent*”, provided that the application was accompanied a “*remedial Environmental Impact Statement*” or a “*remedial Natura Impact Statement*” or both of those statements, if necessary;
5. Instead, the marina owner made an application to Westmeath County Council for retention of the marina; in response to which the Council had no option but to declare that the planning application was invalid;
6. Furthermore, Waterways Ireland stated that the encroachment of the marina into a navigable water under its control could not be regularised by issuing a lease unless and until the planning issue had been resolved;
7. Even if Westmeath County Council had the legal authority to consider a planning application, the applicant could not legally have sought planning permission, or permission for retention, for a development on land which he does not own, or in regard to which the owner (in the case Waterways Ireland) has not given permission for a planning application to be made;
8. In July 2020, the Supreme Court delivered a Judgment which had the effect of removing the legislation under which An Bord Pleanála was empowered to grant substitute consent under exceptional circumstances;
9. The same legislation was struck down for the additional reason that it failed to make provision for public participation at the leave application stage for substitute consent, and the Court found that this provision was inconsistent with the right to public participation in environmental decision-making conferred by the EIA Directive and the Aarhus Convention; and,
10. The fact that the applicant did not initially attempt to seek planning permission from Westmeath County Council, or to obtain a lease from Waterways Ireland, has had consequences which are now quite difficult to resolve satisfactorily and in compliance with Irish legislation and the relevant EU Directives.
11. The current situation is therefore:– the marina in question, if it were to be a proposed new development on a greenfield site, would require planning permission, the production of an Environmental Impact Assessment Report, a Natura Impact Statement, and a lease from Waterways Ireland.
12. But the marina has been in existence for a number of years, it has expanded in size, and none of the planning and environmental requirements have been met, nor is there any legislation allowing the marina to become authorised; and

Waterways Ireland cannot consider granting a lease until the planning issues have been resolved.

13. Two possible options for addressing the problem may be considered:
  - i) the unauthorised marina may be left in situ, giving a clear message that to undertake development without seeking the necessary consents may, in the long run, be a successful strategy; but such a solution weakens the planning legislation, and brings planning and development control into disrepute; or,
  - ii) the unauthorised marina, or those sections of it constructed post-2007, should be removed, with as little ecological disturbance as possible; and while this may be legally correct, the financial consequences for the marina operator would be severe, and the removal of some of the marina would be likely to cause ecological disturbance, with only minor ecological benefits.
14. Considering these options (and possibly others as well) is something which the Oireachtas Committee may wish to discuss, after hearing evidence from Waterways Ireland, Westmeath County Council and possibly other witnesses as well.

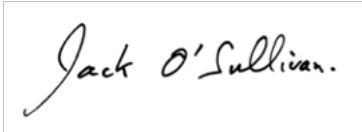
## **B. Possible Unauthorised Development at Glasson Golf and County Club**

15. Mr Michael Barrett drew my attention to another example of what appears to be a further partly unauthorised development, also on the shoreline of Killinure Lough, County Westmeath.
16. On 06 October 2021, Glasson Golf and Country Club Ltd applied to Westmeath County Council for retention permission & planning permission for extensive developments at Glasson Lakehouse Hotel, Killinure, County Westmeath.
17. One of the stated purposes of the proposed new development is to enable the hotel to make use of its location on the River Shannon for river-based leisure.
18. An Appropriate Assessment Screening Report and a Natura Impact Statement concluded that the proposed development would not adversely affect the integrity of any European site, either alone or in combination with other plans or projects.
19. Nevertheless, the Development Applications Unit (DAU) of the Department of Housing, Local Government and Heritage express serious concern about the proposed developments, and stated that adverse impacts on the nearby European sites could not be ruled out.

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20. Waterways Ireland expressed concern that the Glasson Golf and Country Club had “*carried out unauthorised development on lands*” at Killinure, and that some of this work “*has been undertaken on Waterways Ireland property without permission*”.
21. Waterways Ireland stated that it takes this matter very seriously and requests that all works should cease immediately and the property should be reinstated to its original state”.
22. At this stage it is not possible without further research to determine the extent of the alleged encroachment into Waterways Ireland property, and the extent and nature of the alleged unauthorised works. However, I consider that this is a potentially serious planning issue which should be subject to further investigation, and the advice of Waterways Ireland and Westmeath County Council should be obtained.



Jack O'Sullivan

07 December 2021