



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305960-19

#### Development

Construction, operation and decommissioning of one 10m high telecommunication mast, installation of underground ducting for power and communication cables to/from the electrical substation building for the wind turbine development. One number telecommunication antenna will be attached to the mast and a lighting conductor will also be attached to the mast for the operation of the grid connection for the wind turbine granted under planning reference 2011/420 and this development will be decommissioned with the wind turbine.

#### Location

Ros an Mhíl (Rossaveel) , Rossaveel Harbour, Co. Galway.

#### Planning Authority

Galway County Council

#### Planning Authority Reg. Ref.

191378

#### Applicant(s)

Cumhacht an Tigh Sholais Teoranta.

<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission subject to conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Máura Uí Mhuirín, Páirc Thiar, An Spidéal.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	31 <sup>st</sup> January 2020.
<b>Inspector</b>	Brid Maxwell

## **1.0 Site Location and Description**

- 1.1. The appeal site is within the Connemara Gaeltacht circa 38km to the west of Galway City. The appeal site is located adjacent to the coastline south of Rossaveel Water Treatment plant compound to the south of Rossaveel Harbour. The site has a stated area of 260.15sq.m and comprises a recently constructed 10KV substation provided in conjunction with a recently constructed wind turbine development. The wind turbine, transformer and substation are provided on an area of hardstanding and within a fenced compound.

## **2.0 Proposed Development**

- 2.1. The proposed development involves the construction, operation and decommissioning of one 10m high telecommunication mast, including a small concrete foundation and the installation of underground ducting for power and communication cables to/from the electrical substation building for the wind turbine development. A telecommunication antenna and lighting conductor will be attached to the mast.
- 2.2. Cover letter submitted with the application notes that due to the need for an ongoing data stream for the newly constructed ESNB substation building ESB Networks have requested the installation of a telecommunications antennae at a height of 10m from ground level adjacent to the substation building and it is intended that the antenna will be decommissioned with the wind turbine.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1 By order dated 25<sup>th</sup> October 2019 Galway County Council issued notification of its decision to grant permission and 8 conditions were attached including Condition 2 requiring decommissioning and removal of structures from the site if they become obsolete.

Condition 3 Applicant or any subsequent owners or operators of the installation shall inform Galway County Council of impending transfer of installation to another owner operator to facilitate the continuance of planning conditions.

Condition 4. No material change of use without prior grant of planning permission. Development described in Class 31 of Part 1 of Schedule 2 of the Planning and Development Regulations shall not be carried out within the site without a prior grant of planning permission.

Condition 7. Applicant shall provide and make available on reasonable terms other licensed mobile operators to co-locate.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Area Planner's report recommends permission subject to 9 conditions. The report is countersigned by Senior Executive Planner who recommends omission of draft condition 8 regarding payment of development contribution on basis that this type of development is no longer in the scheme.

#### **3.2.2. Other Technical Reports**

None

### **3.3. Prescribed Bodies**

No submissions

### **3.4. Third Party Observations**

#### **3.4.1 Submission from Máire Uí Mhuirín, Páirc Thiar, An Spidéal, Wild Irish Defence CLG. objects to the proposed development for the following reasons:**

- Galway County Council does not have jurisdiction within Rossaveel Fishery Harbour Centre as defined in SI 208 of 1981. Minister for Fisheries and Forestry has legal jurisdiction to consider planning consent.
- Application does not meet the requirements of the Aarhus Convention.

- Application submitted in English despite location within Gaeltacht.
- No consultation with Environmental NGOs or public body with responsibility for environmental issues.
- Five week consultation period was determined from 4/10/2019 to 8/9/2019 yet documents received by the Planning authority on 30/9/2019 were only made available on line on 30/9/2019 thereby limiting opportunity for third party engagement
- Insufficient information provided to enable determination that all licenses and regulations are satisfied reflecting precautionary principle.
- Project splitting. Proposal an integral part of permission 11/420. Hinders assessment of cumulative effects.
- Application details inaccurate. Failure to answer question 14 regarding use of the site. Failure to identify two listed monuments within 1km of the site Martello Tower (GA 090 018 and The Children's Burial Ground (GA090 017001)
- Insufficient details regarding hydrological issues, pollution risk, baseline conditions and methods of construction and excavation.

#### 4.0 Planning History

**16/311** Extension of duration Permission granted to 05/05/2021. Lir Environmental Research A thao; a fhail turbin gaoithe amhain, bealach suimh agus ceantar seasaimh chrua, crann aineimimeadair, foirgneamh beag rialuchain, comharthaiocht an tsuimh, oibreacha sealadacha ar an suiomh agus oibreach coimhdeacha a thogail, previous planning reference no. 11/420(gross floor space 275sqm)

Extension of duration application 11/420 (Construction of one wind turbine, site track and hard standing area, an anemometry mast, a small control building, site signage, temporary site works and all ancillary works.)

11/420 a fhail turbin gaoithe amhain, bealach suimh agus ceantar seasaimh chrua, crann aineimimeadair, foirgneamh beag rialuchain, comharthaiocht an tsuimh, oibreacha sealadacha ar an suiomh agus oibreach coimhdeacha a thogail (gross floor space 275sqm) (Construction of one wind turbine, site track and hard standing

area, an anemometry mast, a small control building, site signage, temporary site works and all ancillary works.)

## 5.0 Policy Context

### 5.1 Development Plan

5.1.1 The Galway County Development Plan 2015-2021 refers.

Objective ER 4 – Renewable Energy. Support and facilitate the sustainable development and use of appropriate renewable energy resources and associated infrastructure within the county including wind energy.

Wind Energy Strategy forms part of the plan. The strategy supports a plan led approach to wind energy development. An aim of the strategy is to meet a minimum target of 500 MW of wind energy in County Galway and to generate the equivalent of over 70% of its electricity needs from wind energy.

#### **Policy ICT 1 – Information and Communications Technology Infrastructure**

It is a policy of the Council to achieve a balance between facilitating the provision of telecommunications infrastructure, in the interests of social and economic progress and sustaining residential amenity and the protection of the built and natural environment.

#### **Policy ICT 2 – Installation of Information and Communications Technology Infrastructure in High Amenity Areas**

It is a policy of the Council that where feasible proposed developments pertaining to the installation of potentially obtrusive information and communications technology infrastructure shall be located in landscape categories 1-3. Where they must be located on sensitive landscapes (those being a Class 4 (Special) or 5 (Unique) landscape category areas or in proximity to a National Monument, Protected Structure/Architectural Conservation Areas or within a focal point/view) they shall be accompanied by visual impact assessments as part of the planning application process.

## **Objective ICT 2 – Assimilation of Telecommunications Infrastructure into the Landscape**

Seek to locate telecommunication masts in non scenic amenity areas, having regard to the Landscape Sensitivity Rating Assessment of the County. In instances where their location is essential in a Class 4 (Special) or 5 (Unique) landscape category areas or in proximity to a National Monument, Protected Structure/Architectural Conservation Area or within a focal point/view, it shall be necessary to minimise their obtrusiveness in as far as is practically possible.

## **Objective ICT 3 – Co-Location of Telecommunications Infrastructure**

Avoid a proliferation of communications masts and antennae in the open countryside and facilitate the potential for future mast sharing and co-location.

## **5.2 Natural Heritage Designations**

5.2.1 The site is not within or directly adjacent to any Natura 2000 sites. Designated sites within 15km include

- Connemara Bog Complex SAC c2km.
- Connemara Bog Complex SPA 8km
- Kilkieran Bay and Islands SAC 3.5
- Inishmore Island cSAC 13km
- Slyne Head to Ardmore Point Islands SPA 14km

## **5.3 EIA Screening**

5.3.1 Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination.

## **6 The Appeal**

### **6.1 Grounds of Appeal**

6.1.1 The appeal is submitted by Máire Uí Mhuirín, Páirc Thiar, An Spidéal. Wild Irish Defence CLG. Grounds of appeal are summarised as follows:

- Permission is ultra vires as Rossaveel Fishery Harbour Centre is outside the functional area of Galway County Council by order of SI No 208 of 1981.
- Planning Authority do not appear to have taken due consideration to the written observations submitted in relation to the application.
- Application does not meet the requirements of the Aarhus Convention.
- Application submitted in English despite location within Gaeltacht.
- No consultation with Environmental NGOs or public body with responsibility for environmental issues.
- Five week consultation period was determined from 4.10.2019 to 8/9/2019 yet documents received by the Planning Authority on 30/9/2019 were only made available on line on 30/9/2019 thereby limiting opportunity for third party engagement.
- Insufficient information to determine all licenses and regulations are satisfied in line with the precautionary principle.
- Project splitting. Proposal is an integral part of the windfarm development 11/420. Piecemeal applications prevents consideration of cumulative effects.
- Application and project details inadequate in relation to baseline environment, hydrological issues, pollution risk and methods of construction and excavation.
- Proposed development would contravene condition 1 of 11/420
- Failure to screen for EIA
- No information on levels of radiation from the mast.
- Appropriate Assessment inadequate.



- No assessment having regard to EU legislation and guidance regarding EU Water Framework Directive, River Basin Management Plans and Urban Wastewater Directive and EU Habitats Directive.
- Application and Condition 8(I) does not clearly demonstrate that the development would not have an unacceptable impact on the water environment contrary to Objective WS-9 of the Galway County Development Plan 2019-2015

## **6.2 Planning Authority Response**

6.2.1 The Planning Authority did not respond to the appeal.

## **6.3 Observations / Prescribed Bodies.**

6.3.1 The Board referred the case to the following prescribed bodies

- Development Applications Unit Department of Culture Heritage and the Gaeltacht,
- The Heritage Council
- An Taisce

No responses were received.

## **7 Assessment**

7.1 Having reviewed the grounds of appeal I consider that it is appropriate to address the appeal under the following broad headings.

- Legal and Procedural issues
- Principle of development. Environmental Impact and impact on the amenities of the area.
- Appropriate Assessment

### **7.2 Legal and Procedural issues**

- 7.2.1 On the question of jurisdiction, the third-party appellant claims that Galway County Council does not have jurisdiction in respect of the application and refers to SI 208 of 1981. I note that this order is referred to as The Fishery Harbour Centre (Rossaveel) Order 1981. (copy appended). The order declares and defines the area of Rossaveel Fishery Harbour Centre and transfers to the Minister for Fisheries and Forestry from 3rd June 1981, all the property, rights and liabilities of the Council of the County of Galway within the defined area. It also provides that the Council of the County of Galway in its capacity as managing authority for Rossaveel Harbour, shall cease to exercise or carry out any powers, functions or duties in relation to Rossaveel Fishery Harbour Centre. I note that the order does not affect the Council's role as competent authority in terms of planning.
- 7.2.2 As regards matters raised within the appeal in respect of the procedures adopted by the Planning Authority regarding referrals to prescribed bodies and the availability of documents to public view on line, such matters of beyond the remit of the Board in terms of assessment of the appeal and any review of such administrative decisions are the preserve of the Courts.
- 7.2.3 On the matter of public consultation and particularly the submission of the application and provision of public notices solely in English, I consider that having regard to the

location of the site within the Gaeltacht it is appropriate that public notices should also have been provided *as gaeilge* and in this regard I consider that the Board could request new bilingual public notices. The decision should also issue bilingually.

7.2.4 As regards allegations of project splitting, I note that as outlined by the first party the need for the mast was not envisaged when the initial application for the wind turbine was made in 2011. I consider that given the nature of the proposal and having regard to advances in technology it is not unreasonable that such amendments or additions to any proposed development project might arise. In this regard I consider that it is reasonable to consider the proposal having regard to the context of the previously permitted development and the advance of the proposed development in this way does not in my view deplete the effectiveness of the proper impact assessment of the cumulative effects on the environment.

### **7.3 Principle of Development. Environmental Impact and impact on the amenities of the area**

7.3.1 On the question of the principle of development of a mast at this location the applicant has set out that it is required in connection with the existing windfarm. In terms of policy both National and local policy promote renewable energy and best quality telecommunications. Thus, the proposal is supported in principle by national and local policies and strategies in relation to renewable energy and telecommunications infrastructure.

7.3.2 As regards the impact of the development, the proposal involves the construction, operation and decommissioning of a 10m high telecommunications mast including provision of concrete foundation and installation of underground ducting for power and communications to/from the electrical substation building. Having regard to the established character of the site and location adjacent to the electrical substation building and in close proximity to the wind turbine, the visual impact of the proposal is in keeping with the established character and is not significant. As regards landscape sensitivity rating the site is located within a less sensitive landscape category 3. Disturbance caused by works will be for an extremely limited duration

and are not significant in the context of the established pattern of development at this location. The question of Environmental Impact Screening has been addressed at 5.3 above.

7.3.3 As regards surface water the appellant contends that the proposal is contrary to Objective WS 9 of the development plan which states the development will only be permitted where it can be clearly demonstrated that the proposal would not have an unacceptable impact on the water environment, including surface waters, groundwater quality and quantity, river corridors and associated wetlands, estuarine waters and coastal waters. Reference is also made to the EU Water Framework Directive, River Basin Management Plans and Urban Wastewater Directive. The proposal does not involve any water connection nor give rise to urban wastewater. Condition 8 requires that surface water run-off is disposed within the site which is consistent with sustainable urban drainage systems in accordance with the principles of sustainable development. I consider that the disposal of rainwater and surface water on site is in accordance with best practice methods.

7.3.4 As regards the matter of non-ionising radiation I note that as set out in Circular Letter PL07/12 issued by Department of Environment Community and Local Government in October 2012, planning authorities should be primarily concerned with the appropriate location and design of telecommunication structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. These are regulated by other codes and should not be additionally regulated by the Planning Authority. The Guidelines provide that an installation is considered safe where it complies with the appropriate international standard ICNIRP Guidelines. ComReg has the primary responsibility for the monitoring and enforcement of health and safety issues.

## **7.4 Appropriate Assessment**

7.4.1 The site is not located within or directly adjacent to any Natura 2000 sites. The site is within approximately 2km of the Connemara Bog Complex SAC (Site Code 00204) and 3.5km east of Kilkieran Bay and Islands SAC (Site code 002111). Having regard to the nature and scale of the proposed development, pathways would be restricted to hydrological pathway. Having regard to the separation distance between works

and the Natura 2000 designated sites, I am satisfied that significant effects on the Connemara Bog Complex SAC and Kilkieran Bay and Islands SCA can be screened out.

- 7.4.2 I consider it is reasonable to conclude, 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, the Connemara Bog Complex SAC (Site code 00204) and the Kilkieran Bay and Islands SAC (site code 002111) or any other site and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **8 Recommendation**

- 8.1 I recommend that permission be granted for the proposed development having regard to the reasons and considerations and subject to the conditions as set out below.

## **9 Reasons and Considerations**

Having regard to the nature and scale of the proposed development, the planning history on the site and pattern of development in the vicinity and policies of the Galway County Development Plan 2015-2021, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or other amenities of the area and is 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 may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in

writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

3. When the telecommunications structure and ancillary structures are no longer required, they shall be removed and the site shall be reinstated at the operator's expense in accordance with a scheme to be agreed in writing with the planning authority as soon as practicable

Reason: In the interest of protecting the landscape.

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Bríd Maxwell  
Planning Inspector  
26 February 2020