



Planning and Development Acts 2000 to 2018

Planning Authority: Clare County Council

Planning Register Reference Number: P18/64

APPEAL by Michael Harty care of McCarthy Keville O'Sullivan Limited of Block 1, G.F.S.C., Moneenageisha Road, Galway against the decision made on the 30th day of May, 2018 by Clare County Council to refuse permission to the said Michael Harty.

Proposed Development Retention of a Sea Defence Wall and associated site works at Newquay, County Clare.

Decision

REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

The Board noted the appropriate assessment screening report submitted by the applicant, and the submission on this file from the Department of Culture, Heritage and the Gaeltacht, received by the planning authority on the 9th day of March, 2018. The Board also had regard to the Natura impact statement submitted by the applicant under An Bord Pleanála file reference number 03.LS0020, which was based on surveys of the site carried out by the agents of the applicant on the 4th day of February, 2015. The Board notes that the appropriate assessment screening report submitted with the current application was based on the same site surveys of 2015 but reaches a different conclusion.

The Board, as the competent authority under the Habitats Directive in relation to the subject development, had previously determined in its decision, under An Bord Pleanála file reference number 03.LS0020, dated 5th day of January, 2016, that an appropriate assessment is required in relation to the development in question. In assessing the current application, the Board has reviewed the documentation referred to above, and has considered the appropriate assessment report prepared by the Senior Planning Inspector. In carrying out screening for appropriate assessment, the Board concurs with the Inspector's view that the appropriate assessment screening report submitted as part of the current application has failed to properly evaluate the development's impact on coastal processes and agrees with his conclusion that there is a reasonable scientific doubt in relation to the potential impacts which may have occurred or could occur on the qualifying interests and conservation objectives associated with the Inner Galway Bay Complex Special Area of Conservation (Site Code 000268), as a result of the subject development. The Board, therefore, remains satisfied that appropriate assessment is required in relation to the subject development.

Accordingly, the present application, which is for, and is expressed to be for, retention of the subject development, comes within the scope of Section 34(12) of the Planning and Development Act 2000, as amended. Therefore, the Board is precluded by law from considering the present application and hereby refuses to further consider the application, in accordance with the provisions of Section 34(12).

Paul Hyde

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this day of 2019.