



An  
Bord  
Pleanála

Board Order  
ABP-307823-20

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## Planning and Development Acts 2000 to 2022

**Planning Authority: Galway County Council**

**Application for Substitute Consent** by Olive Faherty care of MKO of Tuam Road, Galway in accordance with section 177E of the Planning and Development Act, 2000, as amended by the insertion on section 57 of the Planning and Development (Amendment) Act, 2010, as amended.

**Location:** House at An Formna, Inis Oírr, Aran Islands, County Galway.

## Decision

The Board, in accordance with section 177K of the Planning and Development Act, 2000, as amended, and based on the Reasons and Considerations set out below, decided to **GRANT** substitute consent in accordance with the following conditions.

## Reasons and Considerations

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

- (a) Council Directive 92/43/EEC, as amended, on the Conservation of Natural Habitats and of Wild Fauna and Flora,
- (b) the European Union (Birds and Natural Habitats) Regulations 2011, as amended,
- (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 Inisheer Island Special Area of Conservation (Site Code: 001275),
- (e) the policies and objectives of the Galway County Development Plan 2022-2028,
- (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 remedial Natura Impact Statement,
- (h) the submissions and observations received in relation to the proposed development, and

- (i) the report and recommendation of the Inspector.

### **Appropriate Assessment Screening**

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Inisheer Island Special Area of Conservation (Site Code: 001275), is the only European Site in respect of which the proposed development has the potential to have a significant effect.

### **Appropriate Assessment**

The Board considered the remedial Natura Impact Statement and associated documentation submitted with the application for approval, 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 Site, namely the Inisheer Island Special Area of Conservation (Site Code: 001275), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. 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 absence of any requirement for mitigation measures as part of the current proposal, and

(iii) the conservation objectives for the European Site.

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 subject development on the integrity of the aforementioned European Site, having regard to the site's conservation objectives.

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

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

It is considered that in terms of Environmental Impact Assessment, having regard to the scale and nature of the development, the likelihood of significant effects on the environment can be excluded for the purposes of EIA.

It is considered that, subject to compliance with the conditions set out below, the subject 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, would not adversely impact on the cultural, archaeological and built heritage of the area and would not interfere with the existing land uses in the area. The subject development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The development shall be in accordance with the plans and particulars lodged with the application for substitute consent, except as may otherwise be required in order to comply with the following conditions.

**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. (a) The development shall be served by the existing effluent treatment and disposal system installed on site, and shall be operated and maintained in accordance with the details received by the planning authority on the 22<sup>nd</sup> day of August 2017, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.  $\leq 10$ )" – Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) A maintenance contract for the treatment systems shall be kept in place at all times. The maintenance contract shall be signed by a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system is working in a satisfactory manner in accordance with the standards set out in the EPA document.

**Reason:** In the interest of public health.

3. The site shall be landscaped, using only indigenous deciduous trees and hedging species suited to this maritime and exposed site. This scheme shall include the establishment of an appropriate hedgerow and/or vernacular stone wall along all side and rear boundaries of the site.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the date of this Order, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

4. Drainage arrangements including the attenuation and 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 and surface water management.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid with three months of the date of this Order or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in

default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

*Eamonn James Kelly*

**Eamonn James Kelly**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

Dated this *24<sup>th</sup>* day of *April*, 2024.