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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Clare County Council**

**Planning Register Reference Number: P22/647**

**Appeal** by James and Pauline McHugh care of RW Nowlan and Associates of Basement Office, 54 Fitzwilliam Square North, Dublin against the decision made on the 5<sup>th</sup> day of September, 2023 by Clare County Council to grant subject to conditions a permission to Ballyvaughan Fanore Walking Club care of Senan Killeen of Baunkyle, Corofin, County Clare in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** (a) Construct new single storey Clubhouse and Community recreation facility, (b) construct new vehicular and pedestrian site entrance and access road, (c) install new wastewater treatment system, (d) minor modifications of public road and all ancillary works at New Pier Road, Ballyvaughan, County Clare. Further public notices were received by the planning authority on the 17<sup>th</sup> day of July, 2023.

**Decision**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## Reasons and Considerations

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 Climate Action Plan 2023 and 2024 (Government of Ireland),
- (d) 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,
- (e) the conservation objectives, qualifying interests and special conservation interests for the Galway Bay Complex Special Area of Conservation (Site Code 000268), the Ballyvaughan Turlough Special Area of Conservation (Site Code 000996), the Black Head-Poulsallagh Complex Special Area of Conservation (Site Code 000020), the Inner Galway Bay Special Protection Area (Site Code 004031) and the Moneen Mountain Special Area of Conservation (Site Code 000054),
- (f) the policies and objectives of the Clare County Development Plan 2023-2029,
- (g) the nature and extent of the proposed works as set out in the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 14<sup>th</sup> day of June 2023,
- (h) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (i) the submissions and observations received in relation to the proposed development, and
- (j) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.



## **Appropriate Assessment: Stage 1**

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Inner Galway Bay Special Protection Area (Site Code 004031) and the Moneen Mountain Special Area of Conservation (Site Code 000054) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

## **Appropriate Assessment: Stage 2**

The Board considered the 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 relevant European Sites, namely the Inner Galway Bay Special Protection Area (Site Code 004031) and the Moneen Mountain Special Area of Conservation (Site Code 000054), in view of the sites' 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 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.

### **Conclusion on Proper Planning and Sustainable Development**

It is considered that 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 or significantly affect biodiversity in the area, would not be detrimental to the visual or landscape amenities of the area, would not result in adverse traffic impact, would not adversely impact on the archaeological heritage of the area, would not interfere with the existing land uses in the area, and would not seriously injure the residential amenities of existing or permitted properties in the area in terms of overlooking or in terms of noise and general disturbance. Having regard to the land use zoning objective pertaining to the site, which considers community facilities and recreational sports clubs open to consideration under the Clare County Development Plan 2023-2029, and to the design and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with Objectives CDP10.7, CDP10.9, CDP14.5, CDP14.7 of the Development Plan, and, therefore, would be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. (a) The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 14<sup>th</sup> day of June 2023, 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.  
(b) The finished floor level of the building shall be '+7.20' as outlined on the submitted 'Proposed Site Plan' (drawing number PP02).

**Reason:** In the interest of clarity.

2. The clubhouse and recreational facility shall only be used between 0700 and 2200 hours on Mondays to Sundays. The clubhouse facility shall not be used for commercial purposes.

**Reason:** In the interests of existing and future residential amenity.

3. (a) The mitigation measures contained in Section 4 of the Natura Impact Statement submitted with the application on the 14<sup>th</sup> day of June, 2023 and the measures within a final Construction Environmental Management Plan, to be agreed in writing with the planning authority, shall be implemented in full.  
(b) Details of all lighting, including any motion sensor lighting, shall be submitted to the planning authority for written agreement, prior to commencement of the development.



- (c) All construction works shall take place outside the breeding season for grey heron (February to July).

**Reason:** To protect biodiversity and to protect the integrity of the European Sites.

4. The construction of the development shall be managed in accordance with a final Construction Environmental Management Plan (CEMP), which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed Construction Environmental Management Plan shall incorporate the mitigation measures set out in Section 4 of the Natura Impact Statement and the requirements of condition numbers 3 and 12 of this permission.

**Reason:** In the interests of residential amenity, protection of archaeological assets and protection of biodiversity.

5. All trees and hedgerows on the boundaries of the site shall be retained and maintained, except for what is required to be removed to accommodate the proposed entrance at the public road.

**Reason:** In the interests of visual amenity and biodiversity.

6. Water supply and drainage arrangements for the site, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. No surface water shall discharge to the public road or to adjoining properties.

**Reason:** To ensure a proper standard of development.

7. The developer shall enter into water connection agreements with Uisce Éireann, prior to commencement of development.

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

8. The proposed entrance and internal road network serving the proposed development, parking areas, footpaths and kerbs shall be in accordance with the detailed standards of the planning authority for such works. No parking of vehicles shall take place on the public road or at the pier.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

9. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of Environmental Protection Agency Code of Practice 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) Within three months of the operation of the development, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the system and polishing filter have been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the Environmental Protection Agency document.

**Reason:** In the interests of orderly development and public health.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of visual amenity.

11. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

12. (a) The developer is reminded that Ministerial Consent under Section 14 of the National Monuments Act 1930, as amended will be required and is additional to the grant of permission. The developer shall be required to consult with the National Monuments Service of the Department in this regard and make an appropriate application for such consent.
- (b) The developer shall retain/engage a suitably qualified Archaeologist to monitor (consented under Section 14 of the National Monuments Acts) all site investigations, site clearance works, topsoil stripping and other groundworks associated with the development. The use of appropriate machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. No ground disturbance shall take place in the absence of the Archaeologist without his/her express consent.



- (c) The Archaeologist shall advise on and supervise the installation of an appropriate buffer zone along the entirety of the western side of the proposed development site (PDS). No development or construction related activities, including but not limited to, movement and/or storage of plant, machinery, vehicles, equipment, spoils, fuels and sundries shall be permitted within this buffer zone. Note, the buffer zone may extend beyond the proposed six metres limit indicated on the Revised Proposed Site Plan (drawing number RFI 01) where considered appropriate by the Archaeologist.
- (d) Archaeological monitoring shall be informed and supplemented by licensed metal detection survey.
- (e) Should archaeological remains be identified during the course of archaeological monitoring, all works shall be suspended in the area of archaeological interest pending a decision of the planning authority, in consultation with the Department, regarding appropriate mitigation (preservation in situ/excavation).
- (f) The developer shall facilitate the Archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the Department, shall be complied with by the developer.
- (g) The planning authority and the Department shall be furnished with a final archaeological report describing the results of any archaeological investigative work/excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.

- (h) The Construction Environmental Management Plan (CEMP) shall be updated to include the locations of any and all archaeological or cultural heritage constraints relevant to the proposed development (as set out the Final Archaeological Assessment Report (TVAS Ireland Ltd., June 2023) and as may be identified during archaeological monitoring. The Construction Environmental Management Plan shall clearly describe all identified likely archaeological impacts, both direct and indirect, and all mitigation measures to be employed to protect the archaeological or cultural heritage environment during all phases of site preparation and construction activity.
- (i) All construction personnel shall be apprised of the locations and sensitivities within the proposed development site associated with Recorded Monument CL002-053. This should be done through appropriate dissemination of the Construction Environmental Management Plan and on-site tool-box talks.

**Reason:** To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.



**Martina Hennessy**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**



Dated this 10<sup>th</sup> day of July 2024.