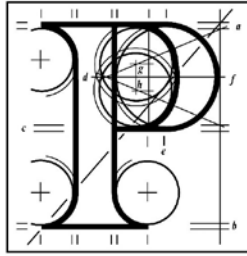


An Bord Pleanála



Inspector's Report

Development: The retention of security gates and safety railings associated with the commercial dock at Dock Road and Dock Street, Galway. The commercial dock and quay walls are a protected structure (RPS ref. 8501). The development includes proposed design modifications of the safety railings at Dock Road and Dock Street.

Application

Planning authority: Galway City Council
Planning application reg. no. 15/2
Applicant: Galway Harbour Co. Ltd.
Type of application: Retention permission
Planning authority's decision: Grant, subject to 5 conditions

Appeal

Appellant: An Taisce
Type of appeal: Third party -v- Decision
Observers: None
Date of site inspection: 29th April 2016
Inspector: Hugh D. Morrison

Site

The site is located within Galway Harbour and it comprises the footprint of security gates and railings on Dock Road and Dock Street. This site extends over an area of 0.02256 hectares.

- The former Road runs on a north east/south west axis and it abuts the north western quayside to the Harbour. The quayside is a working area that is gated at either end. On the opposite side of this Road from the quayside, there is a row of predominantly new multi-storey buildings that are in retail, commercial and residential use.
- The latter Street runs on a north west/south east axis and it abuts the south western quayside to the Harbour, i.e. Breathnacht Quay. The quayside abuts a portion of the Harbour within which a marina has been constructed. The quayside itself is laid out to provide a walkway beyond which is a continuous row of car parking spaces that are perpendicular to the adjoining two lane carriageway. On the opposite side of this Street from the quayside, there is a row of new multi-storey buildings that are in commercial and residential use, including student accommodation in Aengus House.

Dock Street returns to a pier that is centrally sited within the Harbour. A scrap metal handling facility is located on this pier. The entrance to this facility is denoted by security gates. The entrance ramp and caged gate to the marina abuts this entrance on its north western side.

Proposal

The proposal is to retain the railings on Dock Road and Dock Street.

- The railings on Dock Road are mounted on a raised kerb lined strip that runs down the middle of the Road and separates the working area of the quayside from the two lane carriageway beyond. These railings are of sectional form and each section is 1m high and 2m wide. They are composed of steelwork that is primed, acid etched and painted black. Under this proposal they would be retained insitu and modified by the addition of a mild steel wave motif to the lower half of the aforementioned sections.
- The railings on Dock Street are attached to the quayside in a position immediately to the rear of a series of low level horizontal rails that are painted yellow and which would traditionally have been used for tying up boats. These railings are of sectional form and each section is 1m high and 2m wide. They are composed of steelwork. Under this proposal they would be retained insitu and primed, acid etched and painted black. They would also be modified by the addition of both a mild steel wave motif to the lower

half of the aforementioned sections and the installation of a curved hardwood varnished handrail along the top of these sections. At 30m intervals a raised aluminium box would be inserted in place of the said handrail for the purpose of providing a story board about the history of Galway Harbour.

The proposal is also to retain the security gate on the return to Dock Street and the associated railings. This gate is a sliding one that is 1.79m high and 4.85m wide. It is housed with palisade fencing and a further section of such fencing is sited on the far side of the entrance from this housing. This fencing also accompanies the ramp to the marina entrance beside the quay. The gate and fencing are all painted black.

Following receipt of further information, the applicant undertook to remove the 2.1m high palisade fence that accompanies the aforementioned ramp and to replace it with a low-impact metal mesh fence that would be 2.10m high.

Planning authority's decision

Following receipt of further information, permission was granted subject to 5 conditions, which include the following two:

3. *The railings hereby approved for retention shall be removed within 5 years of the final grant of this permission, unless a subsequent application for their retention is granted.*

Reason: The retention of these railings is considered to be acceptable for a temporary period, pending the redevelopment of the outer and inner harbour areas, while allowing for the continued usage of the working dock in the heart of Galway City and given the need for adequate security.

5. *Within three months of the final grant of this permission, the following shall be submitted for the agreement of the planning authority:*

(a) Revised drawings showing the omission of the proposed "Wild Atlantic Way" motif on the railings.

(b) A work programme indicating an expeditious time-scale for the replacement of the railings around the entrance to the marina element.

(c) A work programme indicating an expeditious time-scale for the painting of the existing railings as per drawings. This shall provide for the existing railings to be primed, acid etched and painted black.

(d) Details of the materials and information to be contained in the information boards to be erected on the railings.

Reason: In order that the existing railings can be rendered more acceptable in the context of the historic quays and in the interest of the visual amenities of the area.

Technical reports

- Drainage: No objection.
- Planning and Transportation: No objection, subject to a condition.
- Heritage Officer: Objects on the grounds of visual amenity and the failure to reflect the 19th century character of the docks. A mix of low stone walling and a series of cast iron railings to a simple 19th century pattern would be appropriate. Too many gates and railings are restricting public access and some of these have been insitu as unauthorised development for several years.

Grounds of appeal

The appellant begins by reviewing the history of Galway Docks, including the planning history, and the policy of the current and draft replacement CDPs towards these Docks. Both of these Plans refer to the objective of permeability and the question is posed as to how the current proposal would achieve this objective.

The appellant proceeds to cite the following grounds of appeal:

- Recent mixed use development and plans for further development in the Dock Street area are acknowledged. New fencing and the installation of security gates at two key locations within this area reduce permeability and the attractiveness of the area for further development.
- The appellant raised no objection to the raised kerb and Armco safety fencing that was installed along Dock Road so as to separate the public road from the working quayside. Critically, this low level fencing did not obstruct views of Galway Docks. However, objection is raised to the replacement of this fencing by the utilitarian fencing that is now insitu. The Armco fencing should thus be reinstalled.
- The appellant objects not to the principal of fencing on Dock Street but to the poor architectural quality of the fencing thus erected. Alternatives could comprise suspended chains between cast iron posts, wire between stainless steel posts, or toughened glass barriers.
- Objection is raised to the ugly, oversized, cage and gate to the marina.
- Objection is raised to the recent erection of a pair of “industrial looking” security gates to the entrance to the marina. (Similar gates have also been

erected on Lough Atalia Road to the east of Galway Docks). These gates debar the public from exercising their lawful “right of access” via the timber walkway, which crosses the lock gate at the entrance to the harbour. The said two pairs of gates appear to have been erected without the necessary extinguishment of the public rights of way which they block.

- The appellant acknowledges the safety issues posed by storage of metal waste on the central pier. However, the use of temporary fencing to secure this pier when it is being worked is considered feasible.
- The appellant notes that Galway Port is of “regional” importance only and so the applicant’s security concerns are considered to be overdrawn.
- The appellant questions the applicant’s claim that the “importance of the railings to the safety of the general public cannot be overstated”. In this respect, attention is drawn to the period 2004 – 2012, during which there were 23 recorded incidents of recovery and rescue and yet the railings were insitu for the majority of this period. These incidents are not disaggregated or analysed and yet it appears that many occurred within the marina itself and so the presence of the railings had no bearing on their occurrence.
- The draft 5 year permission is justified on the basis that railings are a temporary measure pending a decision on the design of flood defences for the area. While this decision is awaited, the appellant contends, to the contrary, that the railings and accompanying security gates are premature.

Without prejudice to the above case, if the Board is minded to grant permission, then this should be done subject to conditions that require a much higher standard of architectural design input.

Responses

The planning authority has not responded to the above grounds of appeal.

The applicant has responded. They make the following points:

Status of harbour

- Galway harbour is a fully operational and functioning harbour of “regional significance”. Activity at this harbour has grown over the years and it represents a significant industrial undertaking, wherein the health and safety of the workforce and the public is an important consideration.

Permeability of harbour

- Section 9.2.2 of the CDP is cited along with a reference to the redevelopment that would arise should the docks be relocated in accordance with the

current SID application that is before the Board. Such redevelopment would provide “a welcome challenge to re-establish links with the sea and open up new opportunities for a range of uses including water-related leisure uses.” The proposed retention of railings and gates, on a temporary basis, would not adversely impact upon future redevelopment proposals.

- The Harbour Master reports that the Armco barrier that was previously insitu along Dock Road was unsatisfactory as members of the public were able simply to step over it. He also draws attention to the changes that have occurred over recent years whereby the harbour area has opened up to residential development and so, instead of being a solely working environment, it is now a mixed use one wherein the need to address public safety is of a wholly different order.

Effects on character of the area

- The railings on Dock Street would be augmented by informative story boards that would contribute positively to character of the area.
- The railings are not premature with respect to any flood defence measures, as these are still some way off being undertaken. They are, in any event, only 1m high and inherently visually permeable and so they are an appropriate accompaniment to other street furniture in the vicinity.

Temporary nature of railings

- The applicant raises no objection to the planning authority’s temporary permission as the need for security would subside with the envisaged relocation of the working port further to the east.

Inaccuracies in the appeal

- Reference to the transfer of Galway Harbour Co. Ltd. to Galway City Council under the Harbours Act 2015 is premature as such transfer has been postponed for 18 months to allow time for SID application to be determined.
- The railings were erected in 2009 in conjunction with the Volvo Ocean Race. Since then the number of fatal incidents in the harbour has reduced to two, thus demonstrating the importance of these railings.

Safety

- The applicant welcomes visitors to the harbour area, as is evident from the two Volvo Ocean Races that have to date been hosted there. Nevertheless, the need to attend to public safety is paramount. In this respect, the applicant’s insurers advise as to the necessity of the railings and the

applicant's own assessment that the area around the marina is a high risk one prompts the retention of the same. This assessment drew attention to the risk posed by the introduction of pontoons, which as solid objects pose a greater risk of injury to anyone falling into the harbour than the water itself.

- Attention is drawn to the railings that separate Dock Road from the quayside and which effectively restrict public access to either end of this quayside, where signal controlled pedestrian crossings are available.
- Attention is also drawn to the prevalence of visitors to Dock Street, many of whom are not used to being in harbour areas, and so the need to adopt a precautionary approach to public safety is pronounced. Testimony to this effect is provided by Irish Water Safety, Galway Fire Service, and the Health and Safety Authority.

Security

- The applicant strongly disagrees with the appellant's critique of their security concerns. In this respect, attention is drawn to international, European, and Irish requirements and the fact that Galway harbour is only just compliant with these. This would however cease to be the case in the event that the railings and the gates, which are the subject of the current application, have to be removed. Testimony to this effect is provided by the Department of Transport, Tourism, and Sport, the applicant's own consultants, and P & O Maritime (Ireland) Ltd.

Planning history

- 02/72: Marina (26 berths) of floating pontoons, breakwater, security fencing and associated services at Breathnach Quay: Permitted at appeal (PL61.130100), subject to three conditions, one of which required the omission of the proposed 2m high security fencing and gate, as it "would be visually obtrusive, would be out of character with the open nature of the docks, and would be an undesirable precedent for the remaining dock quay walls."
- 825/03: Erection of 180m of decorative galvanised railings (1.65m high) at Breathnach Quay: refused at appeal (PL61.206080) on the grounds that the aforementioned condition would be contravened, adverse effect upon the character of the new docks as a protected structure, at odds with the open nature of these docks, and serious injury to visual amenity.
- Volvo Ocean Race 2009: Event license for fencing to be erected on a temporary basis for safety reasons: notwithstanding subsequent letters and an enforcement notice in November 2012, this fencing remains insitu.

- 12/100: Retention of 1m high safety railing along Breathnach Quays: Refused on the grounds that (a) this railing would be visually intrusive and out of character with the open nature of the inner docks, which are a protected structure, and (b) it would establish an adverse precedent and it would contravene the CDP which seeks that any redevelopment of these docks should be designed in a manner that “maximises the benefits of the sea front location, achieves a strong sense of place, achieves permeability, and reflects a defined functionality and strong landscape impact.”
- Referral P/DC/3/1/13 and PL61.RL3039: Declaration that the erection of safety railing/fencing on the roadside kerb at Dock Road is development and is not exempted development under Article 9(1)(a)(x) of the Planning and Development Regulations, 2001 (as amended).

Development Plan

Galway City Development Plan 2011 – 2017 (CDP) shows the site zoned city centre, wherein the objective is “To provide for city centre activities and particularly those which preserve the city centre as the dominant commercial area of the city.” An accompanying note states that, with respect to the inner harbour, “The Council will consider the development of these lands for mixed use commercial development, including for recreation, retail and residential (equivalent to 30% of the total floor area) in accordance with the requirements set out under Section 9.2.2 (entitled Inner Harbour Area).”

The CDP includes Galway Harbour under the heading “Rivers/Waterways” and the protected structure ref. 8501 “including bridges, weirs, walls, embankment, piers and other associated infrastructure.”

Assessment

I have reviewed the proposal in the light of the CDP, relevant planning history, and the submissions of the parties. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Conservation and visual amenity,
- (ii) Safety and security, and
- (iii) AA.

(i) Conservation and visual amenity

1.1 The planning authority’s case planner reports that the inner harbour known as the commercial dock and the quay walls to this harbour are included under protected structure ref. 8501.

1.2 The planning history of the inner harbour indicates that a distinction has previously been made between the railings on Dock Road and the railings on Dock Street.

- The former railings were the subject of declaration ref. PL61.RL3039, which deemed them to be development that was not exempted development. However, the question of exemption did not turn on whether the railings entailed the carrying out of works to a protected structure, as the railings were set back sufficiently from this structure which was judged to comprise the stone quayside walls only.
- The latter railings were refused retention permission (application reg. no. 12/100) partly on the grounds that they were considered to be visually intrusive and out of character with the open nature of the inner harbour. Previously, proposals for 2m high security fencing and 1.65m high decorative galvanised railings along Breathnach Quay were, variously, omitted by condition and refused on the same grounds (cf. PL61.130100 and PL61.206080).

1.3 During my site visit, I observed that the railings on Dock Road are indeed set back by c. 10m from the stone quayside wall and that the railings on Dock Street are either attached to the top of this wall or follow a line immediately adjacent to the same. The former railings are mounted over a raised kerb lined strip that separates the working quayside from two lanes of carriageway. Within this context, they “read” as standard roadside railings of utilitarian design, which, due to their set back from the stone quay wall, do not significantly affect the openness of the protected structure. The latter railings, due to their proximity to the stone quay wall, do have a significant affect upon the openness of this structure.

1.4 Galway Harbour was first identified as a protected structure in the CDP for 2005 – 2011 and it continues to be so identified in the current one for 2011 – 2017. I note that the two Board decisions were made before either of these Plans. I note, too, that the planning authority’s own decision on application reg. no. 12/100 occurred under the current Plan.

1.5 From a conservation perspective, I consider that the open nature of Breathnach Quay is an important aspect of its character that should be respected by the omission of means of enclosure from along the top of its stone quay wall.

1.6 The current proposal seeks the retention of the existing railings on Dock Road and Dock Street.

- The former railings would be modified by means of a maritime motif. I consider that this motif would draw unnecessary attention to these railings

and so detract from their existing limited visual impact. I, therefore, concur with the planning authority's condition 5(a) that they be omitted.

- The latter railings would be painted and modified by means of a maritime motif and a handrail complete with story boards at regular intervals. I consider that, notwithstanding any in principle objection to the railings, their utilitarian design is inappropriate to their otherwise imposing location and causes them to be visually intrusive. The appellant considers that alternative means of enclosure would be far less intrusive, e.g. chains between cast iron posts, wire between stainless steel posts or toughen glass.

1.7 During my site visit, I observed that between the railings and the edge of the stone quay wall there are a series of low level horizontal rails that are painted yellow. These railings would traditionally have been used for tying up boats. They occur in equivalent positions on other quays around the inner harbour and so they form part of the character of this harbour. In the case of Breathnach Quay, which abuts the marina, these rails effectively alert passers-by to the presence of the top of the stone quay wall. The first two of the appellant's suggested alternative means of enclosure, which would also be low-level items, would effectively duplicate this item.

1.8 The planning authority's draft permission authorises the retention of railings along Dock Street for a five year period. The applicant has welcomed this permission. They contend that to replace the railings with another means of enclosure ahead of any possible future flood defence measures would be premature and, potentially, wasteful. I acknowledge the applicant's point in this respect and I note that the appellant's third suggested alternative means of enclosure, as a solid item, could have a bearing on flooding considerations. However, I do not accept the corollary of the applicant's position that the temporary permission is therefore justified, especially as the railings have been insitu since 2009.

1.9 The sliding security gate and accompanying palisade fencing on the return to Dock Street are sited in the immediate vicinity of the stone quay walls to the inner and outer harbours. Following receipt of further information at the application stage, the applicant proposes to replace the palisade fencing with low-impact metal mesh fencing, as this specification of fencing would be visually much lighter. The entrance formed by this gate and fencing serves the central pier, which is presently in use as a scrap metal handling facility. Thus, the context for this gate and fencing comprises the stone quay walls and the said facility.

1.10 The applicant has outlined that the need for this gate and fencing stems from the use of the central pier. Presumably were this use to cease, this need, too, would lapse. I consider that it is therefore appropriate to weigh the

conservation and visual amenity impact of the gate and fencing in this light. The planning authority's approach in granting a five year permission only commends itself, in this respect, as it would facilitate a review of the appropriateness or otherwise of the gate and fencing in the future.

1.11 I conclude that, whereas the retention of the railings on Dock Road would be compatible with good conservation practice and the visual amenities of the inner harbour, the retention of the railings on Dock Street would be incompatible with such practice and these amenities, as they interrupt the openness of Breathnach Quay and are an unattractive presence within the context of this Quay. I also conclude that the security gate and fencing on the return to Dock Street, would, on the basis that the fencing would be replaced by fencing of a visually lighter quality, be compatible with its context, which comprises not only stone quay walls but a scrap metal handling facility. Any permission for this gate and fencing should be for a five year period only.

(ii) Safety and security

2.1 The applicant states that the railings along Dock Road were erected to replace an Armco barrier that was previously insitu. They explain that the impetus for these railings arose from their experience that this barrier was insufficient to secure the quayside during working hours, as members of the public simply stepped over it. Thus, in the interests of ensuring public safety and securing the quayside, the railings were erected.

2.2 The applicant states that the railings on Dock Street/Breathnach Quay were erected under licence in 2009 to coincide with the first of two Volvo Ocean Race events in Galway Harbour. As these events attracted large crowds to the Harbour, public safety was promoted by the temporary erection of the same. The applicant contends that their retention is needed as the marina attracts sightseers and the surrounding area has been redeveloped to provide residential accommodation, including student accommodation in Aengus House, and so Dock Street/Breathnach Quay is used by pedestrians to a greater extent than heretofore.

2.3 The applicant refers to statistics which indicate there were 23 incidents of recovery and rescue in Galway harbour during the period 2004 – 2012. The appellant draws attention to the advent of the railings in question in only 2009. They state that many of these incidents occurred within the marina and so the presence or otherwise of the railings was immaterial to their occurrence. They thus contest the weight that the applicant places upon these railings in highlighting their public safety role.

- 2.4 Galway is a city that is built on both the coast and on the banks of the River Corrib and its associated waterways. Consequently, there are piers, promenades, footpaths, and the like that interface with the Bay, this River, and these waterways and in many instances these interfaces are open and unguarded. Thus, for example, the nearby interfaces with the mouth of the River Corrib by The Long walk and Claddagh are open and within the inner harbour itself the north western and north eastern quays are similarly open. Thus, the distinctive character of the city is derived in part from this open relationship.
- 2.5 In the light of the foregoing paragraph, I consider that a balance has to be struck between public safety and the conservation of the character of Galway. With respect to Breathnach Quay, the quayside is not a working area and so the risk highlighted by the applicant is that posed by not only the deep harbour water but the presence of a pontoon adjacent to the quayside. Concern is thus expressed that this solid object would pose a risk of injury in addition to the risk of drowning to anyone falling in to the harbour. While I accept that this risk exists, the presence of the pontoon could also be of assistance in facilitating the rescue/recovery of someone who has fallen in. I, therefore, consider that, taken in the round, the presence of the pontoon does not justify the retention of the railings on the grounds of public safety.
- 2.6 The security gate and railings on the return to Dock Street have been erected more recently in connection with the operations of the scrap metal handling facility. During my site visit on a Friday morning, this gate was open, presumably, because the facility was not being operated. The appellant suggests that temporary fencing could be erected to secure the central pier when operations are being undertaken. I am not persuaded of the feasibility of this suggestion.
- 2.7 The appellant draws attention to a public right of access across the central pier and they express concern that the security gate and railings have been erected without this right being extinguished. If indeed this is the case then the applicant should be reminded of Section 34(13) of the Planning and Development Act, 2000 – 2015, which states that “A person shall not be entitled solely by reason of a permission under this section to carry out any development.”
- 2.8 The applicant emphasises the need to secure Galway Harbour. From the evidence before me, I consider that this objective can be furthered by the retention of the railings to Dock Road and the security gate and railings to the return to Dock Street. However, I am not persuaded this objective is furthered by the railings to the non-working Breathnach Quay and so I consider that the removal of these railings would not jeopardise this objective.
- 2.9 I, therefore, conclude that the proposed retention of the railings to Dock Road and the retention of the security gate and railings to the return to Dock Street on

a temporary basis would be in the interests of public safety and the security of Galway Harbour. I also conclude that the proposed retention of the railings to Dock Street/ Breathnach Quay should be omitted, as they are objectionable on conservation grounds which are incompatible with an overly precautionary approach to public safety and they do not contribute appreciably to the security of Galway Harbour.

(iii) AA

3.1 The site is located within the inner harbour to Galway Harbour. The outer harbour abuts Galway Bay Complex SAC (000268) and Inner Galway Bay SPA (004031). The proposal relates to the retention of a security gate and railings and, as such, I do not consider that it has any significant effects upon the Conservation Objectives of these Natura 2000 sites.

3.2 Having regard to the nature and scale of the proposed development, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Recommendation

In the light of my assessment, I recommend that the proposed retention of security gates and safety railings associated with the commercial dock at Dock Road and Dock Street, Galway, be the subject of a split decision. Thus,

(i) The railings on Dock Road and the security gate and railings on the return to Dock Street should be permitted, and

(ii) The railings on Dock Street should be refused.

(i) Reasons and considerations

It is considered that, subject to conditions, the retention of the railings on Dock Road would be compatible with the visual amenities of the area and they would promote public safety and the security of a working area within Galway Harbour. Likewise, the retention of the security gate and railings would, subject to the re-specification of the railings with a visually lighter type of fencing and the retention of the gate and railings on a temporary basis only, be compatible with the visual amenities of the area and the promotion of public safety and the security of a working area within Galway Harbour. These items of the proposal would thus accord with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 3rd day of December, 2015, and by the further plans and particulars received by An Bord Pleanála on the 3rd day of March, 2016, 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. The proposed development shall be amended as follows:
 - (a) The proposed motif modification to the railings on Dock Road shall be omitted,
 - (b) The railings on Dock Street shall be omitted in their entirety, and
 - (c) The railings on the return to Dock Street shall be re-specified as low-impact metal mesh fencing and an expeditious timetable for their replacement shall be prepared.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to protect the open character of Breathnacht Quay, which is a protected structure, and in the interest of visual amenity.

3. Insofar as this permission relates to the security gate and the railings on the return to Dock Street, it shall apply for a period of five years from the date of this order. The security gate and the railings shall be removed unless prior to the end of this period, planning permission shall have been granted for their retention for a further period.

Reason: To afford the planning authority the opportunity to re-assess the security gate and railings in the light of circumstances then prevailing and in the interest of visual amenity.

Note

The developer's attention is drawn to the provisions of Section 34(13) of the Planning and Development Act, 2000 – 2015, which states that "A person shall not be entitled solely by reason of a permission under this section to carry out any development."

(ii) Reasons and considerations

The proposed retention of the railings on Dock Street/Breathnach Quoy would materially affect the quay wall, which is, under the Galway City Development Plan 2011 – 2017, a protected structure (ref. 8501). These railings enclose the top of this wall and so they detract from its essentially open character within the context of Galway Harbour. Furthermore, they are of utilitarian design and so they are seriously injurious to the visual amenities of this historic Harbour. Accordingly, to accede to the proposed retention would be contrary to the proper planning and development of the area.

Hugh D. Morrison

Inspector

11th May 2016