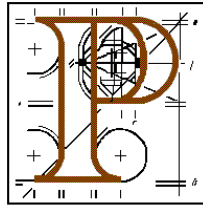


An Bord Pleanála



Inspector's Report

Appeal Reference: PL05E.246540

Development: Construction of approximately 606 sq.m. of office accommodation, storage and workshop on two levels, car parking and all associated site works at Glebe Td., Killybegs, Co. Donegal.

Planning Application

Planning Authority Donegal County Council
Planning Authority Reg. Ref. 15/51173
Applicant: Sinbad Marine Services Ltd.
Type of Application: Permission
Planning Authority Decision: Grant permission

Planning Appeal

Appellants: (i) The Killybegs History and Heritage Committee
(ii) The Saint Catherine's Well Committee

Type of Appeal: Third Parties
Observer(s): Anne Brosnan
Date of Site Inspection: 29th July 2016

Inspector: Donal Donnelly

Appendices: Photographs and maps

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site is located in the townland of Glebe, Killybegs in southern Co. Donegal. Killybegs Harbour Centre adjoins the appeal site immediately to the east and to the west is St. Catherine's Holy Well and the ruins of Cat's Castle, both of which are recorded monuments. There is also a recorded monument within the site boundary (Fulacht Fia).
- 1.2 Access to the site is from the harbour road and via an unfinished roadway continuing from a car park within the harbour lands that is also used by visitors to the holy well. The unfinished roadway extends for a distance of approximately 75m to an existing access point along the northern boundary of the site.
- 1.3 The site is roughly 'P' shaped with a narrow strip extending south from the main body of the site. The main part of the site comprises a small hillock rising to a height of 19m OD. The highest point of the site to the south-east adjoins a steep face that falls down to a part of the Harbour Centre being used to store wind turbine parts. The topography of the site rises by approximately 10m from north to south over a distance of c. 80m.
- 1.4 The applicant's landholding extends further to the south and these lands are presently in agricultural use. The stated area of the site is 1.04 hectares. The harbourmaster's office is located to the north-east of the site on lower ground.

2.0 PROPOSED DEVELOPMENT

- 2.1 The proposed building accommodating office space, storage and workshop on two levels, car parking and all associated site works is described on planning notices as follows:
 - 303 sq.m. of office accommodation at first floor level;
 - 303 sq.m. of storage and workshop at ground level;
 - 424 sq.m. of open car parking at first floor complete with access ramp;
 - 424 sq.m. of covered car parking at ground level;
 - Site reduction works of approximately 8m;
 - Formation of approximately 4m high grassed berm with landscaping along western boundary;
 - All existing underground services on site extended to the new development;
 - Access from new roadway adjacent to public car park within Killybegs Harbour permitted under Reg. Ref: 10/20458;

- Associated site works.
- 2.2 The proposed building and car park to the rear will be constructed into the hillside and the ridge of the proposed building will sit approximately at the existing ground level. The eastern (front) elevation will be 2-storeys with a maximum height of 8.4m. To the west, the building will appear as a single storey structure. There will be surface car parking to the rear over basement level parking. The building will have a slight dogleg layout bending away from the coast and harbour to the east.
- 2.3 The site will be accessed from the unfinished roadway from the nearby car park permitted under Reg. Ref: 10/20458. A ramped access from this road will be provided to the upper parking area to the rear of the building. The roadway will also continue around the front of the building.
- 2.4 The proposed building will be used as administrative offices for Sinbad Marine Services Ltd., a company involved in the provision land based service activity to the marine industry. Typical services provided by Sinbad Marine Services Ltd. include arranging of berths, piloting, cargo handling and heavy lifts, transport to/ from international markets, customs clearance and warehousing and laydown.

3.0 TECHNICAL REPORTS

- 3.1 The recommendation to grant permission, as outlined within the final Planning Report, reflects the decision issued by the Planning Authority.
- 3.2 Under the assessment of the application within the initial Planner's Report, it is noted that the site is not specifically zoned in the County Development Plan and there is no map in Appendix A identifying the boundary of the town, (the Local Area Plan for Killybegs has now expired). A number of Development Plan policies and objectives are highlighted to be of relevance (T-P-26, MCZM-O-2 and MCZM-P-7). It is also noted that the site forms part of the Rough Point Archaeological Complex.
- 3.3 The applicant is involved in the provision of support services to boats using Killybegs Harbour and the Case Planner notes that extensive documentation has been submitted with the planning application to substantiate this.
- 3.4 Concerns over impact on local hydrology and the nearby holy well formed part of the Board's reasons for refusal under PL05E.241508 and it is noted that no hydrological report has been submitted with the planning application despite references to such in the cover letter.
- 3.5 It is considered that the proposed 4m high landscaped berm would afford considerable and effective screening to the amenity of the nearby national monuments. The proposal to excavate and build into the far side of the hill is also considered to militate against detrimental impacts to the setting of the

national monuments. However, there is concern with the level difference shown on drawings between the end of the permitted road and the existing ground level at the harbourmaster's office (4.35m). The proximity of the eastern access road to the allegedly 5.2m lower ground level on adjoining lands is of concern.

- 3.6 It is also noted that very substantial earthworks are proposed and that only a small fraction of excavated material would be required to construct screening berms. There is also concern regarding the quantity of material to leave site, disposal location and haul routes.
- 3.7 Having regard to Development Plan car parking requirements, it is stated that there is no need for the upper car parking deck. It is highlighted that the omission of this feature and associated access ramp would greatly reduce the amount of excavation required.
- 3.8 With respect to issues raised in third party submissions, the Planning Authority concurs that the cultural, social and tourism potential of the area has to be safeguarded. In addition, the Planning Authority will further investigate what level of mitigation could be afforded to nearby national monuments.
- 3.9 It is noted that the subject site affords the opportunity to provide adequate car parking without reliance on public spaces and is also directly adjacent to the port.
- 3.10 Further information was sought from the applicant to include a hydrological report to consider the effect of the proposal on the nearby St. Catherine's Well; a revised proposal omitting the 1st floor parking deck and 2-way access ramp and provision of 19 no. parking space to east of building; calculations and proposals for excavated material; verification of ground levels at permitted road and harbourmaster's office and proposals for treatment of level differences; a set back of the western toe of the screening berm; lines of vision from screening berm; storm water calculations and confirmation of capacity of existing storm water main; provision for pedestrian access, bicycle parking and lighting; and submission of a Japanese Knotweed Management Plan.
- 3.11 The further information submitted by the applicant was assessed in a subsequent Planner's Report. The revised proposal omits the upper parking deck and access ramp and a 3m high retaining wall is now proposed to the rear. A total of 18,000 cubic metres of material would be excavated and this will all be reused on site. With respect to levels, there was an error on original drawings and this has now been corrected. The western toe of the screening berm is now served by a land drain and the berm is set back at least 3m from boundary of the disused railway.
- 3.12 The Planning Authority is satisfied that the hydrological report is robust and plausible. It is stated that the conclusion of the report is strongly supported by the local topography and the fact that low ground exists between the site and well. It is also considered that ample mitigation to protect the amenity of St.

Catherine's Well, Kit's Castle and the church ruins has been proposed in the form of the landscaped berm.

- 3.13 The Roads Engineer has no objection and the Conservation Officer is satisfied that with the proposal subject to a more detailed specification for the landscaped berm. The Case Planner also contacted the DAHG DAU and the Monuments Section had no comment.

4.0 PLANNING AUTHORITY'S DECISION

- 4.1 Donegal County Council issued a notification of decision to grant permission for the proposed development subject to 14 conditions.
- 4.2 Conditions are attached relating to drainage, refuse storage, bicycle parking, cabling, landscaping, signage, fencing, noise, construction works and development contributions. Condition 2 states that car parking shall be surfaced before occupation of the building and under Condition 3, no subdivision of the building shall occur without prior grant of planning permission.

5.0 APPEAL GROUNDS

- 5.1 Two third party appeals have been lodged against the Council's decision by The Killybegs History and Heritage Committee and The St. Catherine's Well Committee. The grounds of appeal and main points raised in each submission can be summarised as follows:

The Killybegs History and Heritage Committee

- Site is in too close proximity to the very important St. Catherine's Archaeological Complex, holy well and its related ground water flow.
- Latest consent attaches no conditions regarding archaeology, possible interruption to the flow of water to the holy well and details of site usage and scale of activities.
- If oil and gas wellheads weighing up to 120 tonnes and 40m long wind turbines blades and parts are stored on site, it will involve HGV use but no traffic management plan has been submitted detailing number of traffic movements or its health and safety impact on pedestrians to the holy well and archaeological complex.
- Appellants are not happy with the level of detail in relation to noise impacts, site lighting and 24 hour access beside sensitive heritage sites.
- Developer has sufficient serviced land available within the existing and adjacent Killybegs Harbour Centre – proposal will injure the integrity of the

new 24 hour pier development and extend the port into the buffer with the archaeological complex.

- Proposal is not sustainable or compatible with the enjoyment of the archaeological complex – Local Area Plan stated that *“any development in such an area must not be detrimental to the character of the structure, its setting or curtilage.”*
- Holy well and archaeological complex is a place for reflection and thought that demands privacy, quietness and tranquillity for pilgrims, locals and visitors alike day and night.
- Appellants have fears of further and future inappropriate development and how this would impinge detrimentally on the character, setting and curtilage of this important and historic site.

St. Catherine’s Well Committee

- Proposed development could have an adverse effect on the hydrology of the area, in particular the holy well dedicated to St. Catherine of Alexandria, the Patron Saint of Killybegs.
- New office block will require excavation of up to 11m and excavation work has the greatest potential to impact on groundwater flow paths.
- Proposal will necessitate a vast amount of excavation and rock breaking and rock is very close to the surface throughout the whole of the site.
- Appellants are worried that the crystal clear water of the well will disappear – excavation of soil, rock breaking and any means of changing of topography should not be permitted.
- Rich heritage is fragile and easily lost and should be conserved for this generation and future generations to come.
- Unfinished access road is causing appellants concern as it is in close proximity to the entrance to St. Catherine’s Well car park.
- Veneration of holy wells is widespread and an ancient tradition in Ireland and St. Catherine’s Well is visited regularly by many people from near and far.
- Appropriate location for this development is within the already constructed €50 million harbour development which abuts this land and not in the archaeological zoned and sacred area of the town – there is acres of space within the secure harbour complex and developer has a one acre site there.
- Zoning this land back to “open space/ amenity greenfield” would ensure that the holy well and archaeological complex would be protected.

- Appellants are concerned with potential noise and traffic impacts and how visually intrusive the proposed development would be. Appellants are also concerned that oil storage tanks could be placed on site.

6.0 RESPONSES

Second party

- 6.1 The Board did not receive any response to the third party appeals from the Planning Authority.

First party

- 6.2 The applicant's agent responded to the third party appeals with the following comments:

- Sinbad Marine Services Ltd. provides onshore facilities to the marine industry and requires new offices for the administrative element of its service in close proximity to the port – appeal site is ideal to meet this criteria in terms of operation.
- Applicant has made a submission to the Planning Authority to hold the former zoning of his property within the ongoing review of the Killybegs Local Area Plan.
- Proposed development is designed to achieve the maximum possible distance from the holy well, which is the nearest recorded monument.
- Appeal site is entirely within the Killybegs Harbour Centre (S.I. N. 210/1969 – Killybegs Harbour Centre (Killybegs) Order, 1969.)
- Appeal site is on lands formally zoned 'Port Related' and the proposed activity is entirely port related. Current County Development Plan fully supports the operation and development of Killybegs Harbour.
- Applicant has had a number of archaeological and hydrogeological investigations carried out and these reports have concluded that any development undertaken on applicant's property would have no impact on St. Catherine's Holy Well.
- The site is within a Zone of Archaeological Potential; however, there are no recorded monuments noted or identified on applicant's property. Overgrown lane which forms the boundary between applicant's property and the lands on which the recorded monuments are located, is not a recorded monument and is not found on the 1848 Map 1st Edition.
- There was no objection to the roadway permitted under Reg. Ref: 10/20458 despite it being located within the Zone of Archaeological Potential and within 105m of St. Catherine's Well.

- Holy well, St. Catherine's Church and the castle are located 101m, 145m and 91m respectively from the proposed office, with nearby housing development located in closer proximity. Generally, the National Monuments Section of DAHG requires a 40m exclusion zone.
- Applicant has arranged for 5 separate archaeological studies to be carried out on his property – a Fulacht Fiadh was discovered, one of 4,500 recorded examples in Ireland.
- St. Catherine's Well is interpreted by the Donegal Survey (No. 1686,303) as a modern well with no great antiquity or religious significance.
- Applicant is happy to appoint a suitably qualified archaeologist during site works. Discussions with an archaeologist were opened prior to design of the proposed office accommodation.
- Hydrological studies concluded that the proposed development would have no impact on St. Catherine's Well, either at construction or operational stages.
- St. Catherine's Well Committee have failed to support their argument with any professional report and therefore their fears are unfounded.
- Geoservices report undertaken in 2002 for another development noted that the depth to bedrock varied in the range of 5.4m to 9.6m within the proposed development site.
- It is expected that any excavation will be soft and possible to remove with a mechanical digger or rock hammer if required.
- Development will be set neatly into the landscape, with the objective to allow maximum view over the nearby quay walls.
- There will be some short term noise impacts during construction; however, the impact from staff vehicles and small courier vans during operation of the office will quickly fade into existing background noise.
- This is a low key development not suited to storage of turbine equipment or bulk oil storage.
- There is extensive screening around St. Catherine's Well towards the proposed office accommodation.
- Existing route leading to harbour car park and existing partially constructed road are not designed either for the load bearing capacity or horizontal alignment for abnormal loads.
- Harbour car park was developed as part of the Killybegs Fishery Harbour Centre and patrons frequenting the holy well are free to use the car park, through the port facility.

- There is no reason why a traffic management plan would be required – HGV's will frequent the site for a short period of time along the harbour roadway during construction works.
- External lighting will be low level standards located to disperse the glow downwards and in the opposite direction to the holy well.
- Local ship repair facility and Syncrolift repair workshop within clear sight of the holy well will raise greater noise levels than small vehicles travelling to and from the proposed development.
- Killybegs port is operational 24/7 and it is unreasonable to expect a service based operation to close at nightfall. There is no lighting at the holy well and it is unsafe to access after dark.
- Layout of harbour is designed to accommodate the requirement for set down area on a short term basis close to the quay wall – facility was not designed for office accommodation.
- Applicant owns a 1 acre set down area within the harbour centre and leases other areas.
- It is recognised that the success of Killybegs port is due to the success of Sinbad Marine Services Ltd. – any suggestion that the development of a marine based office facility would negatively impact on the integrity of the harbour is false.
- Lower section of the applicant's property, where the office is proposed, protrudes into the harbour complex.
- There have been over 20 planning applications within the Zone of Archaeological Potential in the last 15 years and these attracted little interest from the Killybegs History and Heritage Committee.
- Appellants have incorrectly considered that there is a second Fulacht Fiadh within the St. Catherine's Archaeological Complex.

7.0 OBSERVATION

- 7.1 The Board received an observation in support of the appeal by St. Catherine's Well Committee from Anne Brosnan, Old Fintra Road, Killybegs.
- 7.2 The Observer states that she attends St. Catherine's Well daily and is concerned about the effect any development could have on the well. It is submitted that this tranquil and serene area must be protected for the many people who pray and meditate at this holy well.
- 7.3 The Observer is also concerned with noise levels and traffic impacts and that the vast excavation of the site would impact on groundwater flow paths.

7.4 Finally, it is noted that at no stage did the Council request an archaeologist to be on site.

8.0 PLANNING HISTORY

Appeal Site

Donegal County Council Reg. Ref: 12/20169 (PL05E.241508)

8.1 The Board overturned the Council's decision to grant permission to Jim Parkinson on 21st May 2013 for:

- Retention of a partly constructed unsurfaced access track along the north-western and north-eastern boundaries of the site, the part construction of grass mounding along the north-western boundary of the site and new open cut drains adjacent to the western site boundary; and
- Permission for completion of the unsurfaced track (total 92m) to a new set down area (3,300 sq.m.) in connection with harbour related services, together with site fencing, grass embankments with selective landscaping and associated site works.

8.2 The Board was not satisfied, under the first reason for refusal that the proposed use was in compliance with the zoning objective. The second reason states that the proposal would seriously injure the visual amenities of the area and the setting of an archaeological zone having regard to the scale of the levelled area, the extent of cut and fill and ramped access roads to be provided. Under the third reason, the Board was not satisfied that the proposals to fill in existing drains on site would not adversely affect the water quality of the nearby St. Catherine's Well. Finally, the Board was not satisfied that the proposal would not seriously injure the amenities of the area having regard to the lack of detail on proposed usage.

8.3 The proposed set down area would have been further to the south of the proposed office building and the access road would have continued from north to south.

Donegal County Council Reg. Ref: 10/20458

8.4 Jim Parkinson was granted permission on 14th March 2011 for the construction of a new access roadway within Killybegs Harbour, from the existing access roadway leading to the public car park, to adjacent lands, south of the harbour property. The proposed works include the construction of a new access road with footpath, erection of site fencing, modifications to existing kerb lines at entry to existing public car park within the existing harbour access roadway, together with all necessary ancillary site works.

8.5 At the time of my site visit, this road had been constructed but was not surfaced with a final layer.

8.0 DEVELOPMENT PLAN

Donegal County Development Plan, 2012-2018 (as varied)

- 9.1 Within the County Settlement Hierarchy, Killybegs is identified as a Tier 2 Strategic Support Town.
- 9.2 It is an objective of the Development Plan (CS-O-9) *“to support economic growth in the county at key locations of strategic and infrastructural importance as well as high level, large employment generating growth in the Gateway. This will be achieved through (inter alia):*
- The establishment of the tier 2 settlements of Killybegs and Bridgend as key growth centres for new economic activity. Focus in Killybegs will be in relation to the fisheries and associated industries, harbour related, tourism, oil exploration and as a centre of excellence for renewables and services including investigating the potential of establishing a Strategic Development Zone under Part IX of the Acts for appropriate areas in Killybegs.*
- 9.3 It is also a policy of the Council (T-P-26) *“...to promote and facilitate the further development and expansion of Killybegs Harbour Centre as a strategically important deep water commercial and leisure port, subject to environmental considerations.”*
- 9.4 Under E-P-5, it is a policy of the Council *“...to become a centre of excellence for research and development of renewable energy technologies including wind, hydro, tidal and wave and specifically to facilitate the development of Killybegs harbour and Donegal Airport as maintenance, service and supply centres for offshore energy facilities in the context of other objectives and policies of this Plan.”*
- 9.5 Under TOU-P-6, it is a policy of the Council to enhance facilities and attractions for the development of the cruise ship market in Killybegs in accordance with the proper planning and sustainable development of the area.
- 9.6 Policy MCZM-P-7 seeks to safeguard and enhance the roles of Killybegs, Greencastle, Burtonport, Downings and Rathmullan as centres of fleet activity, processing and ancillary services, and, to facilitate the diversification of such locations into new areas of appropriate investment and employment opportunities, including marine related economic activity, that accords with the proper planning and sustainable development of the area.
- 9.7 Under MCZM-P-8, it is a policy of the Council to facilitate the development of Killybegs as a Centre of Excellence for training, research and development, transit and logistics, manufacture and retrofit of renewable and other offshore energies, in the context of the proper planning and sustainable development of the area.

9.8 The site is within the area of the Killybegs Local Area Plan 2008-2014 where it was zoned "Opportunity Site (Emphasis on Port related Activities)". The land use zoning objective for harbour/ port activities is to reserve lands "...for harbour/port and marine related activities including, light industrial, fish processing, general industrial and commercial, transport depot and ancillary services, tourism, port, science and technology based industries." The site is also with a Zone of Archaeological Potential and there are recorded monuments to the west of the site.

10.0 ASSESSMENT

10.1 Planning permission is sought for the construction of a new office building on a site adjoining Killybegs Harbour Centre for Sinbad Marine Services Ltd., a company that provides land based service activity to the marine industry, e.g. arranging of berths, piloting, cargo handling and heavy lifts, transport to/ from international markets, customs clearance and warehousing and laydown. In recent times, the company has provided services to the oil and gas exploration industry, as well as assistance with the importation of wind generation equipment and the development of a new stop off point for tourist liners.

10.2 Sinbad Marine Services Ltd. is operating from a leased premises on Shore Road and wishes to relocate to a site adjoining the Harbour Centre in close proximity to the harbour quay walls where there will be direct vision of the port operation. At applicant currently leases and owns set down areas within the harbour centre.

10.3 Two third party appeals have been submitted against Donegal County Council's decision to grant permission by The Killybegs History and Heritage Committee and The Saint Catherine's Well Committee. The main grounds of appeal relate to the potential impact of the proposed development on the archaeology and hydrology of the area in view of the level of excavation required to construct the proposed development.

10.4 Having considered the contents of the planning application, grounds of appeal, planning history, and the site context, I consider that this appeal should be assessed under the following:

- Development principle;
- Impact of archaeology;
- Hydrogeological impacts on well;
- Design and visual impacts;
- Appropriate Assessment.

Development principle

- 10.5 The appeal site was part of lands zoned within the Killybegs Local Area Plan 2008-2014 as an “Opportunity Site (Emphasis on Port Related Activities)”. The zoning objective for harbour/ port related activities was to reserve lands “...for harbour/port and marine related activities including, light industrial, fish processing, general industrial and commercial, transport depot and ancillary services, tourism, port, science and technology based industries.”
- 10.6 The Local Area Plan has now expired and the development of the appeal site now falls under the remit of the Donegal County Development Plan, 2012-2018 (as varied). There are a number of policies and objectives within the County Development Plan that would support the proposed development at this location.
- 10.7 Most notably, Policy T-P-26 seeks “...to promote and facilitate the further development and expansion of Killybegs Harbour Centre as a strategically important deep water commercial and leisure port, subject to environmental considerations.” Whilst the subject site is not within the secure area of the Harbour Centre, it immediately adjoins and is seen to protrude into the harbour lands. The previous zoning of the site and lands to the south thereof as the only area outside the boundary of the harbour designated for port related activities, would suggest that these lands are appropriate for proposed development. The proposed building will accommodate a company that provides marine related services and relies on proximity to the harbour complex.
- 10.8 It is submitted by a third party appellant that there is sufficient serviced land available within Killybegs Harbour Centre and that the proposed development will undermine the integrity of the new 24 hour pier development. In some respects I would be in agreement that all harbour related development should be consolidated within the confines of the harbour complex and there would appear to be an unused site to the north of the appeal site. Elsewhere within the existing harbour area, the applicant’s agent points out that the harbour is designed to accommodate the requirement for set down areas on a short term basis close to the quay wall.
- 10.9 Overall, I would be satisfied that the principle of the proposed development is acceptable at this location. The development of this site will allow for any existing undeveloped land within the harbour complex to remain available for future expansion. The applicant’s business forms an integral part of the operation of the harbour and the proposed development will be located in close proximity to harbour quays and to the set down areas within the harbour currently leased by the applicant.

Impact on Archaeology

- 10.10 The appeal site is situated within an area that was designated as a Zone of Archaeological Potential. There are three recorded monuments in close proximity to the proposed development. Of most concern to the appellants is the impact of the proposed development on St. Catherine’s Holy Well, which

is approximately 100m from the edge of the area to be excavated to accommodate the proposed building and c. 42m from the proposed landscaped berm. Cat Castle (in ruins) and St. Catherine's Church are also located 91m and 145m respectively from the proposed excavation and 33m and 42m respectively from the proposed berm. A Fulacht Fiadh was also identified to the south-west of the main part of the site.

- 10.11 The applicant has commissioned a number archaeological studies in the past to include pre-development testing and an excavation at the location of the Fulacht Fiadh. Most recently, an archaeological report was prepared in August 2015 to accompany the planning application. It is stated in this report that the proposed development site is located c. 40-50m from the Fulacht Fiadh (DL097:040) and that no trace of this monument survives on the ground. It is also concluded that Cat's Castle and St. Catherine's Well will not be impacted directly by the proposed development
- 10.12 It is advised in the Archaeological Report that details of the design and scale of landscaped berm should be agreed with the local authority to ensure that it blends in with the surrounding landscape. It is also recommended that all ground disturbance should be monitored by a suitably qualified architect and in the event of discovery of archaeological material, a report on the findings should be sent to the relevant authorities with recommendations on how best to proceed.
- 10.13 The appellants submit that the appeal site currently provides a buffer between the harbour and the archaeological complex and that it was a policy within the Local Area Plan that *"any development in such an area must not be detrimental to the character of the structure, its setting or curtilage."*
- 10.14 I would be satisfied that there is sufficient separation between the proposed development and the nearby recorded monuments. In addition, there is intervening screening in the form of trees, which together with the proposal to construct the development into the hillside, will conceal the development from view.
- 10.15 It has also been highlighted within appeal submissions that the notification of decision to grant permission attaches no conditions regarding archaeology. If the Board is minded to grant permission for the proposed development, I recommend the attachment of a condition that requires the developer to facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site.

Hydrogeological impacts on Holy Well

- 10.16 Appellants are concerned that the excavation associated with the proposed development could impact on the hydrology of the area and cause an interruption to the flow of water to the holy well.
- 10.17 The applicant commissioned a hydrogeological assessment of the site in response to a further information request from the Planning Authority to consider the effect of the proposed development on St. Catherine's Holy Well.

It should be noted that the Board previously refused permission for a 3,300 sq.m. set down area and access thereto at this location for reasons relating to proposals to fill in existing drains on site, and the potential impact this might have on the hydrology of the area, including the water quality of St. Catherine's Well.

- 10.18 The proposed development involves significant excavation works for the office building to be set into the face of the hill. The existing ground elevation is between 8m and 19m OD and the proposed ground level is approximately 9.8m OD. The proposal will therefore require excavation of overburden/ rock to depths of up to 11m.
- 10.19 It is stated in the hydrogeological assessment that St. Catherine's Well is a shallow spring that discharges from mid-height (approximately 11.5m OD) up the north facing slope of a small circular hill. The discharge from the spring is considered to be indicative of groundwater emanating from the superficial deposits and possible bedrock fractures from which the spring is thought to be formed.
- 10.20 The site is underlain by a poor bedrock aquifer and the depth to bedrock in the vicinity of the site has been recorded at 2.6m. The groundwater flow in the north-eastern part of the site is considered to be in the direction of the harbour. On the western part of the site, groundwater flow is stated to be in a north-western direction. It is considered likely that groundwater will divert in a more northern direction as a result of the drain/ valley between the appeal site and St. Catherine's Holy Well.
- 10.21 Conceptual hydrogeological cross-sections have been prepared as part of the Hydrogeological Report which show the indicative geological and groundwater conditions between the proposed development and St. Catherine's Well. It is stated that there is unlikely to be any groundwater flow from the proposed location of the office block towards the well, as the steep groundwater gradient towards the harbour will prevail. There is also a groundwater topographical divide between the site and well and it is concluded that the proposed development site and St. Catherine's Well are hydraulically isolated. Therefore, the proposed excavation, which has the greatest potential to impact on the groundwater flow regime of the area, will have no effect on the groundwater flow feeding St. Catherine's Well. In addition, a land drain will be installed into the toe of the proposed berm and there will be no significant alteration of the existing natural surface water regime in the area.
- 10.22 Having regard to the above, it would appear that the proposed development will not impact on the water quality and flows to St. Catherine's Well in view of the likely direction of groundwater flows and the intervening topography. Furthermore, the site is underlain with a poor bedrock aquifer. Notwithstanding, I would recommend that excavation works and well water quality are monitored during construction works by a suitably qualified hydrogeologist.

Design and visual impact

- 10.23 The proposed building will be two storeys in height when viewed from the front. Double height windows will give the structure a contemporary appearance. In my opinion, the design and scale of the proposed building are appropriate for its use and location.
- 10.24 The building will be sited to the rear of the harbourmaster's office and in some respects, these buildings will relate poorly to one another. The harbourmaster's office will partly conceal the proposed office from view when it may have been more appropriate to align the proposed office in full view of the harbour. Notwithstanding, I would also recognise that there is merit in the proposed office appearing subsidiary to the harbourmaster's office.
- 10.25 The proposed excavation will give rise to a significant visual impact; however, this is necessary to reduce the level of the building closer to the harbour surface. I also note that significant excavation would appear to have taken place when the new harbour was constructed at a location immediately to the south of the appeal site.
- 10.26 I would have some concern with the height and extent of the proposed landscaped berm continuing for a distance of approximately 270m along the western boundary of the site. The proposed berm will rise to a height of 5.5m and will therefore have significant visual impacts. The main purpose of the berm is to conceal the proposed development from view from the holy well and castle sites. However, the building will be constructed into the opposite side of the hill side and will be hidden from view by landscaping at the top of the excavation. Furthermore, there is substantial screening between the appeal site and the area of the castle and well. I would also question the need for the length of the berm extending to the south of the adjoining housing development.
- 10.27 I consider, therefore, that the proposed berm should be reduced in height to a maximum of 3m. I accept that it may be more sustainable to reuse excavated material on site; however, I do not consider that the berm is strictly necessary for screening purposes. Any excess material should be disposed off site in accordance with an agreed construction management plan.

Appropriate Assessment

- 10.28 The EU Habitats Directive (92/43/EEC) requires competent authorities to review planning applications and consents that have the potential to impact on European designated sites, i.e. Special Protection Areas (SPA's) and Special Areas of Conservation (SAC's).
- 10.29 The nearest European sites are St. John's Point SAC located approximately 4km to the south and Inishduff SPA located approximately 7km to the south-west.
- 10.30 Having regard to the nature and scale of the proposed development and/or nature of the receiving environment and/or proximity to the nearest European

site, 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

I have read the submissions on file, visited the site and paid due regard to the provisions of the current Donegal County Development Plan. I recommend that planning permission be granted for the proposed development based on the reasons and considerations hereunder and subject to the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to the location of the appeal site immediately adjoining the Killybegs Harbour Centre, together with the nature of the proposed office use for the occupation of a marine services related business, it is considered that, subject to compliance with the conditions set out below, the proposed development, would not seriously injure the amenities of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be 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, as amended by the further plans and particulars submitted the 25th day of February 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 berm along the western boundary of the site shall be no more than 3m in height above existing ground levels. 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 the interest of visual amenity and to ensure a proper standard of development.

3. A comprehensive landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development. This scheme shall include the following:-
 - (a) Details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
 - (b) Proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
 - (c) Details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.
 - (d) Detailed contour proposals and planting for the berm along the western boundary of the site.

Landscaping shall be carried out in accordance with the agreed scheme and all planting/ landscaping detailed therein shall be carried out within 6 months of the date of first occupation of the proposed development.

Reason: In the interest of visual amenity.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

5. The noise levels generated during the operation of the development shall not exceed 40 dBA when measured at the boundary of the site.

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

6. A programme for monitoring of surface and groundwater quality and levels during construction works in the vicinity of the site, including St. Catherine's Holy Well, shall be agreed in writing with the Planning Authority before commencement of development. Any incidents that may result in surface or groundwater pollution or changes in surface or groundwater levels shall be notified to the Planning Authority without delay. Where such incidents occur, the developer shall comply with any requirements that the Planning Authority may impose in writing.

Reason: In the interest of public health and to ensure a proper standard of development.

7. Water supply and drainage arrangements, including the disposal of surface water, shall otherwise comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

8. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

9. No advertisement or advertisement structure other than those shown on the drawings submitted with the application shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity

10. Prior to commencement of development, proposals for on site bicycle parking and shelter (including finishes) shall be submitted to the Planning Authority for written agreement.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interests of sustainable transportation.

11. No sub-division of the development hereby permitted shall occur without prior grant of planning permission.

Reason: In the interests of orderly development.

12. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

13. A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

14. 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. The contribution shall be paid prior to the commencement of development 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Donal Donnelly
Inspector
9th August 2016