



An
Bord
Pleanála

Inspector's Report PL16. 247758

Development	20kV substation building, cable joint bay, offices, cabling and other works
Location	Cross (Boyd) Belmullet, Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	16/356
Applicant	Sustainable Energy Authority of Ireland
Type of Application	Permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	Third Party vs. grant
Appellants	Theresa and David Gray
Observer	None
Date of Site Inspection	28 th February 2017
Inspector	Stephen J. O'Sullivan

1.0 Site Location and Description

1.1. The site is located on the western shore of the Mullet peninsula. It has a stated area of 1.4ha. It is comprised of a part of a field under grass and a length of public road c.600m long that include a lay-by beside a beach at its other end. The surfaced width of the carriageway is c2.7m. The road passes a graveyard. The landscape in the area is relatively flat and open with few substantial trees or hedges. There are several one-off houses in the vicinity including one on either side of the point where the site joins the county road.

2.0 Proposed Development

2.1. It is proposed to construct a 20kV substation to serve the Atlantic Marine Energy Test Site (AMETS) which is a proposed offshore test facility for wave energy converter devices in extreme open ocean conditions. The substation would connect the AMETS with the national grid. It be housed in a building of 370m² with a pitched roof 6.46m high. Part of that building of c130m² would contain offices, a kitchen and toilets. The building would be within a compound measuring 70m by 126m with two fences, and outer post and rail fence and an inner mesh fence. 5 electrical cables and communication cables would be laid in the county road for a distance of c600m from the compound to an underground cable joint bay under lay by at Belderra Strand where the submarine cables from AMETS would come ashore.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 13 conditions, none of which would substantially alter the proposed development. The reasons for the decision referred to the development plan and the county's renewable energy strategy, and stated that it would not affect the integrity of any European site.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report in the initial application recommended that further information be sought regarding the assessment of site options for the development and the need for the offices. The subsequent report stated that the proposed development would not have a negative visual impact, would not contravene the provisions of the county's development plan or renewable energy strategy and that the disruption to road users could be properly managed during construction. The development plan does not favour development between the road and the coast so the impact of the proposal on the potential for such development would not significantly devalue adjoining land. The AA screening report was noted and accepted. A grant of permission was recommended.

3.3. Third Party Observations

Several observations were made to the planning authority which objected to the development on grounds similar to those raised in the subsequent appeal. They also raised concerns about the visual impact of the development, impacts on traffic during construction, impacts on the users of Belderra Strand, the possibility of cables there being exposed after extreme weather and the impact on the development of adjoining land.

4.0 Planning History

No previous applications for planning permission were cited by the parties.

5.0 Policy Context

5.1. Development Plan

The Mayo County Development Plan 2014-2020 applies. Objective EY-02 is to implement the Renewable Energy Strategy for Co. Mayo 2011-2020. The plan includes an area plan for Belmullet, of which objective KTBT-04 is to support the provision of a Sustainable Energy Park in Béal an Mhuirthead in accordance with the

provisions of the Renewable Energy Strategy 2011-2022 for County Mayo. The strategy refers to the AMETS proposal at sections 3.3.2 and 6.4.2.

5.2. **Natural Heritage Designations**

The Mullet/Blacksod Bay Complex SAC includes the land on which the joint bay would be installed, and the land to the north of the road in which the cable would be laid.

The West Connacht Coast SAC extends to the high water mark c142m from the nearest part of the appeal site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The proposed substation would not be in the location identified in the foreshore lease issued on the 5th January 2016 which specified a substation at Ballymacsherron 1km from the current appeal site. The minister has not authorised an alternative location for the substation at Cross which would therefore be unauthorised development.
- The inclusion of an office complex is not in keeping with the design submitted with the foreshore application. The lease was granted on the basis that ancillary facilities would be at Belmullet. The provision of office accommodation on the site, and the envisaged maintenance facilities there, would contravene the objective in the development plan to provide a sustainable energy park in the town. It would increase the development footprint by 75% and would be out of scale with the size of houses in the vicinity. It would generate additional traffic on a narrow rural road. The value of adjacent property would fall as a result.

6.2. **Applicant Response**

- The issues raised in the appeal were already considered by the planning authority.

- The foreshore lease only applies up to the high water mark. Any depiction of development above that line in the application for the lease could only have been indicative. The foreshore lease is not a consent for onshore development.
- The proposed ancillary offices are not an 'office complex'. It is an important but complementary part of the AMETS project that can be used by researchers, students, the local community or anyone interested in the project. The applicant may continue to use offices in Belmullet. It is not proposed to maintain wave energy devices on the substation site. The council's planner accepted that the proposed development would fulfil a location specific technical requirement in the strategic long term development of renewable energy ancillary and in addition to the objective for a sustainable energy park at Belmullet.
- The proposed development will not have a significant impact on the landscape as demonstrated in the Landscape and Visual Impact Assessment which concluded that it would look like a house.
- There may be short term disturbance to road users but this can be managed in accordance with the conditions on the planning authority's decision.
- The proposed development has no relationship to land values.

6.3. **Planning Authority Response**

The planning authority did not respond to the appeal.

7.0 **Assessment**

7.1. **Screening for appropriate assessment**

- 7.1.1. Part of the proposed development would occur within the Mullet/Blacksod Bay SAC sitecode 000470. The conservation objectives of that SAC are:

To maintain the favourable conservation condition of the following habitats-

1140 Mudflats and sandflats not covered by seawater at low tide

1160 Large shallow inlets and bays

1170 Reefs,

2150 Atlantic decalcified fixed dunes (Calluno-Ulicetea)

3150 Natural eutrophic lakes with Magnopotamion or Hydrocharition - type
Vegetation

7230 Alkaline fens, and

To maintain the favourable conservation condition of the followings species -

1310 Salicornia and other annuals colonising mud and sand

1355 Otter *Lutra lutra*

1395 Petalwort *Petalophyllum ralfsii*, and

To restore the favourable conservation condition of the following habitats –

2120 Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes)

2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)

21A0 Machairs

The proposed works would not occur in any of those habitats but along a metalled public road, including a part of that road which has been widened to form a parking area near Belderra Strand. Therefore they would not lead to the loss of any of the protected habitats. The road in which the works would be carried out is on the margins of the SAC and so the proposed development would not lead to the fragmentation of any of the habitats. The proposed road works would be to lay cables of restricted extent and to provide a relatively small joint bay for them. Provided they were competently carried out with regard to drainage measures and soil handling they would not lead to any disturbance or indirect effects on any of the protected habitats. Similarly the works would not result have a direct effect on any of the species with which the conservation objectives of the SAC are concerned, or the habitats which support them. If proper construction practices are followed then there

would be no indirect effect on them either. It can therefore be concluded that the proposed development would not be likely to have significant effects on the Mullet/Blacksod Bay Complex SAC.

7.1.2. The proposed development would be near the West Connacht Coast SAC, sitecode 002998. The conservation objective of this SAC is to maintain the favourable conservation condition of the Common Bottlenose Dolphin *Tursiops truncatus*. The NPWS has devised measures to achieve this objective, which are to restrict artificial barriers that would prevent access to suitable habitat and to prevent disturbance to the population on the site. The proposed development would be carried out on land and would not have the potential to interfere with the implementation of those measures or to effect the dolphin population directly. The possibility of indirect effects on the dolphin population from the construction or operation of the proposed development is remote and such effects would be minimal. Therefore the proposed development would not be likely to have significant effects on this SAC.

7.1.3. It can therefore be concluded that the proposed development would not be likely to have significant effects on any Natura 2000 site. However it is part of the wider AMETS project that would involve works in the marine environment within the SACs that would require screening for appropriate assessment. Those works would be the larger part of the entire project and the ones most likely to have significant effects on a Natura 2000 site. They are not subject to a consent process under planning but under foreshore licensing. The latter consent process would therefore be the proper and more effective means for the state's obligations under the Habitats Directive with regard to the overall project to be discharged. Subject to this proviso, it is reasonable to conclude on the basis of the information available on the file, which is adequate to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have significant effects on the SAC at the Mullet/Blacksod Bay Complex sitecode 000470 or the SAC at the West Connacht Coast sitecode 002998, or any other Natura 2000 site, in view of the sites' conservation objectives and a Stage 2 Appropriate Assessment is not therefore required.

7.2. **Foreshore licensing**

The proposed development would occur above the high water mark where the applicable consent mechanism is under the planning acts. It would have been reasonable for the body carrying out a project involving works on either side of that line to indicate that general location and nature of the works on land with its application for a foreshore licence, particularly when the entire project would have to be screened for EIA and appropriate assessment. However a difference between that indicative proposal and one made for planning purpose does not constitute a breach of the foreshore licence as the minister does not have control of development on private land above the high water mark under that licensing system. As stated above, the proposed development does not give rise to any likely significant effects on any Natura 2000 site, so the divergence would not undermine the implementation of article 6 of the Habitats Directive for the wider AMETS project. The grounds of appeal relating to the foreshore licence would not, therefore, justify a refusal of permission or substantial modifications to the proposed development.

7.3. **Proposed uses**

The site is in a rural area which would not be suitable for office or other commercial development that did not have a specific locational requirement. The proposed substation has such a requirement to be near the shore on which the link to the test facility would land. The argument in the appeal that office and engineering supporting renewable energy development would be better located in Belmullet in accordance with the provisions of the town's plan is generally correct. However the scale of the ancillary staff accommodation and offices proposed in this case is insignificant in this regard and they would not be contrary to the proper planning and sustainable development of the area, therefore.

7.4. Traffic

The operation of the development would generate a small volume of traffic that would not lead to any hazard or obstruction on the road network. Its construction would cause a certain level of inconvenience for road users. However this would be temporary and could be appropriately managed under the supervision of the council. It is a necessary corollary of the nature of the off shore facility that it would require the laying of cables in coastal areas, and the temporary inconvenience involved in providing those cables could not be avoided by relocating any part of the overall development.

7.5. Drainage

The foul effluent from the proposed development would be collected and disposed of off-site. This is appropriate for a facility that would not be permanently occupied. The development would not give rise to a risk of flooding on the site or elsewhere.

7.6. Visual impact

The landscape in the coastal area is quite open and it has a very limited capacity to absorb development without significant changes in its character. However the proposed building would be a low structure of restrained design set back from the public road. Its visual impact would be similar to the houses in the vicinity, and its location is justified by the function that it serves in supporting an off-shore facility. The proposed development would not injure the visual amenities or the character of the area, therefore.

7.7. Impact on amenities and the value of property

Having regard to the foregoing, it can reasonably be concluded that the proposed development would not injure the amenities of property in the vicinity and would not tend to depreciate their value.

7.8. Archaeology

The proposed works in the public road would be near to recorded monuments at a former church and burial ground MA16-005 and a cairn, MA16-006. It would therefore be advisable that they were subject to archaeological monitoring.

8.0 Recommendation

8.1. I recommend that permission be granted subject to the conditions below.

9.0 Reasons and Considerations

Having regard to the established pattern of development in the area and the provisions of the Mayo County Development Plan 2014-2020 and the Renewable Energy Strategy for Mayo 2011-2020, it is considered that, subject to compliance with the conditions set out below, the proposed development would not injure the amenities of the area or its cultural heritage, would not tend to depreciate the value of property in its vicinity, would not be likely to have significant effects on any European site and that it 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.

10.0 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 on the 28th day of October 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 development shall be carried out in accordance with a construction environmental management plan that shall be submitted and agreed in writing with the planning authority prior to the commencement of development. The plan shall include measures to avoid the runoff of any contaminants into European sites.

Reason: To prevent environmental pollution

3. The development shall be carried out in accordance with a traffic management plan that shall be submitted and agreed in writing with the planning authority prior to the commencement of development. The plan shall specify the hours during which works may be carried out and measures to mitigate inconvenience to road users.

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

- 4 Unless otherwise agreed with the planning authority in writing prior to the commencement of development, the roof colour of the proposed building shall be blue-black, black, dark brown or dark-grey, the external walls shall be finished in natural stone or in neutral colours such as grey or off-white, and the mesh fence shall be coloured dark green.

Reason: In the interests of visual amenity

5. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of environmental protection and public health.

6. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or

other security to secure satisfactory reinstatement of roads and parking facilities, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development

7. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and

to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Stephen J. O'Sullivan
Planning Inspector

10th March 2017