



An
Bord
Pleanála

Inspector's Report 05E.248118

Development	The proposed development is the erection of a two storey building of 606m ² for use as an office and storage area, site reduction of approximately 4m height, landscaping and associated site works adjoining Killybegs Fishery Harbour Centre.
Location	Glebe Td. Killybegs Donegal PO. Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	16/51785
Applicant	Sinbad Marine Services Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission.
Type of Appeal	First Party
Appellants	<ol style="list-style-type: none">1. St Catherine's Well Committee2. Killybegs History, Heritage Committee
Date of Site Inspection	7 th July 2017
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1. The site is an irregularly shaped area of ground including a low cliff and land above it located to the rear, (i.e landward side) of the Harbour Compound at Killybegs. Most of the site is high relative to the Harbour Compound, at the north western end it tapers down to a level similar to the Harbour Compound. The site extends in a narrow strip to the south east to provide for a surface water pipe.
- 1.2. The harbour at Killybegs is owned and managed by the Harbour Authority under the Department of Agriculture, Food and the Marine, and has a secure compound at this location, with access from the western end via a security checkpoint, to what is largely a flat, surfaced area split by a roadway with a long quay on the seaward side and a low vegetated cliff on the landward side.
- 1.3. The main building in the Harbour is the Harbour Masters office, which is a two storey building close to the inner (cliff) side of the compound with car-parking to the front and rear. A security fence forms the landward boundary and outside the fence the land rises steeply.
- 1.4. The subject site runs along Harbour Authority grounds on the landward side of the fence.
- 1.5. The Killybegs Fisheries Harbour is stated to have been developed in 2004 by infilling of the tidal waters below the High Water Mark, which resulted in the creation of an area of approximately 11 ha. of ground, most of which has been developed as a secure compound. Ordnance Survey (OSi) aerial surveys available on-line confirm that the land reclamation and development took place just prior to 2005. Not all of the land thus created is within the secure harbour compound. The first party has recently obtained a 35 year lease on an area of 0.92ha of infilled land, owned by the Harbour Authority, to the north west of the subject site, where planning permission for a set down port area was granted under (PL05.247239 PA Reg Ref 16/50946).
- 1.6. The Harbour area in this location is thus defined on the landward side by a low cliff or bluff, above which the subject site is located. The land continues to rise south westwards from the subject site to a low hill which is the site of a castle in ruins (Cat

Castle). North of the castle on the slope of the hill there is a well with a wall surround and a path leading from the north (former shoreline). This is St Catherine's Holy Well, which appears on historic mapping. Historic mapping also indicates a disused burial ground further north. St Catherine's Church, in ruins, is located due west of the subject site.

1.7. The site is given as 0.59ha.

2.0 Proposed Development

2.1. The proposed development is the erection of a two storey building for use as an office and storage area of 606m², site reduction of approximately 4m height, landscaping and associated site works.

2.2. The two storey building to be used in connection with marine related activity, will have approximately 303 sq m of office accommodation at first floor level and approximately 303 sq m of storage at ground level. The proposed development will be accessed from the new access roadway (permitted under planning ref. PL 10/2048) adjacent to the Harbour Authority car park.

2.3. The application was accompanied by an **Archaeological Report** prepared by Arch Consultancy Ltd, (August 2015), which includes:

2.4. Derivation of the name Killybeg – from cael beg – little church; 'cuan na gceall mbeag' the name for the harbour indicates that there were many churches around it. St Catherine's association with the area is either 6th century or 12th century (Norman).

2.5. Excavation was carried out at Rough Point, following the discovery of archaeological remains as part of the port development, which uncovered houses, part of the original planted town settlement.

2.6. The site slopes (downwards) from south to north and incorporates a steep cliff face in the east; currently covered by rough grass with an extensive covering of gorse and ferns. The area has been subject to limited archaeological testing in 2001 and to restoration works in 2015. The restoration works were undertaken as a result of ground disturbance on site being undertaken in 2011 without planning permission and without archaeological supervision. The restoration of the site in 2015 involved

the spreading of topsoil and vegetation heaped on the site and the metal detection of the areas after spreading. No artefacts of archaeological significance were recovered in the course of the work.

- 2.7. The application was accompanied by an **Appropriate Assessment screening report** prepared by Jennings O'Donovan & Partners Ltd (JOD), Consulting Engineers, (2016) which includes:

There are nine Natura 2000 sites within 15km of the proposed development, the closest of which is Saint John's Point, which is located 6km south of the development site.

No negative impacts on Natura sites are foreseen. Mitigation measures will start with a Detailed Construction Plan covering the action required to complete the project in a safe and secure manner with respect to the environment.

Giving due consideration to the fact that the existing adjacent Killybegs Port Facility is in operation and the client's daily activity at this port and the relatively small scale development now proposed, the absence of any qualifying habitats from the area adjacent to the site of the development no loss of habitat in any Natura site or fragmentation of habitats is expected.

- 2.8. The application was accompanied by a **Hydrogeological Assessment report**, prepared by Hydro Environmental Services (HES), in January 2016, which includes:

Hydrogeological impact arose as an issue in a previous application, 12/20169, in a further information (FI) request (item 3), and a refusal reason. This is a revised version of the assessment report that was originally written to respond to the FI.

The site has an elevation range between approximately 8m and 28m OD Malin. The southern and western sections of the site slope in a westerly / northerly and easterly direction respectively towards Killybegs Harbour. A steep hill face which overlooks the harbour entrance to the east, defines the eastern boundary of the northern section of the site. St Catherine's Well is located approximately 50m to the west of the site boundary. The new office block will be set back into the face of the existing hill, which will require significant excavation works. The proposed office block area exists approximately 120m east of St Catherine's Well. The existing ground in the area of the proposed office block and its entrance, is between approximately 8 and 19m OD, with the proposed ground level being approx. 9.8m OD. Therefore, a depth

of overburden/rock of up to 11m will require excavation (note: this refers to the previous proposal). St Catherine's Well is a shallow spring that discharges from mid-height up the north facing slope of a small circular hill to the west of the proposed site. The spring (per Jennings O'Donovan survey) is at an elevation of approx. 11.5m OD. To the north the land falls steadily to approx. 6m OD and to the south the land rises steadily to the summit of the small hill at approx. 23m OD.

A site investigation undertaken by White Young Green (WYG) in 2003 in the vicinity of the proposed development encountered between 0.5m and 15m of sandy gravels and occasional boulders. A geophysical survey undertaken by BMA (2003) indicates the depth to bedrock in the vicinity of the proposed office block is in the range of 6-8m. Bedrock conditions were dolerite in places overlain by a thin layer (< 1.5m) of schist. The geological conditions in the vicinity of St Catherine's Well have not been investigated but it is assumed the spring is present due to groundwater emanating from superficial deposits or possibly a minor fracture, or change in geology.

Using information from the HES walkover survey, the JOD topographical survey, The White Young Green (WYG) (2003) investigation and the BMA geophysical survey, conceptual hydrogeological cross-sections through the proposed development site towards St Catherine's Well were developed (Figure 3 of the report). The geological and groundwater conditions between the proposed development area and St Catherine's Well are unknown and therefore assumptions are made based on the available data and the fundamentals of groundwater hydraulics.

Excavation work is only proposed in the area of the proposed office block and based on groundwater level monitoring undertaken by WYG, the groundwater flow direction in this area is in an easterly direction towards the harbour and away from the St Catherine's Well site. The proposed excavation work in this area will have no potential to impact on groundwater flow feeding St Catherine's Well. There will be no significant alteration to the existing natural surface water drainage regime in the area from the proposed berm (note: the proposed berm refers to the previous proposal).

The revised layout is notable in comparison to the previous proposal in that the proposed excavation work is now located at a significantly greater distance from St

Catherine's Well, now more than 100m from St Catherine's Well whereas the previous proposal required excavation work within 70m of St Catherine's Well.

2.9. Jennings O'Donovan submitted a letter with the application which includes:

60% of the property is in a zone of Archaeological Potential. The formation level is now 4m higher than previously.

The site is part of a holding of 8.7ac, 3.52ha. located immediately adjacent to the existing Harbour Masters Office and has extensive clear sight of the tidal waters within the harbour and its approach channel.

Activities are often carried out within a short timeframe and in this respect on site management in close proximity to the quay wall / berthing facility is vital – hence the requirement for locating the office accommodation as proposed.

Changes have been made to address the previous refusal:

Omitting the grass berm and reducing the required site excavation.

2.10. Accompanying the application are letters of endorsement.

2.11. A letter of consent to the making of the planning application for the storm water pipe through Department of Agriculture, Food and the Marine lands, is provided.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority decided to grant planning permission subject to 16 conditions which include:

2 re archaeological monitoring.

7 proposals for a 1.8m security fence sited at the top of the excavated sheer drop (not the top of the sloped embankment) with appropriate signage.

8 monitoring of water – surface and groundwater.

14 noise levels.

3.2. Planning Authority Reports

3.2.1. Planning Report:

3.2.2. The planning report, 31/3/17, summarises the objections, sets out CDP policies, outlines the planning history, and recommends that permission be granted.

History:

10/20458 permission granted, 14/3/2011 for access roadway, together with all ancillary site works.

PL05E.241508, PA decision to grant under Ref No.12/20169), retain existing site works including construction of tracks and grass mounding. Permission to complete access track to harbour, set down area, site fencing, embankments, landscaping and all works; refused for 4 reasons:

- 1 Notwithstanding the zoning of the site and its identification as an opportunity site the Board is not satisfied, on the basis of the information on file, that the nature of the proposed use is in compliance with the zoning objective for the site.
2. Having regard to the scale of the levelled area to be provided and the extent of cut and fill and the ramped access roads to be provided, it is considered that the development as currently proposed, would seriously injure the visual amenities of the area generally including the setting of an archaeological zone under the protection of the National Monuments legislation and would, therefore not, be in accordance with the proper planning and sustainable development of the area.
3. The Board is not satisfied, on the basis of the information submitted that the proposed development, including proposals to fill in existing drains on site, would not adversely affect the hydrology of the area including the water quality of the nearby Saint Catherine's Well, a recorded National Monument.
4. Having regard to the lack of detail on file relating to the proposed usage, including details of scale of activities, noise impacts, traffic impacts, hours of operation and site lighting, as well as to the information submitted on site boundary treatment and landscaping, the Board is not satisfied that the proposed development would not seriously injure the amenities of the area or of properties in the vicinity.

UD 1555 Enforcement notice served 15th May 2015 ordering the re-instatement of the site following unauthorised earthworks, under the supervision of a qualified and licensed archaeologist. On 14th October 2015 it was noted that the notice had been complied with.

PL05E.246540 (PA decision to grant, under Reg Ref No 15/51173) - Construction of approximately 606 sq.m of office accommodation, storage and workshop on two levels, car parking and all associated site works, refused for the following reason:

It is considered that the configuration and design of the proposed development involving extensive excavation and re-profiling of the existing form of the site in order to facilitate the construction of the proposed development and the provision of the associate berm to screen the development from the adjacent archaeological site including the setting of Saint Catherine's Well would constitute excessive and unwarranted intervention into the landscape. Accordingly, it is considered that the proposed development would constitute a visually intrusive feature in the landscape which would seriously injure the visual amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

County Development Plan

T-P-26MCZM-P-7

The site adjoins harbour lands

Previous zoning

Design and scale is appropriate; viewed from the public road in the context of the Harbour Master's office and surrounding harbour.

The site forms part of the Rough Point Archaeological Complex. The western boundary of the application site would be 103m from St Catherine's Well and the same distance from the nearby ruin of Cat castle, both of which are national

monuments. The site forms part of the 40.24ac Archaeological Complex at this location.

On balance permission is recommended.

3.2.3. Other Technical reports

3.2.4. CFO 31/12/16, – enclose the external stairway in fire resisting construction to provide a protected stairwell.

3.2.5. Executive Chemist, 12/1/17 – no comments.

4.0 Planning History

Reg. Ref. 01/64 – the planning authority granted permission for a harbour development on a site encompassing the current appeal site.

10/20458 permission granted, 14/3/2011 for access roadway, together with all ancillary site works.

Subject site.

PL05E.241508 permission refused 24/05/2013, on foot of a decision to grant, under Ref No.12/20169, for development: retain existing site works including construction of tracks and grass mounding. Permission to complete access track to harbour, set down area, site fencing, embankments, landscaping and all works; the four reasons are as set out in the account of the Planning Report above, which refer to impact on the visual amenities of the area generally including the setting of the archaeological zone, hydrology, use and zoning.

PL05. 246540, Reg. Ref. 15/51173 – refusal of permission for offices, storage and workshop facilities in an area approximating the current location on a site which included lands to the west, 25th August 2016. The Board's refusal, on foot of a decision to grant, is set out in the account of the Planning Report above, and was with reference to the archaeological complex at St Catherine's Well, and injury to the visual amenities of the area.

PL05.247239 PA Reg Ref 16/50946 planning permission for a set down port area granted to the first party, 23rd Jan 2017, on an area of 0.92ha of infilled land within the site of reg.ref: 01/64, owned by the Harbour Authority, to the north west.

5.0 Policy Context

5.1. **Donegal County Development Plan 2012-2018** is the operative plan. Relevant provisions include:

Killybegs is a Strategic Support Town. The CDP intends that the residential zoning should be reduced from the 111ha (in the now expired LAP) to 14ha. (this is intended to be delivered through amendment to Killybegs Local Area Plan).

It is a tier 2 settlement and a key growth centres for new economic activity, where the focus 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.

It is a policy of the Council 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, (T-P-26).

The Department of the Environment, Heritage and Local Government have identified Killybegs together with Ballyshannon, Donegal Town, Lifford, Ramelton, Rathmullan and St. Johnston as an historic town for general protection. Guideline boundaries for these towns are illustrated in the Record of Monuments and Places. The areas are known as Zones of Archaeological Potential and are areas where intense archaeology is present.

It is the policy of the Council to conserve and protect Zones of Archaeological Potential located in the urban areas of Ballyshannon, Donegal Town, Killybegs,

Lifford, Ramelton, Rathmullan and St. Johnston as identified in the Record of Monuments and Places, (AH-P-2).

It is the policy of the Council to protect the character, settings of and views from National Monuments/ Recorded Monuments and to manage development which would be considered to (visually or physically) intrude upon or inhibit the enjoyment of the amenities of these sites, (AH-P-3).

It is a policy of the Council to protect where appropriate, the character and setting of any unrecorded archaeological object or site, (AH-P-4).

5.2. The Draft **Donegal County Development Plan 2018-2024** is currently on display and the period for consultation has been extended from the 19th May 2017 to the 1st of September of this year. The foregoing policies of the current plan are included in the draft. The draft includes general objectives for development within development boundaries of certain towns, and which includes a development boundary for Killybegs; and sets out town centre areas for some towns, which includes a town centre for Killybegs. It also refers to the possibility of having zoned areas within these towns. The site is located in an area of High Scenic Amenity per the Draft Plan.

5.3. S.I. No. 210/1969 - Fishery Harbour Centre (Killybegs) Order, 1969, included a map showing the area to which it referred, which includes the subject site and extensive lands encompassing an area greater than the current Harbour lands.

5.4. **Natural Heritage Designations**

The closest Natura site is Saint John's Point, SAC (Site Code 000191), located c6km south of the development site, on the opposite side of the large bay (McSwynes Bay).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Two third party appeals have been submitted against the decision to grant permission from: St Catherine's Well Committee and Killybegs History, Heritage Committee.

6.1.2. The grounds of appeal from St Catherine's Well Committee includes:

Excavation of soil and rock and its impact on water quality; that rock breaking should not be permitted.

The archaeological zone should remain undeveloped.

The well is visited daily by people from near and far, including cruise passengers.

Cures are attributed.

Visual impact.

Traffic impact.

Safety.

Oil storage is questioned.

The ideal location is within the secure Harbour where the first party has a 1 ac site.

Third party has made a submission on the proposed Draft Killybegs Local Area Plan to have the land zoned open space/ amenity.

The rationale for the works is given as:

6.1.3. The grounds of appeal from St Catherine's Well Committee includes:

Rezoning in 2008 from open space/amenity.

Too close to St Catherine's Archaeological Complex.

The Holy Well has a groundwater source.

The design and scale are excessive in relation to the site.

Re-profiling the contours of this highly sensitive heritage area is visually intrusive. St Catherine's Archaeological Complex is the heart of the ancient town.

Other land is available to the developer.

The site is important to the community, pilgrims and cultural tourists.

They have made a submission on the LAP.

The site has acted as a natural buffer zone, especially in the last decade, between the industrial Harbour Complex & Holy Well & Complex.

The Holy well is a place of reflection & thought. It demands relative privacy, quietness and tranquillity at any hour of the day or night. A more comprehensive plan for noise, light and traffic and no 24 hour use.

They are unhappy with the access road that has been developed. There was no legal right to put a road across harbour authority land. It may by now be rectified.

They canvassed and received 700 signatures (town pop. 1280), against this development for re-instatement of green area/ OS zoning.

This appears to be a last ditch attempt.

Their attempts to protect their late Medieval Quarter has been a huge drain on the groups time & resources.

When Killybegs Harbour Centre was developed this was a buffer. They were assured by the developers of the Harbour that their heritage would not be encroached upon. This latest development abuts their Archaeological Complex & Hold Well. Enough!

They have fears of further development.

During the Harbour development 5 early built houses were discovered and removed; the best 17th century plantation houses yet discovered.

The town has National Historic Town status from the Heritage Council

They are concerned with the amenity & visual impact.

The complex is associated with St Catherine of Alexandria (4th century Egypt) patron saint of seafarers and scholars. The complex includes a 14th century castle and 15th century church and graveyard. The submission references other rare, Irish links with the Egyptian Coptic Church from a similar period.

7.0 Responses

7.1. Planning Authority Response

7.2. The Planning Authority has responded referring the Board to the planner's report.

7.3. First Party Response

7.4. Jennings O'Donovan, & Partners Ltd, Consulting Engineers, have responded on behalf of the first party, Mr Jim Parkinson, Sinbad Marine Services Limited, to the grounds of appeal. The response includes:

7.5. The first party rents accommodation on the Shore Road 550m away.

7.6. He has made a submission to the Planning Authority to hold the zoning.

7.7. The development is designed to achieve the maximum possible distance to St Catherine's Well.

7.8. The port is designed to cater for vessels up to 350m in length, 150,000 tonnes dead weight and with a max draft of 12 metres at low water. Onshore, experienced service providers, such as Sinbad Marine Services Limited, offer the complete package of agency, stevedoring and other ancillary services.

7.9. The harbour operates to International Ship & Port Security (ISPS) Code (and has security fencing) including controlled access.

7.10. There are two parts to the port. The first is between the central access roadway and the harbour quay wall finished in concrete and bitumen. This is a temporary set down area (few hours). The second is a set down area for a few weeks and is between the central roadway and cliff face and is finished in stone.

7.11. In the second area the first party has a 1ac (0.4ha) site he acquired from the Dept. as part of a land exchange to allow the development of the port in 2001.

7.12. Killybegs Harbour Centre Order 1969 is referred to (KFHC - Killybegs Fishery Harbour Centre) (Fishery Harbour Centre (Killybegs) Order, 1969).

7.13. Various studies carried out are listed.

7.14. It is not known how the zone of archaeological potential was defined.

- 7.15. Landownership is described. Both the Castle and St Catherine's Well are located within private lands registered under folio DL27565F. The Church is on unregistered land. The access is permitted by a private property owner, along a concrete path and a search of the current land Registry Records, which they carried out, failed to locate any trace of a legal Right of Way to St Catherine's Holy Well.
- 7.16. The 2004 Killybegs Fisheries Centre was developed below the High Water Mark with infilling of the tidal waters which resulted in the creation of approx. 11 ha, of a state of the art harbour facility.
- 7.17. The first party's land is DL27566F. The Harbour developed a car park adjacent to St Catherine's Well. With the goodwill of the Harbour Authorities, patrons of St Catherine's Well use the car park and 'cross third party lands to the concrete footpath, located on private lands which leads to the well.' The section of the third party lands between the car park and the gate at the concrete pathway leading to the Holy Well, is contained within Folio No DL27566F which is registered to Sinbad Marine Services Limited.
- 7.18. A roadway has been developed/permitted including within the Zone of Archaeological Potential. The proposed office development is located approx. 145m and 91m from St Catherine's Church and the Castle. Housing development is located 29m and 5m respectively from these features.
- 7.19. Over the years the Dept of Agriculture, Food and the Marine (DAFM) and the port authority have strongly declined the first party's request to access private lands in his ownership, adjacent to KFHC, through the security fence. For this reason, a new dedicated access road was permitted by the Dept. adjacent to the Harbour car park, to serve the first party property.
- 7.20. Responses to items raised in the St Catherine's Holy Well Committee appeal:
- Hydrology / Holy Well
 - Excavation
 - Noise
 - Traffic
 - Safety

- Archaeology
- Heritage
- Access to Holy Well

- 7.21. Hydrology / Holy Well - no professional evidence has been submitted regarding hydrology. They have submitted a report.
- 7.22. Excavation – the site formation has been raised from 10.00m OD to 14.00m OD thus the depth of excavation has been reduced from approx. 8m to 4m. it is now proposed to set the building into the face of the existing cliff face, which, from a visual examination on site, reflects a clayey gravel / gravel overburden. From a BMA Geoservices report, previously undertaken in 2002 for another development, the depth to bedrock varied in the range of 5.4m to 9.6m within the proposed development site. Extensive rock breaking will not be required.
- 7.23. Noise – there will be a short term construction impact. The reduction of site works will reduce the noise impact. Background noise level from daily traffic movements along the St Catherine’s roadway – Killybegs By-Pass will far exceed the traffic movements associated with the office development.
- 7.24. Traffic – the St Catherine’s Well Committee have never expressed any concern regarding the daily operation of the harbour facility to date. The only increase in traffic will be daily staff/visitors to the first party’s office which will generate little or no increased traffic movement.
- 7.25. Archaeology – the first party has funded, from his own resources, 5 separate archaeological studies. On one occasion in 2001 a Fulacht Fiadh was discovered within his property which was subsequently examined under licence. No other recorded archaeological find was encountered within his property. Fulacht Fiadh are common, 4,500 have been recorded in Ireland. St Catherine’s Well is regarded with great local reverence yet the Aegis Archaeology Ltd report on the excavation of Fulacht Fiadh refers to it as a modern well with no great antiquity or religious significance. They would be happy to employ an archaeologist to monitor ground disturbance.

- 7.26. Heritage – they have sought to maximise the distance to the Well. It is approx. 120m from the building. A minimum distance of a 40 m exclusion zone is the general requirement the of the NMA of the DAHG.
- 7.27. Access to the Holy Well - The roadway referred to is substantially complete and in compliance with the grant of planning.
- 7.28. A small laneway existed along the shoreline which provided access to the well. Now, with the goodwill of the port authorities, visitors can travel through harbour property and park within the harbour car park.
- 7.29. Archaeology – there are no national monuments. There are 3 recorded monuments, none in the first party's property and all with substantial buffers. Any suggestion to sterilise the first party's property to act as a buffer between the harbour complex and the Archaeological Zoned Complex is totally unwarranted. The Committee displayed no interest in the 21 housing unit Waterfront Estate, which must raise serious questions.
- 7.30. Harbour Car Park – any suggestion that the car park was developed to facilitate the Archaeological Complex is untrue, it is part of the KFHC road infrastructure to support the port and marine related activity, such as the land based service operation carried out by Sinbad Marine Services Limited.
- 7.31. Oil Storage – hydrocarbon storage tanks are not proposed.
- 7.32. Submission to Donegal County Council covering the review of the Killybegs LAP – the Committee made a submission to the LAP. The first party questions if it was supported by 550 people. There were no drawings or design details. The first party questions the accuracy of such objections.
- 7.33. Responses to items raised in the Killybegs History & Heritage Committee appeal:
- Retention of planning.
 - Re zoning of site in Killybegs LAP 2008-2014.
 - Proximity of Office Development to St Catherine's Holy Well – Hydrology.
 - Excessive Scale of Development.
 - Re-profiling of Site.
 - Visually Intrusive.

- National Monument.
- Objective Aim of Donegal CDP.
- Sufficient Serviced sites within Harbour complex.
- Enjoyment of Archaeological Complex/Holy Well.
- Incessant nearby development.
- Legal status of access road developed by Sinbad Marine Services Limited Ref PI 10/20458.
- 700 signatures against development.
- Future inappropriate development – oil and gas storage.
- Alternative sites.

7.34. Retention of planning – no retention is involved.

7.35. Re zoning of site in Killybegs LAP 2008-2014 – this plan has lapsed. Adjudication of zoning is outside the Board's remit.

7.36. Proximity of Office Development to St Catherine's Holy Well – hydrology – the distance from the building to the well is 101m. They first party cites the Planner's report and also the Inspector's report on the previous appeal.

7.37. Excessive Scale of Development – by comparison with the Waterfront Estate it is low key.

7.38. Re-profiling of Site – other than the localised 4m deep excavation no re-profiling is proposed.

7.39. Visually Intrusive – the Board's advice has been taken on board. They have selected traditional buildings techniques and materials along with an extensive landscaping plan.

7.40. National Monument – there are no national monuments in Killybegs and this is purposely inserted with the objective of raising the importance of the recorded monuments.

7.41. CDP/LAP – the 700 signatures contrasts with 550 cited elsewhere. The LAP has no standing. The CDP covers development in Killybegs. The Inspector's Report on the previous appeal is cited. The zoning is outside the remit of the Board. Both the first

party and the objectors have equal opportunity for follow due process when the Draft Plan has been published.

- 7.42. Serviced sites within Harbour Complex – since KFHC was developed and officially opened in 2004 the commercial activity at the port has increased, with equipment required for wind farms, oil and gas exploration and shipping of forest timbers, the main activity to date. In addition, the recent development of cruise liners visiting the port, has resulted in a major boost to the local tourist trade in the North West.
- 7.43. In order to operate KFHC to its maximum potential the Dept of Ag, Food and the Marine recently invited tenders from interested parties covering 2 sites previously developed with the original harbour project in 2001. Following an open tender procedure, Sinbad Marine Services Limited was successful in securing a 35 year lease for the site.
- 7.44. All sites within the existing secure fence are employed as temporary set down areas and as such are not ideal for office accommodation as required by the first party. It will be possible to control the safe entry of large ocean going ships with accuracy and safety. Due to the 11m height difference between the first floor office and set down areas, within the secure port complex, unrestricted viewing will be available. Similar unrestricted clear sight would not be available at the lower harbour level. In addition, clear entry to the office would not be possible without the need to secure a pass from the port authority to enter the secure ISPS area.
- 7.45. Enjoyment of Archaeological Complex/Holy well – the first party will not restrict, prevent or curtail the enjoyment of the holy well with access permitted along a defined Right of Way through private property.
- 7.46. Incessant nearby development – the first party reviewed this statement with surprise. Over the last 30 years 20 separate planning applications were advanced on lands within folio 27565F, located uphill and within the area of Archaeological Potential, either directly adjacent to St Catherine’s Church, St Catherine’s Holy Well or Cats Castle, with less of a buffer that adopted in this instance. These applications attracted no interest from Killybegs History & Heritage Committee. The first party requests the Board to dismiss the appeal on the basis of misleading information and non-disclosure of vital information, relative to the recent planning history at Glebe Td.

- 7.47. Table 2 lists the applications referred to, their status, the developer's name and a description of the development; one in particular is referred to and a copy letter from that file is attached as an appendix to the submission.
- 7.48. Legal status of the access road developed by Sinbad Marine Services Limited Ref PI 10/20458 - as a result of the Harbour development the first party's land was land locked. Following years of protracted discussions, the Dept. agreed to transfer ownership of a strip of land to him from their lands outside the secure port area. The strip forms the footprint of the recently constructed road; constructed with planning compliance. The Board should dismiss the appeal.
- 7.49. 700 signatures against development – there is reference to 550 and 700 signatures. There were no drawings or design details. No copy of these signatures has been provided. The Board should conclude that it was not a valid exercise.
- 7.50. Future inappropriate development – oil and gas storage – due to the restrictions placed on 'an establishment', threshold distance of 300m from existing development, the site is not suitable for the storage of hydrocarbons. Neither the original KFHC planning application (PL01/64) nor the current one (PI 16/51758) have mentioned storage of bulk hydrocarbon and reference to same is an attempt to misinform.
- 7.51. Noise, site lighting and 24 hour access – external lighting will be low level. There will be no direct line of sight from St Catherine's Holy Well. Noise will be less than from traffic along the Shore Road and St Catherine's roadway – Killybegs By-Pass. A ship repair facility operates 6 days per week and the Dept has a Syncrolift / Repair workshop both of which raise greater noise than the traffic that would be generated. Killybegs port is Irelands deepest port, operational 24/7 and it is unreasonable to expect a service base to close at nightfall. At present the administration office generally operates from 8.30-5.30pm. it needs to operate on a commercial basis at short notice and assist with the operation of marine craft travelling worldwide.
- 7.52. The lack of public lighting makes the access to the Well unsafe and impractical after dark.
- 7.53. The First Party is well supported by local businesses, and letters of support which represent businesses with over 650 employees are supplied. The First Party is registered to ISO90001. Cruisers planning to visit in 2018 are listed. Attached to the submission are: a copy of S.I. No. 210/1969 - Fishery Harbour Centre (Killybegs)

Order, 1969; a copy of the Aegis report of the Archaeological Excavation of a Fulacht Fiadh September 2001; a copy of the archaeological report which accompanied the application; a copy of the hydrological report which accompanied the application; letters of endorsement; a copy of the Inspector's Report on PL05.246540 and a copy of the Planners Report on 15/51173; the client portfolio; aerial photograph; a map illustrating distances from the proposed development to archaeological features and by comparison to the Waterfront Estate; low level oblique aerial photographs showing, amongst other things, the 1ac (0.4) temporary storage area within the Harbour, owned by the first party.

8.0 Assessment

- 8.1.1. The issues which arise in relation to this appeal are appropriate assessment, principle of the development, hydrology, and the archaeological zone and setting of recorded monuments, and visual amenity, and the following assessment is dealt with under these headings.

8.2. Appropriate Assessment

- 8.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

8.3. Principle of the Development

- 8.4. The County Development Plan supports the development of the port of Killybegs. The LAP, now expired, included this site within the designation 'opportunity site (emphasis on port related activities)'.
8.5. The third parties state that the zoning of this land changed in 2008 from open space / amenity to port related.
8.6. The LAP has expired and both sides of the zoning argument are pressing their views, on the planning authority, in relation to the zoning.
8.7. The County Development Plan is currently being reviewed and has a development boundary for Killybegs, with the only other designation being the town centre. The site is located in an area of High Scenic Amenity per the Draft Plan.

8.8. Currently there is no zoning for these lands. The County Development Plan policies in relation to development where no zoning exists is to treat it on its merits. The extension of development inland from the established port, could be given favourable consideration if there was a proven shortage of land for Harbour related development, no such shortage has been shown to exist. In fact, there appears to be ample capacity for development within the established Harbour area and within other developed lands, including lands in the ownership of the first party. If the development of lands inland from the Harbour were to become necessary, its development should only be done in a planned manner. The comprehensive Harbour development which has taken place only recently, ends at the high water mark and the natural boundary to Harbour related development is therefore the seaward end of the subject site, i.e. the cliff face.

8.9. In my opinion the proposal represents disorderly development and is unacceptable in principle.

8.10. **Hydrology**

8.11. The archaeological report which accompanied the application refers (at p13) to previous archaeological testing which was carried out on the first party's lands and refers to rock being encountered at a high level.

8.12. The hydrological report states that it is using information from the HES walkover survey, the JOD topographical survey, the White Young Green (WYG) (2003) investigation and the BMA geophysical survey, in order to develop conceptual hydrogeological cross-sections through the proposed development site towards St Catherine's Well. None of these sources has been reproduced and the information is only available in so far as a conceptual hydrogeological model has been derived from them. The consultant hydrologist is reliant on various items of information produced for various reasons.

8.13. The hydrological report states that a site investigation undertaken by White Young Green (WYG) in 2003 in the vicinity of the proposed development encountered between 0.5m and 15m of sandy gravels and occasional boulders; and a geophysical survey undertaken by BMA (2003) indicates the depth to bedrock in the vicinity of the proposed office block is in the range of 6-8m. Bedrock conditions refer to dolerite in places overlain by a thin layer (< 1.5m) of schist. The report states that

the geological conditions in the vicinity of St Catherine's Well have not been investigated but it is assumed the spring is present due to groundwater emanating from superficial deposits or possibly a minor fracture, or a change in geology.

8.14. The reporter qualifies his findings by stating that the information used is from the HES walkover survey, the JOD topographical survey, the White Young Green (WYG) (2003) investigation and the BMA geophysical survey, and further that the geological and groundwater conditions between the proposed development area and St Catherine's Well are unknown and therefore assumptions are made based on the available data and the fundamentals of groundwater hydraulics. These are significant qualifications to the findings and since impact on the hydrology of the Well is an important consideration, the Board, if minded to grant permission may consider the need for a hydrological report based on targeted hydrological testing of the area, centred on the Well.

8.15. Archaeological Zone and the Setting of Recorded Monuments.

8.15.1. The site is urban archaeological zone for Killybegs. There are upstanding monuments in the vicinity of the site. The relative positioning of the secure Harbour compound and the upstanding monuments at present establish a balanced relationship between the historic town site and the thriving port.

8.15.2. The Development Plan acknowledges the importance of Killybegs as one of a seven historic towns in the County and designates a Zone of Archaeological Potential. It is the policy of the Council to conserve and protect such areas and to protect the character, settings of and views from National Monuments/ Recorded Monuments and to manage development which would be considered to (visually or physically) intrude upon or inhibit the enjoyment of the amenities of these sites.

8.15.3. The Draft Development Plan designates the lands, within which the site is located, as an area of High Scenic Amenity and I concur with that assessment. In my opinion the proposed development would damage the character, setting of and views from the upstanding Recorded Monuments on these lands and would visually intrude upon and inhibit the enjoyment of the amenities of these sites and this is a reason to refuse permission.

8.16. Visual Amenity

8.16.1. The grounds of appeal refers to the visual impact.

8.16.2. As previously stated, comprehensive Harbour development took place here in the very recent past, at great expense to the Irish taxpayer, a figure of €52m is mentioned by the first party. The secure Harbour area was created by infilling lands which had previously been tidal, so that the natural boundary to the Harbour is the cliff face.

8.16.3. The main building within the secure Harbour is the Harbourmaster's Office which is a two storey building on the seaward side of the subject site. The proposed development includes the erection of a building in the cliff face which would extend higher than the Harbourmaster's Office and would be located to the rear of that building. In my opinion this would create an inappropriate visual relationship between these two buildings. The Harbourmaster's Office should be the primary building in this area and should not be subjected to an overbearing relationship with another building.

8.16.4. In addition, as previously stated, the Harbour development, because it was developed as an infilling of tidal lands, has a natural boundary formed by the low cliffs. The proposed development, by extending development into the higher ground above the cliff, would erode this natural boundary and give rise to the appearance of disorderly development.

8.17. The impact on visual amenity is a reason to refuse permission.

9.0 Recommendation

9.1. In accordance with the foregoing assessment I recommend that planning permission be refused for the following reasons and considerations.

10.0 Reasons and Considerations

1 It is considered that the proposal, by extending development into the higher ground above the cliff, which currently forms a natural boundary to the existing Harbour, would erode the natural boundary and give rise to the appearance of disorderly development and would accordingly be contrary to the proper planning and sustainable development of the area.

2 By its siting and location, where it would be to the rear of and higher than the Harbourmaster's Office, the proposed building would have an inappropriate visual relationship with what is the primary building in this area, and would accordingly be contrary to the proper planning and sustainable development of the area.

3 The site is located within the zones of Archaeological Potential of the historic town of Killybegs and close to the upstanding remains of Cat Castle, St Catherine's Holy Well and St Catherine's Church, where the development would damage the character, setting of and views from these Recorded Monuments and visually intrude upon and inhibit the enjoyment of the amenities of these sites, contrary to the provisions of the County Development Plan.

Planning Inspector

28th July 2017

Appendices

- 1 Photographs
- 2 Extracts from Donegal County Development Plan 2013-2018
- 3 Extracts from the Draft Donegal County Development Plan
- 4 Aerial photographs from OSi for 1995 and 2005.