



An
Bord
Pleanála

Supplementary Inspector's Report ABP-301404-18b

Development

Forward development for; (1) a 45 square metre administrative building to accommodate 2 no. offices, canteen, toilet and attached room (2) installation of a temporary wastewater tank 2.8m³ until it is connected to the permanent sewerage treatment system, which will be carried out re-development of the site (3) related site works, including connection to existing services within the Marine Park (gross floor space of 45sqm).

Location

Kilkiernan Townland, County Galway.

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

17/1780

Applicant(s)

Údarás na Gaeltachta.

Type of Application

Permission.

Planning Authority Decision

Grant Permission subject to conditions

Type of Appeal

Third Party

Appellant(s)	Galway Bay Against Salmon Cages.
Observer(s)	Máirín Ní Choisdealbha-Seoige, thar cheann an Choiste & Forbairt Chonamara Láir Teo.
Date of Site Inspection	26 th July 2018
Inspector	Bríd Maxwell

Supplementary Report to be read in conjunction with previous Inspector's report dated 25th September 2018

1.0 Introduction

- 1.1 I refer to my previous report and recommendation to the Board dated 25th September 2018 in respect of the proposed development which relates to permission for the construction of a 45 sq.m administration building with a temporary foul water holding tank and connection to other existing services. The site is located within "*Pairc na Mara*" Marine Park a serviced business park approximately 1.4km to the north east of Kilkieran Village in Connemara.
- 1.2 I note that the Board decided to defer consideration of the case and issue a section 123 notice to the applicant with regard to three specific items of further information to include:
- a) A site-specific flood risk assessment in accordance with The Planning System and Flood Risk Management Guidelines, Department of the Environment Heritage and Local Government, November 2009. The assessment to quantify the risks and effects of any necessary mitigation measures together with measures needed or proposed to manage residual risk.
 - b) A detailed Construction Environmental Management Plan, and
 - c) An updated Screening Statement for Appropriate Assessment to reflect recent case law.
- 1.3 The request issued by Statutory Notice on 31st August 2018 and a response was received on 19th December 2018 in the form of a site-specific flood risk assessment, an Outline Construction Environmental Plan, and a Natura Impact Statement all completed by Ryan Hanley Consulting Engineers
- 1.4 The response was circulated to the other Parties and observer on 17th January 2019. No responses have been received.

- 1.5 I consider that the remaining issues to be considered relate to the matter of flood risk and appropriate assessment and I assess these matters as follows.

2.0 Flood Risk Assessment

- 2.1 The Flood Risk Assessment is compiled by Ryan Hanley Consulting Engineers. It describes the hydrology of the site. The stream crossing the southern boundary of the site and from there under the Páirc na Mara access road via a culvert located towards the south-eastern corner of the site discharges from Loch na Sióg (*a small lake 380m upstream of the site*) and drains to the Glenaruid River 260m downstream. The Glenaruid River in turn discharges to Kilkieran Bay approximately 860m downstream of the site. A 0.45m pipe culvert located to the northwest of the site discharges to an open drain which in turn discharges into the stream in the southern section of the site. The proposed development will require the diversion of the existing open drain via an extension of the existing 450mm culvert along the western boundary of the site and backfilling the open drain with structural fill material. Localised realignment of the left bank of the Loch na Sióg stream is proposed for approximately 16m to 19m comprising the construction of a river wall to comprise rock armour which will follow the natural curve of the stream.
- 2.2 The FRA flood extent mapping indicates that the site is within the 1% AEP flood Extent and therefore could be situated in Flood Zone A. A hydrological assessment was developed to define catchment characteristics and estimate design peak flood flows for the stream and a hydraulic assessment of the stream to allow flood risk to be confirmed. The western section of the site was confirmed to lie within flood zone A and B.
- 2.3 In terms of land use vulnerability it is noted that the proposed building is a less vulnerable development type in the context of the flood risk guidelines. It is asserted that loss of flood storage relative to the overall Loch na Sióg floodplain is negligible and realignment of the stream and infilling of the open drain has no impact on design flood levels. Works will not impede conveyance in the main stream and therefore will not increase fluvial flood risk elsewhere. Mitigation

measures outlined including setting of finished floor level FFL above the 0.1% AEP) flood level of 8.46mOD. The proposed finished floor level of 9.37mOD proposed provides for a 0.3m freeboard over road level at the culvert crossing following a precautionary approach. Residual flood risk is deemed to be low. In relation to the justification test it is noted that the site is within a permitted business park designated for commercial / industrial development. The location of the site is strategic appropriate to its purpose within the Párc na Mara Marine Park. The flood risk assessment concludes that the construction of the administration building associated car parking and associated infrastructure at the proposed site with the proposed mitigations in place is appropriate and justifiable.

2.4 *Having considered the submitted document and having regard to the planning history on the site and subject to the mitigation measures as outlined I consider that the case outlined is reasonable and the proposed development is acceptable from a flood risk perspective.*

3.0 Appropriate Assessment

3.1 Having considered the submitted Natura Impact Statement by Ryan Hanley Consulting Engineers, in detail, I am satisfied that the level of information provided is sufficient to enable the Board to undertake an Appropriate Assessment consistent with the requirements of the Habitats Directive.

3.2 There are seven European sites which fall within 15km of the proposed development namely

- Kilkieran Bay and Islands SAC Site Code 002111 450m to east
- Connemara Bog Complex SAC Site Code 002034 2.5km N
- Rosroe Bog SAC Site Code 00324 12km NW
- Cregduff Lough SAC Site Code 001251 14km W
- Lough Nageeron SAC Site Code 002119 11km W
- Connemara Bog Complex SPA Site Code 004181 2.5km N

- Slyne Head to Ardmore Point SPA Site Code 004159 6.5km SW.

3.3 On the basis of the lack of hydrological connection, source pathway receptor chain, the Connemara Bog Complex SAC, Rosroe Bog SAC, Cregduff Lough SAC, Lough Nageeron SAC and Connemara Bog Complex SPA can be screened out from further assessment. As regards the Slyne Head to Ardmore Point SPA, which is located within the tidal waters of Kilkieran Bay, having regard to the scale of the proposed development and 6.5m distance it is asserted that no impact on this European Site arises from the proposed development. Therefore the only Natura 2000 site which has been identified as potentially being impacted by the proposed development is the Kilkieran Bay and Islands SAC which is located approximately 450m east of the site.

3.4 As regards identification of the Conservation Objectives of the Kilkieran Bay and Islands SAC (Site Code 002111), the site is selected for Tidal Mudflats and Sandflats; Coastal Lagoons; Large Shallow Inlets and Bays; Reefs; Atlantic Salt Meadows; Mediterranean Salt Meadows; Machairs; Oligotrophic to mesotrophic standing waters with vegetation of the *Littorelletea uniflorae* and/or *Isoeto-Nanojuncetea*, Lowland Hey Meadows, Otter, Common Harbour Seal and Slender Naid.

3.5 The Conservation Objectives for the, Version 1, 4th February 2014, note the overall aim of the habitats directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Favourable conservation status of a habitat is achieved when:

- its natural range, and area it covers within that range, are stable or increasing, and the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable.

The favourable conservation status of a species is achieved when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and

- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

3.6 As regards predicting impacts, the The NIS provides for an evaluation of whether or not qualifying features of the Kilkieran Bay and Islands SAC should be selected for further assessment based on the potential for significant impact arising from the proposal. A number of qualifying features are appropriately screened out based on distance, scale and nature of the works and lack of connection in terms of source pathway receptor. The likelihood of significant effects to the Natura 2000 site from the project in the absence of mitigation would arise from the following:

- Habitat loss or alteration
- Water Quality and resource impacts during construction and operation
- Disturbance and or displacement of species.
- Habitat or species fragmentation
- Spread of invasive species
- Cumulative impacts

3.7 Potential impacts could theoretically arise in relation to Large Shallow inlets and bays, reefs, otter, harbour seal. No potential risk to the remaining qualifying species and habitats have been identified. All potential impacts would relate to direct and indirect impacts to relevant habitats and fauna. Potential impacts would be as a result of sediment runoff and pollution spills as a result of construction phase works.

3.8 In relation to potential impact on reefs and large shallow inlets and bays the potential for impact during construction includes potential for habitat degradation during construction through accidental input of sediment and or pollution spills to the watercourse. The habitat is located over 890m downstream and flows first through a wetland which would also mitigate potential impact through filtering of any potential sedimentation /pollution.

3.9 In relation to otter, and common harbour seal it is noted that otters are likely to use that area in the vicinity of the proposed works for foraging and for a fresh water

sources however no holting sites were identified in proximity to the works. Harbour seals are known to use the bay for foraging. Potential for disturbance will be limited to daytime hours and no appreciable disturbance impacts were identified. Potential for impact on the freshwater environment for otter and prey species which they feed upon was assessed and in the absence of mitigation there is potential for negative impact. Given the distance from the bay there is no potential for significant impact on the coastal habitat or disturbance to harbour seal. It is concluded in terms of assessment of potential impact that in the absence of mitigation there is potential for temporary impact on habitat reefs and large shallow inlets and bays as a result of construction run off and pollution. Furthermore, an impact on otters indirectly as a result of reduced prey availability due to water quality impacts.

3.10 A suite of detailed mitigation measures is outlined in including:

- Standard best practice guidance eg IFI (2016) and NRA (2009) Particularity Section 10.4 IFI 2016.
- A construction Environmental and Waste Management Plan
- Limiting site works to minimum site area and timescale required to undertake the necessary elements of the works.
- Dust minimisation plan.
- Direction of site drainage through settlement facility prior to discharge and provision of temporary facilities to trap any accidental spillage.
- Method statements for works to be submitted to IFI.
- Awareness Toolbox talks by qualified ecologist.
- Restriction of topsoil stripping to dry weather conditions.
- Silt traps
- Pouring of concrete, sealing of joints, application of water proofing paint or protective systems curing agents etc completed in dry.
- Bunding
- Maintenance of machinery. Refuelling minimum 100m from watercourse.

3.11 In considering the residual Impact the submitted NIS predicts that provided the mitigation measures are implemented in full it is not anticipated that significant impact will result to the qualifying features identified and therefore the development will not have an adverse effect on the Natura 2000 site. As regards cumulative impacts with other plans and projects plans considered include the Galway County Development Plan, Aquaculture activity. Reference is made to report by Marine Institute November 2015 supporting appropriate assessment of aquaculture and risk assessment of fisheries in Kilkieran Bay and Islands SAC. It is concluded that the project subject to the site-specific mitigation measures in order to avoid pollution and /or sedimentation to watercourses, and measures to prevent spread of non-native invasive species no in combination effect is anticipated. In the absence of any significant potential impacts on the qualifying interests and conservation interests of the Kilkieran Bay and Islands SAC and in the absence of significant impacts on its overall integrity, no potential cumulative impacts are identified.

3.12 I consider that the conclusion of the NIS is reasonable and I conclude that on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development individually and in combination with other plans and projects will not result in an adverse impact on the Natura 2000 Kilkieran Bay and Islands SAC or any other European site in view of the sites' conservation objectives.

4.0 Conclusion and Recommendation

I have read and considered all written submissions received by the Board in respect of this appeal and I hereby recommend to the Board a grant of permission subject to the following schedule of conditions.

Reasons and Considerations

Having regard to planning history of the site, and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the landscape, would not seriously injure the visual or other amenities of the area and would not give rise to

any significant impacts on the natural heritage of the area or affect the integrity of any European Site or any protected species. The proposed development would thus accord with the proper planning and sustainable development of the area.

Conditions

1. 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 20th day of February 2018, and by further plans and particulars received by An Bord Pleanála on the 19th day of December 2018 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 the 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 temporary servicing of the premises by way of holding tank herein permitted shall cease on or before a period of five years from the date of commissioning, unless before the end of that period, permission for the continuance of use beyond that date shall have been granted.

Reason: In the interest of public health. The servicing of the site by way of temporary holding tank for an indefinite period would be contrary to the proper planning and sustainable development of the area.

3. The proposed holding tank to cater for waste effluent shall be desludged regularly and disposed of off-site by a licensed waste contractor. Full details of the maintenance contract for the desludging of the holding tank

shall be submitted to the Planning Authority prior to commencement of development on site.

Reason: In the interest of public health

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

Reason: In the interest of public health.

5. Details, including samples, of the materials, colours and textures of all the external finishes to the building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. The site shall be landscaped using only indigenous trees and hedging species in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape in the interest of visual amenity.

7. 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.

Bríd Maxwell
Planning Inspector
6th March 2019