



An
Bord
Pleanála

Inspector's Report ABP-301404-18

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

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.11 hectares and is located within “*Páirc na Mara*” (*Marine Park*) a serviced, yet unoccupied business park, approximately 1.4km to the north east of Kilkieran Village in Connemara, West County Galway. The site is part of the 8 hectare Aquaculture Business Park, developed on the eastern side of the Regional Road No 340 between the road and the shoreline of Kilkieran Bay. Site works for the industrial estate commenced circa 2005 (planning permission PL01/2584 refers) including internal access roads, footpaths foul and storm drainage, underground electrical and telecom ducting however the site remains without buildings. The appeal site is circa 150m south of the main access junction from the R430. There is a stone building with corrugated metal roof and a playground and basketball court to the north and a football pitch opposite to the east. ESB power lines traverse the rear – western part of the site. A small stream runs through the southern end of the site and a timber post and rail fence along the northern boundary. The estate road terminates adjacent to the coastline approximately 550m to the east. The landscape is typical of Connemara ruggedness with extensive rock outcropping. Development in the vicinity comprises sporadic scattered one off rural housing.
- 1.2. Kilkieran Bay and Islands is a designated Special Area of Conservation (Site Code 002111).

2.0 Proposed Development

- 2.1 The proposal involves permission for the construction of a 45 sq.m administration building with a temporary foul water holding tank and connection to other existing services. It is intended that the erection of the office will serve as a point of contact between personnel from Údarás, interested aquaculture operators who may wish to set up within the marine park and members of the local community. It is envisaged that the office will be used for occasional meetings possibly every 4-6 weeks.
- 2.2 Documentation on file indicates that the existing foul treatment plant was never commissioned and has remained open to the elements since 2005. It is now intended to review the design of the system and revamp the unit to ensure that it is fit for purpose. On this basis it is proposed that as an interim measure a temporary holding tank be installed to service the proposed office pending commissioning of the new plant.
- 2.3 The initial proposal involved location of the proposed foul water holding tank to the south of the building however in response to the request for additional information the location of proposed foul water holding tank was revised to the front section of the site. The unit is to be installed below ground level and comprises a “Klargester Holding tank with a storage volume of 2,800 litres. Letter submitted with the application from *Barna Recycling* indicates a willingness to collect wastewater from the site and it is anticipated that there will be a collection every 2 months with sludge to be disposed of to a licenced facility.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 Following an initial request for additional information, by order dated 15th May 2018, Galway County Council decided to grant permission and 10 conditions were attached which included the following:

Condition 2. When the sewer system for the Marine Park is operational the proposed office building shall connect to same and holding tank shall be decommissioned and removed.

Condition 3a Holding tanks shall have sufficient capacity and shall be de-sludged when necessary and disposed off site by a licensed waste contractor. Detail of maintenance contract for desludging to be agreed.

Condition 4 Office building shall have natural local stone external finish. External finishes.

Condition 5 Existing roadside drainage to be maintained.

Condition 6 Surface water disposal within the site to soakaways.

Condition 7 Landscaping

Condition 8 Public roads to be maintained free from dirt and debris during construction.

Condition 9 Construction best practice mitigation to prevent adverse impact to Natura 2000 sites in the vicinity.

Condition 10 Development contribution €450,00

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's initial report notes location within an area identified as at risk from fluvial flooding. Whilst this is acceptable in respect of the office which is not a vulnerable use, the waste water holding tank should be moved out of the area at risk. A request for additional information sought such revision and further clarification in relation to design calculations and capacity. Following submission of additional information, the final report indicates no objection subject to conditions.

3.2.2. Other Technical Reports

None

3.3. Prescribed Bodies

Submission from An Taisce asserts that given the nature of the proposed development alternative locations within the existing nearby settlement should be examined.

3.4. Third Party Observations

Submission from Billy Smyth, Chairman of *Galway Bay Against Salmon Cages* objects to the proposal. Asserts that the application is incomplete and is part of a much larger project. Salmon farms have been allowed to operate in the bay without Appropriate Assessment or Environmental Impact Assessment. Cumulative assessment is required. Screening for AA document contains misleading and incomplete information. Refute assertion that there is little or no industry or employment in Kilkieran and negative impact of salmon farming on the viability of offshore fishing and environmental and planning regulation. Údarás own a number of buildings many unoccupied within 8km of the site which could be used and the local community hall 1km away is available.

4.0 Planning History

171157 Mirror application withdrawn.

PL07.228892 (07/3498) Permission granted for development comprising fish processing and packaging plant at the side of Cill Chiaráin pier to the southwest corner of the Marine Business Park. “Forbairt le haghaidh Próiseáil agus pacáil éisc chomh maith leis na seirbhíse agus oibríthe súimh riachtanna fcah ag Páirc Ghnó Mhuirshaothraithe Chill Chiaráin.

14/219 Permission for new changing room with associated site development and permission to retain an existing switch room building. “Seomraí feistis nua agus oibreacha súimh eile a bhaineann leis on foirgnimh a thógáil maraon le cead chun seomra lascanna leitreach a choinneáil.”

11/528 Permission for construction of playground. *Chun pair Spraoi a fhorbairt.*

01/2584 Permission granted 29th April 2002 for site development works for Aquaculture Business Park. – “Chun talamh a fhorbairt mar pháirce gnó muirsaothraithe san aireamh sa bhforbairt seo beidh boithre, cosain, soilse poiblí, ce agus seirbhísí faoi thalamh.” Permission granted subject to 16 conditions which included the following of note:

Condition 1b Permission for site development works only. No buildings / structures / factories / offices shall be constructed unless permission is obtained for same.

Condition 2(a) All structures shall be single store and shall not exceed 6m in height unless otherwise agreed with the Planning Authority.

Condition 8. Within 2 months of the grant of permission the applicant shall submit details for a single treatment plant for the entire site in accordance with the latest EPA wastewater treatment manuals for agreement with the planning authority.

04/1475 Permission granted for the construction of 2 no ESB substations with adjoining switch rooms.

5.0 Policy Context

5.1 Development Plan

5.1.1 The Galway County Development Plan 2015-2021 refers.

- The site is within a mid a mid-range Landscape Sensitivity -class 3.
- The site is within the Gaeltacht.
- 10.4.1 Economic Development in An Ghaeltacht

“The Council continues to support Údarás na Gaeltachta in fulfilling its role as a Development Agency of this region.”

- Policy G2 Economic Development in An Ghaeltacht

“Galway County Council through its Economic Development Role, is committed to working closely with all the stator development agencies, especially Údarás na Gaeltachta, to achieve sustainable development in the Galway Gaeltacht while

protecting and promoting the Irish language as the first community language of the area.”

- DM Standard 40 Environmental Assessments.

3.5. Natural Heritage Designations

There are number of Natura 2000 sites in the vicinity, the closest being the tidal waters of Kilkieran Bay and Islands SAC Site Code 002111 which is located approximately 415m to the east of the site. The list of Natura 2000 sites within 15km of the site is as follows:

- Kilkieran Bay and Islands SAC Site Code 002111 (415m E)
- 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

4.0 The Appeal

4.1. Grounds of Appeal

4.1.1 The appeal is submitted by Peter Sweetman and Associates on behalf of Galway Bay against Salmon Cages. Grounds of appeal are summarised as follows:

- Screening document rules out stage 2 Appropriate assessment yet acknowledges that the development is capable of having an effect. Contrary to CJEU case 258/11 Advocate Sharpston Opinion at 46;
- Provision of holding tank adjacent to the SAC not proper planning.

- Apparent contradiction in that condition 9 requires mitigation to protect the integrity of the adjacent Natura 2000 site yet the planner's report found that the development is not capable of having an effect.
- On the basis of the information provided it is not possible for An Bord Pleanála to carry out an Appropriate Assessment.

4.2. Applicant Response

4.2.1 The response submitted by Jennings O Donovan Consulting Engineers on behalf of the first party is summarised as follows:

- In terms of development justification, it is noted that Scainmh ED within which the Marine Park is located is an unemployment blackspot with a 34% unemployment rate in 2016.
- Scale of the development is extremely small 45m² and is required to allow contact and discussion between personnel from Údarás na Gaeltachta, potential investors and the local community who fully support the completion of the proposed Marine Innovation Park which will offer the potential to develop and grow marine related projects and other employment creating industries within their locality.
- Temporary foul water holding tank is proposed to serve the office development with a storage capacity of 2.8cum. Unit will include an alarm warning system to indicate when the contents of the tank require collection by licensed operator.
- Appellant has incorrectly concluded that the AA stated that the location of the proposed office building is adjacent to the Kilkieran Bay SAC as it is approximately 500m from the actual site.
- Proposal is comparative to a rural dwelling with no likely significant effects.
- No concerns were raised regarding the construction works advanced for infrastructural development of the Marine Park in 2005.
- Planning Section and Environment Section are satisfied with regard to proposed temporary foul water holding tank.

- Measures proposed within condition 9 are entirely useful in preventing any impact on Kilkieran Bay SAC either during construction or operational phase of the building.
- Appeal is apparently compiled without proper reference to the full details submitted covering this planning application and should be dismissed.

4.3. Planning Authority Response

4.3.1 The Planning Authority did not respond to the grounds of appeal.

4.4. Observations

4.4.1 Observations submitted by Máirín Ní Choisdealbha-Seoige on behalf of Choiste & Forbairt Chonamara Láir Teo, notes long term involvement of that committee in trying to progress employment opportunities in the area. Significant economic, cultural and language implications of Páirc na Mara are emphasised. Confident that planning and technical matters can be resolved in the proper manner, the submission is supportive of the decision of Galway County Council which is in accordance with the relevant policies and strategies for the region will contribute to employment in the Gaeltacht, the 20-year strategy for Irish, to the development of the Gaeltacht and to the state strategy regarding the sea industry and rural development.

5.0 Assessment

5.1 I consider that the key issues to be considered in determining this appeal area as follows:

- Principle of Development
- Servicing – Wastewater Treatment and Flooding.
- Appropriate Assessment & Environmental Impact Assessment Screening.

5.2 The proposal involves the construction of an office building intended to act as a point of contact for Údarás na Gaeltachta, interested developers and the local community. On the question of the principle of development, I note the planning history on the overall lands of which the site forms part, the clear difficulties that have arisen in terms of advancing the development of the Páirc na Mara and I consider that the principle of development here is acceptable and is supported by the relevant planning policies which seek to promote sustainable development in the Galway Gaeltacht. As regards third party submissions to the local authority suggesting that alternative meeting locations already exist, I note the justification outlined by the first party and observers to the appeal highlighting the need for an impetus to progress the vision for development of the overall site. I consider that the proposal is in keeping with the planning history and policy objectives for the area. On this basis I consider that there is no objection in principle to the development as proposed subject to consideration of detailed matters.

5.3 Servicing Wastewater Treatment and Flooding.

5.3.1 As regards services the site is serviced by water supply and storm drainage electrical and telecom services. Whilst a foul treatment plant was installed to service *Páirc na Mara*, it was never commissioned and it is outlined within appeal documentation that it is now intended to review the design and revamp the unit to ensure a fit for purpose system. On this basis it is proposed that as an interim measure a temporary holding tank be installed to service the proposed office

building. The system will be fitted with an alarm and sludge will be collected and appropriately disposed of to a licensed facility. I note that whilst such an arrangement is not a desirable approach to the servicing of development, given the unique nature of the proposal, low level of likely usage of the office building and purely as a temporary measure I consider that this proposal could be tolerated. In this regard I would consider that a restricted duration of 5 years would be appropriate.

5.3.2 The issue of potential flood risk with regard to the foul storage was addressed within the request for additional information. I note from OPW draft flood maps that the site in its entirety appears to be within an area identified as at flood risk Fluvial – Indicative 1% AEP (100 yr) Event. I note that whilst the proposed wastewater storage tank was relocated in response to the request for additional information it remains apparently within an area at risk of flooding. I further note that whilst the proposed office use would be deemed to be a “less vulnerable” use, no detailed proposals for flood risk have been addressed. Clearly having regard to the Planning System and Flood Risk Management Guidelines Department of Environment, Heritage and Local Government November 2009, the proposal should be subject to a flood risk assessment and the justification test. On this basis I would recommend that a request for additional information issue requesting a site-specific flood risk assessment to quantify the risks and effects of any necessary mitigation together with measures needed or proposed to manage residual risk. The assessment should examine the effectiveness and impacts of any control or mitigation measures to be incorporated in that development.

5.4 Appropriate Assessment & Environmental Impact Assessment Screening.

5.4.1 On the issue of appropriate assessment, I note that the application is accompanied by a Screening Assessment for Appropriate Assessment compiled by Jennings O Donovan and Partners Limited. The screening report notes seven Natura 2000 sites within 15km of the site as follows:

Kilkieran Bay and Islands SAC Site Code 002111

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.

5.4.2 It is asserted that due to the relatively small-scale nature of the proposed development and its proposed operation, the screening assessment can focus on any impact envisaged within the tidal water of Kilkieran Bay, of which Kilkieran Bay and Islands SAC only occurs within the sphere of influence of the project site. Whilst Slyne Head to Ardmore Point Islands SPA is within the tidal waters of Kilkieran Bay, however due to the nature and scale of the project no impact on this Natura 2000 site is envisaged due to the distance of approximately 6km. There is no hydrological link to the remaining SACs or SPA sites and therefore these can be screened out. It is asserted that on basis of best practices during construction and operational period of the proposed office the proposed development will have no impact on the qualifying interests, habitats or species and there will be no impact on the integrity of the Natura 2000 site from the development. Best Practice Measures will be addressed as part of a construction method statement and construction environmental management plan outlining best practice methods. The proposal will involve limited site excavations of approximately 35m³ and transportation of prefabricated units will require 6 lorries and approximately 6 deliveries of ready-mix. Construction will be complete within 3 months. The screening assessment concludes that it there will be no impact on the integrity of Kilkieran Bay and Islands SAC or on any Natura 2000 sites. Therefore a stage 2 Appropriate Assessment is not required.

5.4.3 I note that the third party appellant has questioned reliance on best practice methods to avoid or reduce potential adverse effects and notes correctly that mitigation measures cannot be used to screen out a project from the requirement to carry out a

Stage 2 Appropriate Assessment.¹ However, I consider that adherence to best practice construction methods, as outlined, can be considered to be an intrinsic part of the work to be carried out and can therefore be taken into account in screening.² On the basis of the information provide and having regard to the source pathway receptor model, I consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the Kilkieran Bay and Islands SAC, or any other European Site, in view of the site's conservation interests and a Stage 2 Appropriate Assessment and submission of an NIS is not therefore required.

5.4.4 On the issue of EIA Screening having regard to the limited nature and scale of the proposed development, nature of the receiving environment and distance to sensitive locations or features there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 Recommendation

6.1. It is recommended that the applicant be requested to submit 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 should quantify the risks and effects of any necessary mitigation measures together with measures needed or proposed to manage residual risk.

Bríd Maxwell

¹ Sweetman & Others v ABP C258-11

² Rossmore & Kilross V ABP

Planning Inspector

25th September 2018