



An  
Bord  
Pleanála

## Inspector's Report ABP-307246-20.

### Development

Cead maidir leis na nithe seo a leanas; 1) Athrú úsáide beartaithe don spás oifige ar an gcéad urlár, áiseanna sláintíochta agus ardaitheoir paisinéirí, 2) Seomra scagtha molta ar an gcéad urlár, 3) Athruithe molta ar an bun urlár ina bhfuil seomra folctha nua, seomra freastalaithe, seomra stórála, ardaitheoir paisinéirí agus aonad féin chuimsitheach, 4) Athruithe ar leagan amach an carrchlós reatha, 5) Gach comharthaíocht atá beartaithe lena n-áirítear na seirbhísí láithreáin gaolmhara go léir.

### Location

Indreabhán, Co. na Gailimhe.

### Planning Authority

Galway County Council.

### Planning Authority Reg. Ref.

19/1613.

### Applicant(s)

Stiúideo Telegael Teoranta.

### Type of Application

Permission.

### Planning Authority Decision

Grant with Conditions.

<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Micheal Mor Breathnach.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	22/07/2020.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The subject site is located within the established Tully Industrial Estate in west Co. Galway. The industrial estate is located on the northern side of Regional Road R336 (Galway-Leenane) at Ballinahown and within the 50km/p/h speed limit. The subject site is the first site to the west of the internal industrial estate road and includes a large industrial building fronting onto the industrial estates' internal road. The Manor House (the subject of this appeal) lies to the rear of the industrial building and is located in the north west corner of the site. On the date of my site inspection, access to the rear of the site, and to the Manor House was not available.
- 1.2. The building the subject of this appeal has a stated floor area of 591.2m<sup>2</sup> and is currently occupied as a canteen, recreation area and dressing area for staff of the existing filming studio adjacent (industrial unit on site). Permission was granted for this building under PA ref: 96/585. The ground floor of the building currently comprises a kitchen /canteen, two recreation spaces and storage areas. The first floor comprises 8 en-suite dressing rooms.
- 1.3. The total site has a stated area of 1.26ha and includes areas of car-parking. The existing buildings on the site are connected to the existing effluent treatment plant constructed to service the overall industrial estate. The Board will note that the information submitted indicates that the existing system is not working and that effluent from the system is collected 3 times a week and taken to the treatment plant in Rossaveel.
- 1.4. The surrounding lands comprise a mixture of residential and farmland.

## 2.0 Proposed Development

- 2.1. Permission is sought to change of use of first floor from dressing rooms to office space, first floor screening room and 4 editing rooms. Proposed ground floor alterations include sanitary facilities, security room and the inclusion of a lift. The development also proposes changes to the layout of the existing car park and all proposed signage including all associated site services.
- 2.2. The application included a number of supporting documents including as follows;
  - Plans, particulars and completed planning application form

- Letter regarding existing sewage system

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

The Planning Authority decided to grant planning permission for the proposed development subject to 3 conditions.

#### 3.2. **Planning Authority Reports**

##### 3.2.1. **Planning Reports**

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The initial Planning Report concludes that further information is required in relation to the development in terms of a justification for the proposal in accordance with Objective EDT 9 of the CDP and in terms of verifying the planning status of the building, current uses, number of staff occupying the building and car parking. Issues also raised in relation to the wastewater treatment system.

Following the submission of a response to the FI request, the final planning report concludes that proposed development is acceptable. The Planning Officer recommends that permission be granted for the proposed development, subject to 3 conditions. This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

##### 3.2.2. **Other Technical Reports**

**Environment Section:** An email is included on the PAs file advising that representatives of Udaras na Gaeltachta consulted with the Environment Section in advance of the submission of the further information for the purposes of a planning application for a site in Tully.

### 3.2.4. Prescribed Bodies

**Transport Infrastructure Ireland:** No observations

### 3.2.5. Third Party Submissions

There is 1 no. third party objection noted on the planning authority file. The issues raised are summarised as follows:

- Issues raised in relation to the WWTP. In 2012, Udaras started transporting sewage by tanker from the holding tank in Tully Estate to Udaras Treatment Plant in Rossaveal. This happens 3 times a day every Monday, Wednesday and Friday.
- The storm drain runs through family farm and floods fields with an excessive amount of storm water.
- Udaras na Gaeltachta does not or ever had a licence to discharge water to the open course land drain.

## 4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

**PA ref: 96/585:** Permission granted to Concorde Anois Teo, to construct canteen, dressing rooms and recreation areas.

Relevant history within the Industrial Estate:

**ABP ref PL07.222746 (PA ref: 06/4802):** Permission refused by ABP for the construction of an extension to existing data processing facility and all associated site works at Fintrax, Údarás na Gaeltachta Industrial Estate, An Tulaigh, Ballinahown, County Galway. the reason for refusal was as follows:

The proposed development would be premature by reference to the existing deficiencies in the foul sewerage facilities serving the industrial estate and the period within which the deficiencies may reasonably be expected to cease.

**ABP ref PL07.232438 (PA ref: 08/2169):** Permission refused by ABP to upgrade to the Wastewater Treatment Works serving Tully Industrial Estate Baile na hAbhainn.

**ABP ref PL07.246356 (PA ref: 15/1601):** Permission Granted by ABP for the construction of a WWTP at Tully Industrial Estate with a P.E. of 350 and a 2.65km long discharge pipe to the sea at Ballynahown Quay.

The decision date for this appeal was 02/08/2016 and the development has not been carried out to date. Permission expires on the 01/08/2021.

## **5.0 Policy and Context**

### **5.1. Development Plan**

- 5.1.1. The Galway County Development Plan 2015 – 2021, is the relevant policy document relating to the subject site. The site is located in an area designated as Landscape Sensitivity Class 2 (where Class 1 is the least sensitive and Class 5 the most sensitive). The site is also located within a Protected Focal Point/View, no.85 – Caorán na gCearc – a hill away to the north. There are no other specific policies or objectives within the Plan relating to this site.

### **5.2. Natural Heritage Designations**

The site is not located within any designated site. The closest Natura 2000 site is the Connemara Bog Complex SAC (& pNHA) (Site Code: 002034). This site includes Loch na Tulai, which lies approximately 250m to the north west of the subject appeal site.

### **5.3. EIA Screening**

Having regard to nature and scale of the development, together with the brownfield nature of the site, 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 The Appeal

### 6.1. Grounds of Appeal

This is a third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The issues raised reflect those raised with the PA during their assessment of the proposed development and are summarised as follows:

- Lack of due consideration to the environmental concerns raised and that the grant of permission fails to fully comply with neither the principles of proper planning and sustainable development nor the policies and objectives of the Galway County Development Plan 2015-2021.
- Galway County Council acted beyond its jurisdiction with regards to the Birds and Habitats Directives and failed to subject the application to an assessment and to make a determination under the provisions of the Directives.
- The permission fails to comply with the biodiversity objectives of the CDP.
- Concerns regarding wastewater and discharge to sea issues remain outstanding and the permission fails to comply with wastewater policies and objectives of the CDP.
- No WWTP is currently operational at the site. Information indicates that there is an arrangement in place with Galway Co. Co that the treatment plant is emptied 3 times a week.
- The grant of permission contravenes Condition 3(i) of the original permission, 96/585 refers, as it relates to wastewater treatment.
- The proposed development will result in an additional 33 employees using the facilities in the next 2 years.
- Issues raised with GCCs assessment of the WWTP issue.
- Concerns raised in relation to storm / surface water and flooding issues, including flooding of appellants land.
- Issues raised in 1994 in relation to wastewater and flooding issues have not been addressed.

- It remains unclear what permits and licences are required and are in place.
- Public notices were only published in Irish, while the rest of the application is completed in English.

## 6.2. Applicant Response

None.

## 6.3. Planning Authority Response

None.

## 6.4. Observations

None.

## 7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Water Services
3. Other Issues
4. Appropriate Assessment

### 7.1. Principle of the development

- 7.1.1. The proposed development seeks to change of use of primarily the first floor of the permitted Manor building. Changes to the ground floor are minimal with the inclusion of a security guards office in place of one of the storage spaces and the installation of a lift in place of a second storage area. Changes to the first floor of the building



will see the removal of the 8 en-suite dressing rooms and the provision of office space, screening room and 4 editing suites. No amendments to the exterior of the building are proposed. As such there are no visual impacts arising from the proposed development.

- 7.1.2. The information submitted suggests that there are currently 80 people working between the two buildings within the application site, being the subject building and the larger industrial building used as the filming studio. The proposed development does not appear to propose an increase in the number of people using the site, rather a grant of planning permission will result in changes to where people will work within the overall site. It is submitted that the proposed alterations will see 12-15 people working in the Manor House from the studio building.
- 7.1.3. The proposed site layout plan provides for adequate car parking to serve the overall site and a number of disabled spaces are also provided for.
- 7.1.4. I have no objection in principle to the proposed amendments.

## **7.2. Water Services**

- 7.2.1. The Board will note the third-party submission in relation to the subject appeal. The primary concerns relate to the impact of the development on the environment, primarily due to the lack of appropriate assessment and the potential impact of the development on birds and habitats.
- 7.2.2. In addition, the fact that there is no working wastewater treatment system serving the industrial estate is raised as a concern. I also note that this issue has been ongoing for many years and has not yet been addressed by Údarás na Gaeltachta. I also note that a number of planning applications for expansions of businesses within the industrial estate have been refused permission for reasons relating to inadequate wastewater treatment facilities.
- 7.2.3. In response to this issue, the Board, ABP ref PL07.246356 (PA ref: 15/1601), granted permission to Údarás na Gaeltachta, for the construction of a WWTP at Tully Industrial Estate with a P.E. of 350 and a 2.65km long discharge pipe to the sea at Ballynahown Quay. The decision date for this appeal was 02/08/2016 and the permission expires on the 01/08/2021. This development has not been carried out to date.

- 7.2.4. In support of the current proposals, a representative of Údarás na Gaeltachta provided a letter to the applicant advising that under the permitted development, PA ref 15/1601, for the new wastewater treatment system, this system will be 'capable of dealing with 110 employees of Telegael at any one time'. No detail as to when this system will be constructed is advised and the letter further acknowledges that the existing system is not working.
- 7.2.5. It is difficult to consider a grant of planning permission for a development on a site which currently, has no working effluent treatment system in place. This difficulty is further compounded by the length of time this situation has been in place at the Tully Industrial Estate and the apparent lack of any action by the estate owners to rectify the matter. I also acknowledge the issues raised by the appellant in relation to surface water and flooding which also appear to have gone unaddressed over the years.
- 7.2.6. However, and notwithstanding the above, I would accept that the appellant is incorrect in his submission that the development, if permitted, will result in an additional 33 employees using the facilities in the next 2 years. The proposed development does not seek to increase floor area of any building. Rather, the application seeks to change where on the site people will work.
- 7.2.7. The applicant has advised that there are currently 80 staff employed on the site, which includes the subject building and the film studio. A grant of permission will see a small number of these existing staff move from the film studio building into the Manor building. In this regard, there will be no increase in personnel on the site. Should the Board be minded to grant planning permission in this instance, I recommend that a condition limiting the number of staff using the site to 80, until such time as the planning permission for the new WWTP, ABP ref PL07.246356 (PA ref: 15/1601), has been implemented and the system is functioning correctly.
- 7.2.8. I note the appellants concerns in terms of flooding. I also note that this issue has been raised numerous times under previous proposed developments at the Industrial Estate. Having regard to the minimal nature of the proposed development, all comprising internal works to an existing building, I am satisfied that the current proposal will not contribute to flooding of roads or land.

### **7.3. Other Issues**

#### **7.3.1. Development Contribution:**

No development contribution has been attached by Galway County Council. No development contribution is payable.

#### **7.3.2. Site Notices:**

The appellant notes that the site notices were not provided in accordance with the Regulations and were published only in Irish while the rest of the application was published in English. The application was accepted and validated by GCC. The Council was satisfied that the public notices advertising the proposed development were acceptable.

### **7.4. Appropriate Assessment**

The site is not located within any designated site. The closest Natura 2000 site is the Connemara Bog Complex SAC (& pNHA) (Site Code: 002034). This site includes Loch na Tulai, which lies approximately 250m to the north west of the subject appeal site.

While I acknowledge the submission of the third party, overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the minor nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

## **8.0 Recommendation**

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

## 9.0 Reasons and Considerations

Having regard to the pattern of permitted development in the area, to the provisions of the Galway County Development Plan 2015-2021, and to the nature of the proposed development as submitted, the Board considered that, subject to compliance with the conditions set out below, the proposed development would not be prejudicial to public health, would not seriously injure the visual amenities of adjoining properties and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 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 3<sup>rd</sup> day of March, 2020, 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be used solely as ancillary to the adjoining filming studio (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.

**Reason:** In the interest of clarity.

3. No more than 80 staff members shall be facilitated on the site, until such time as the planning permission for the new WWTP, ABP ref PL07.246356 (PA ref: 15/1601), has been implemented in full and the system is functioning correctly.

**Reason:** In the interest of public health and orderly development.

4. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

**Reason:** In the interests of traffic safety and proper planning and sustainable development.

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A. Considine

Planning Inspector

27<sup>th</sup> August, 2020