



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308397-20

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<b>Development</b>	Development of District Regulation Installation and associated ancillary works.
<b>Location</b>	Father Burke Park, Father Griffin Road, Galway
<b>Planning Authority</b>	Galway City Council
<b>Planning Authority Reg. Ref.</b>	20196
<b>Applicant(s)</b>	Gas Network Ireland
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Colm Grogan Angela Casey
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	26 <sup>th</sup> of January 2021
<b>Inspector</b>	Adrian Ormsby

## 1.0 Site Location and Description

- 1.1. The site is approximately 1 km to the south west of Galway City Centre (Eyre Square) and is located on the southern side of the Father Burke Park, a public amenity space. The site bounds the Father Griffin Road and is close to the junction with the Father Burke Road. The site area is stated as 0.00842ha.
- 1.2. The site is located at a point where a possible pedestrian entrance to the park between a low level wall may once have been available. This possible pedestrian entrance is now closed off by a low railing and existing hedgerow planted along the inside of the boundary wall and railing. The low level boundary wall is rendered and painted with a red railing placed atop of the wall.
- 1.3. The park includes a children's playground c. 55m to the north east of the site, open green lawns and pedestrian walkways through the park. Across the road from the south eastern boundary of the site there are a number of single storey residential properties. There are other non-residential uses nearby including a pharmacy, a school, and the Galway Technical Institute.
- 1.4. A number of other utility structures were observed in the immediate vicinity of the site including road signage, traffic lights, overhead electrical wires, and a low height (c.1m) substation like structure recessed behind the boundary wall of the park approx. 20m east of the application site. This is not overly visible from surrounding areas.

## 2.0 Proposed Development

- 2.1. The proposed development comprises-
  - Permission for the installation of a District Regulation Installation (DRI)
  - The DRI will consists of a solid concrete blockwork enclosure (c. 2.575m high by 4.25m wide by 1.3m deep) with a pitched roof and concrete base (c. 1.78m deep x 4.73m wide)
  - A galvanised steel vent stack (c. 3m high)

- The DRI will reduce gas pressure feeding from the medium (4 Bar) pressure network to below 100mbar which is required to facilitate a gas supply to the surrounding area for the end user whether commercial or residential.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

On the 16th of September 2020, Galway City Council decided to grant permission subject to four conditions including-

- C2 required a replacement hedging/landscaping scheme to be submitted for agreement
- C3 requires precise details of the north west elevation of the DRI facing the Father Griffin Road to be submitted for agreement.
- C4 requires that should the location of the DRI conflict with road network revisions along the Father Burke Road the DRI shall be relocated by the applicants at their expense.

### **4.0 Planning Authority Reports**

#### **4.1. Planning Reports**

The recommendation to grant permission in the Planner's Report reflects the decision of the Planning Authority. The main points are outlined as follows:

- The vented doors facing the Fr Griffin Road would appear to be steel but should be clarified.
- This is a different application and site from that proposed under 18/418 (deemed withdrawn in March 2020).
- In the original letter of 24<sup>th</sup> September 2018 which requested the consent of the council to apply for permission, the applicants advised that they intended to extend the gas network from Fr Burke Park along Munster Avenue, William Street West, Dominic Street Upper and Lower, Raven Terrace and Fairhill

Road Upper. A DRI was required to enable the reduction of gas pressures to facilitate the proposed connections to future customers.

- A letter of consent has been submitted from the capital Section of the Council.
- Public utilities can be considered in Ra Zoned land depending on the location and scale of development.
- The site adjoins the route of a proposed Bus Connect Scheme. It is not envisaged that land take from the park would be needed however if it was it would be from this side of the road to avoid impacting on private gardens opposite.
- It appears the site would be at risk of flooding. Further Information was sought on the previous application for a DRI as well as to demonstrate alternative sites considered.
- The applicants have submitted a rationale for the chosen location.
- A number of options for managing flood risk to the development had been considered including raising the installation and enclosing it in a concrete wall.
- The recommended option was to set the installation at existing ground levels and allow it to be flooded during a flood event.
- The proposed development is highly vulnerable and lies within flood zone A and a Justification Test is generally required. Section 5.28 of the Flooding Guidelines states that a Justification Test does not apply to minor developments. The proposed development is 'very minor' and unlikely to have a significant impact off site. Although for a different site these conclusions are applicable to the proposed DRI and given its nature and scale it is not considered necessary to seek a revised Flood Risk Assessment.
- Policy 9.14 of the Development Plan is applicable.
- It is not considered that the proposed facility will adversely impact on amenities of properties in the vicinity or on patrons in Fr Burke Park.
- The submitted plans show that only the 0.4m pitched roof of the facility will exceed the height of the established hedge. New hedging will be installed at the rear. It is considered that either the existing hedge should be replanted to

the rear of the unit or a new replacement hedge installation if this is not feasible.

## 4.2. Other Technical Reports

- Chief Fire Officer-
  - No objection to the proposal as submitted. Applicants advised they are required to apply for a Fire Safety Certificate.
  - It is noted a cover email with this report states ‘a Fire Safety Cert application is not required’.
- Transportation Department and Roads Section-
  - Further Information recommended seeking consultation with respect to the position and potential movement of the infrastructure resulting from options arising in the Galway Transport Strategy. The proposed location maybe acceptable subject to moving the installation if required at GNI’s expense.
  - A number of emails circulated including 27/08/20, 28/02/20 and 10/09/20 and can be summarised as follows-
  - This section of the Galway City Centre Transport Management Plan is not a focus at present and may not occur under the current development plan. There is a design, but it has not been finalised and land take requirements have not been established. A non final design drawing was attached.
- Recreation and Amenity-
  - GNI are to work closely throughout the proposals implementation and will agree and implement a landscaping scheme to integrate the unit in the landscape context of the Front Boundary of the Park. A conditional grant in this regard is appropriate.

### **4.3. Prescribed Bodies**

- None

### **4.4. Third Party Observations**

Three third party submissions have been received. One of these is a submission in support of the development. The two other submissions are generally not in favour of the development and much of their content makes up the grounds of appeal as set in section 7.1.

## **5.0 Planning History**

This site-

- None evident on this site

Nearby Relevant Sites

- 18/415- Application deemed withdrawn on the 10/03/20 for a DRI on the northern side of the Fr Burke Park c.135m north of the application site. Site located to rear of No's 1-6 Munster Avenue a terrace of residential properties.

## **6.0 Policy Context**

### **6.1. Ministerial Guidelines**

6.1.1. The following section 28 guidelines are considered relevant-

The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009.

Section 5.28 deals with '*Assessment of minor proposals in areas of flood risk*'.

## 6.2. Galway City Development Plan 2017-2023

The subject site is zoned 'RA' Recreational and Amenity with an objective *"To provide for and protect recreational uses, open space, amenity uses and natural heritage."*

Section 11.2.2 details-

*"Uses which may contribute to the zoning objectives, dependent on the RA location and scale of development, for example:"....."Public Utilities".*

Section 9.14- *'Energy and Associated Infrastructure'* states-

*The Council facilitates the provision of many services such as the gas and electricity transmission networks.....The Council will continue to support the infrastructural renewal and development of energy networks in accordance with the Government Policy Statement on the Strategic Importance of Transmission and Other Energy Infrastructure (2012). Balanced consideration will be given to the development of necessary energy transmission infrastructure serving the city's energy needs and the avoidance of unduly negative effects on the environment and the community.*

*Policy 9.14 Energy and Associated Infrastructure*

*Support the infrastructural renewal and strategic development of the national transmission grid system and energy networks in the city, underground where at all possible.....*

Section 11.27- Flood Risk Management

- *Where development is proposed in identified flood risk areas under Western CFRAM, the type or nature of the development needs to be carefully considered and the potential risks mitigated and managed through on-site location, layout and design of the development to reduce flood risk to an acceptable level.*

- *Development shall have regard to the flood resilient design guidance and flood mitigation measures in the City Council's Strategic Flood Risk Assessment for Galway City Development Plan 2017-2023, the recommendations and best practice guidelines of Appendix B – addressing flood risk management in design of development of The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) and the Strategic Flood Risk Assessment for Three Local Area Plan Areas 2012.*
- *In identified flood risk areas, Flood Zone A or B, it will be necessary to carry out a Site Specific Flood Risk Assessment (FRA), appropriate to the scale and nature of the development and the risks arising. Proposals shall demonstrate appropriate mitigation and management measures in the layout and design of development.*
- *All proposed development must consider the impact of surface water flood risk in drainage design. Consideration should be given in the design of new development to the incorporation of SUDS. The drainage design should ensure no increase flood risk to the site or downstream catchment.*
- *Development proposals in identified flood risk areas shall consider and incorporate the potential impacts of climate change and residual risk into development layout and design.*
- *In areas of identified flood risk all developments including minor works and changes of use should include an appropriate level of FRA. This assessment must demonstrate that the development would not increase flood risk in the context of use, emergency access and infrastructure. Development should demonstrate principles of flood resilient design.*

### **6.3. Natural Heritage Designations**

#### 6.3.1. The site is -

- c. 275 m west of the Galway Bay Complex SAC (000268),
- c. 330m south west of the Lough Corrib SAC (000297) and
- c. 750m north west of the Inner Galway Bay SPA (004031).



## **6.4. EIA Screening**

- 6.4.1. Having regard to the nature and small scale of the proposed development it is considered that 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.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

Two third party appeals have been received from the following-

- Colm Grogan of 46, Beach Court, Grattan Road, Galway.
- Angela Casey of 2, Munster Avenue, Galway

The grounds of the appeal can be summarised as follows-

- The proposed development is immediately adjacent to a busy footpath on a busy street and is c.40 metres away from a children's playground. The nature of the proposed development is not appropriate in this context.
- The proposed development and change of use of the site is compatible or compliant with the City Development Plan. Does the change of use not require a rezoning process to industrial use? Non-compliance with policy 9.10 Air Quality and Noise, Policy 10.2 City Centre Development, section 11.2.2 Zoning
- Health and Safety Risks concerns, no explanation why the Major Accidents Regulations do not apply, emissions, hazards, risk of lightening, insurance cover or safety record of similar facilities. etc.
- The Planners report does not include for the risk of serious injury or death and that risk was printed in red for the previous application 18/416 for a DRO at Fr. Burke Park, does not refer the explosion risk associated with 'fully sealed pressurised systems' and there is conflict between the planners report and the

Chief Fire Officers Report dated 15/09/20 in relation to need a fire safety certificate.

- Visual obtrusiveness of the development and visual impact of a 3m stack is objectionable in a public park. Destruction of the boundary wall is not in accordance with policy 4.5.1. There are also questions over the extent and nature of materials/finishes for the installation. An Bord Pleanála precedent to refuse based on the protection of visual amenity (PL06S.248353).
- There is a history of flooding in the area and the proposed development could have flooding impacts on adjacent properties. The impact on below ground regulators is detailed by the applicant. A Site Specific Flood Risk Assessment and Justification Test should be carried out.
- Impact on Residential Amenity not considered.
- Concerns Raised over the impact on archaeological heritage. The site is located within the Zone of Archaeological Potential.
- Information omitted from the application including a map showing the location of the existing or proposed network the development will serve and in the absence of this it is considered the applicants are project splitting. Other deficiencies are also identified. The need for the development in the absence of a network is questioned.
- The site notice does not adequately describe the development
- As Galway City Council own the land there is a danger of perceived 'subjective bias'. The terms of this agreement are not provided.
- An Environmental Impact Assessment is required for the operation of a gas venting facility.
- The Chief Fire Officer, HSA, EPA, Heritage Officer, Environment Section, City Architect and Failte Ireland have not been notified.
- The plans are silent in relation to Surface Water discharge, if a fence is proposed, pipework and dimensions within the premises and other drawings and elevations are not included.

- There is no explanation of how the facility will function and volume of gas to be vented etc.
- Discrepancies between drawings submitted for 18/415 and the proposed application.
- Potential for increased levels of Antisocial behaviour in the area.
- Potential for impact on traffic and users of the park cannot be assessed in the absence of an identified gas pipe route.
- The application is misleading in that the proposal serves appears to serve only the business community, the applicants legal interest and in terms of pre application consultations.
- There is no justification or methodology for Site Selection. There is no information submitted on alternative locations considered.

## **7.2. Applicant Response**

- None Received

## **7.3. Planning Authority Response**

The Planning Authority's response to the grounds of appeal can be summarised as follows:

- The current location is a revised location further away from houses than the previous application under Planning Application 18/415 which was located on the northern side of the Park at the rear of the appellants dwelling.
- The current site is located well away from nearby houses.
- The original letter requesting consent of the City Council to apply for permission sets out the applicants intention to extend the gas network in the area (see 4.1 above)
- Public Utilities can be considered in RA Zoned lands

- During the assessment of 18/415 the risk of flooding was identified and was subject to a request for Further Information along with a request to demonstrate consideration of alternative sites.
- In question 16 of the application form the applicants have advised of their position in relation to flood risk in Zones A.
- The applicants previously engaged ARUP Consulting Engineers to carry out a FRA for 18/415. The recommend option was to set the installation at existing ground level allowing it to be flooded during a flood event. Section 5.28 of the Flooding Guidelines state a Justification Test is not required for minor developments that are unlikely to raise significant flooding issues. This development was deemed to meet the section 5.28 requirement.
- While a different site within Fr Burke Park, these conclusions were considered applicable in relation to the proposed relocated DRI, given its nature and scale and it was not considered necessary to seek a revised Flood Risk Assessment or to seek a further copy of the network map which had previously been provided.
- In relation to safety concerns and the proximity of the playground, the applicants have set out the nature of the emissions from the facility. In view of these it was not considered the proposed facility will adversely impact on the amenities of properties in the vicinity or on patrons in Fr Burke Park.
- Having regard to the nature and height of the proposed installation which is largely enclosed by existing and new hedging and is no longer adjacent to residential rear gardens it is considered that the proposed installation was acceptable and would not materially affect the playground or the remainder of the park.
- The proposed application is located outside the Zone of Archaeological Protection (ZAP) (map supplied).
- An email from the Assistant Chief Fire Officer dated 16<sup>th</sup> of September 2020 (copy attached) on behalf of the Chief Fire Officer confirmed that a Fire Safety Certificate was not required.

- Galway City Council request the Board to uphold the Councils decision and Grant permission for this development.

#### **7.4. Observations**

- None

### **8.0 Assessment**

#### **8.1. Introduction**

I have examined the application details and other documentation on file, including the submissions received in relation to the appeal. I have inspected the site and have had regard to relevant local/regional/national policies and guidance. I consider that the substantive issues for this appeal are as follows-

- Zoning
- Impact on Residential and Visual Amenity
- Site Selection, Consideration of Alternatives sites and Project Splitting
- Flood Risk
- Other Matters
- Appropriate Assessment

#### **8.2. Zoning**

- 8.2.1. The subject site is zoned 'RA' Recreational and Amenity with an objective *"To provide for and protect recreational uses, open space, amenity uses and natural heritage."*
- 8.2.2. Section 11.2.2 of the development plan details uses which may contribute to the zoning objectives, dependent on the RA location and scale of development and provides some examples including "Public Utilities".
- 8.2.3. The applicants have detailed in the application that the District Regulating Installation is required to reduce the gas pressure feeding from the medium (4bar) pressure

network to below 100 mbar in order to facilitate a gas supply to the surrounding area in a more technically appropriate and feasible manner and is ultimately a safer pressure for the end user whether commercial or residential.

- 8.2.4. The rationale for the proposed development is considered reasonable, and having regard to the fact that such facilities are identified as contributing to the zoning objective, I am satisfied that the principle of development is acceptable in this instance subject to further assessment.

### **8.3. Site Selection, Consideration of Alternatives sites and Project Splitting**

- 8.3.1. An appellant has raised significant concerns in relation to the proposed site location, consideration of alternative sites and project splitting.
- 8.3.2. Section 8 of the applicants cover letter details the reasoning behind the site selection and positioning of the proposed unit. Having considered this and in particular the information provided with the application, appeal and available online in relation to planning application 18/415 (deemed withdrawn) it appears the applicants have given consideration to site selection and consideration to an alternative site i.e. this site.
- 8.3.3. Having regard to section 6.4 above and schedule 5 of the Planning and Development Regulations 2001-20 as amended in relation to EIA and subthreshold developments I am satisfied the proposed development is not project splitting.
- 8.3.4. Having reviewed the details and drawings submitted with the application it appears that no gas network drawings have been submitted to show the existing network and how the proposed development is to integrate with same.
- 8.3.5. In the Planning Authority's response to the appeal they appear to have submitted a screenshot of a drawing submitted as part of planning application 18/415. The Planning Authority's response also details that it was indicated in 18/415 that the applicants intended to extend the gas network from Fr Burke Road, along Munster Avenue, William Street West, Dominic Street Upper and Lower, Raven Terrace and Fairhill Road Upper. Having reviewed the online drawings for 18/415 it appears that the proposed development is to extend the gas network in the area and the third party submission from local business to the City Council is noted in this regard.

8.3.6. In terms of the subject application it is considered that drawings showing the existing gas network, the proposed extension of the gas networks and their interaction with the proposed development should have been submitted with this application in order to allow a comprehensive assessment particularly in terms of the need for the development at this location. As such I am not convinced the proposed site is the most appropriate site for the DRI.

#### **8.4. Visual Impact**

8.4.1. The site bounds a heavily trafficked public road and footpath close to Galway City Centre on one of the main routes to and from Salthill. It is also located in close proximity to a number of existing residential properties. The proposed location of the development along the boundary of this public park will be visible to users of the park, nearby residents from their homes and people passing by, whether by foot, bike or in other vehicles.

8.4.2. At the time of the site inspection I observed the existing hedgerow along the full length of the Fr Griffin Road is considerably lower than the planning application drawings suggests. The inspection also observed (noting the time of the year), the existing hedgerow to be without foliage, exposing views into and out of the park.

8.4.3. It is not clear from the drawings submitted exactly the extent of works proposed to the existing hedgerow with the '*Indicative Elevation Layout*' suggesting more than the '*Site Location*' (both on Drawing Number 41083880-3).

8.4.4. Condition 2 of the Galway City Council's grant of permission requires the submission of a replacement hedging/landscaping scheme 'around' the DRI. In my opinion the removal of the entire existing boundary hedging along the Fr Griffin Road would be unlikely and it is clear that the scheme will not be able to provide 'around' the DRI as it appears that access and maintenance to the DRI will be from the Fr. Griffin Road.

8.4.5. The proposed DRI will present to the Fr Griffin Road and will most likely be visible from inside the park. The DRI is quite large at 4.25m wide and 2.525m high. A very thin vent stack 3m high is also provided centrally on the side elevation of the structure. There are no other comparable structures of this size or scale in the immediate area. In my opinion it will not be possible to satisfactorily integrate all

elevations of this structure into the existing environment from a visual impact perspective.

- 8.4.6. Furthermore, I am not satisfied based on the information provided with the application that the chosen site is the most suitable location for the proposed development given its siting and visual impact. Accordingly, it is considered the proposed DRI would be a discordant structure for this location, would be visually prominent and exposed and would be incongruous to the general area.
- 8.4.7. I refer the Board to two decisions of An Bord Pleanála to refuse permission for similar developments on public green spaces (rather than public amenity spaces) under reference numbers PL06S.248353 and PL06S.249371. The Board decided to refuse these permission both for one reasons relating to impact on visual amenity.
- 8.4.8. I also refer to the Board a decision under reference number PL29N.249339 along public space at the Royal Canal in Drumcondra in Dublin. In this instance I accept the site's context is different given the proximity of the DRI structure to a protected structure. However, the Board did consider that the *'proposed structure would form an obtrusive feature that would adversely impact on the visual amenities, character and setting of the protected structure and would fail to integrate in a satisfactory manner with its sensitive receiving environment*'.
- 8.4.9. It is considered that the proposed development is considerably larger than PL06S.249371, higher than both PL06S.249371 and PL29N.249339, and in my opinion is sited in a more visually prominent location than all three DRI structures already refused by the Board. As such, this permission should also be refused.

## **8.5. Flood Risk**

- 8.5.1. The grounds of appeal raise concerns in relation to flooding. In question 16 of the application form the applicants have indicated that the site has flooded previously. This section details that the site is located within the 1 in 100 year fluvial flood extent and the 1 in 200 year tidal flood extent. It is classed as Flood Zone A. The applicants detail that in the event of a flood event the installation will be allowed to flood which does not present a risk to the network. The applicants refer to section 5.28 of the Planning System and Flood Risk Management Guidelines for Planning Authorities



2009 and as such consider the proposed development to be a minor development where a justification test is not required.

- 8.5.2. The proposed development has a stated site area of 0.00842ha and as such is very small in size in the context of flooding. Section 5.28 of the Flooding Guidelines provides examples of minor development of which the proposed development is not listed. However, it also does not exclude other examples of minor developments.
- 8.5.3. Similar to the examples given in the guidelines I consider the proposed DRI to be a minor development which will be unlikely to raise significant flooding issues, will not obstruct important flow paths, will not introduce a significant additional number of people into flood risk areas and does not entail the storage of hazardous substances. The proposal is to regulate the pressure of gas flow and not for the storage of gas.
- 8.5.4. Even though the site is located in Flood Zone A, I am satisfied the submission of a Site Specific Flood Risk Assessment and a Justification Test are not required. The proposal to allow the facility to flood will ensure that any increase in flooding resulting from the proposed development will be negligible.

## 8.6. Other Matters

- *Health and Safety.* I acknowledge the justifiable concerns raised by the appellants. In relation to the Major Accidents Regulations the site is located over 1km from a Seveso III site and I have no concerns in this regard. In terms of the other health and safety concerns raised it is my view that these matters are addressed under separate codes and are not ones for the planning system to address.
- *Anti-Social behaviour.* One appellant has raised concerns in relation to increased potential for anti-social behaviour resulting from the proposed development. I acknowledge the appellant's concerns in this regard, however, I do not consider this to be an adequate planning reason for refusal.

## **8.7. Appropriate Assessment**

- 8.7.1. Having regard to the nature and small scale of the proposed development and the distance from the nearest European site, 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.

## **9.0 Recommendation**

- 9.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

## **10.0 Reasons and Considerations**

1. Having regard to its nature and scale, design and landscaping treatment, the Board considers that the proposed development at this location in a public park, which adjoins a public path and road, and is in close proximity to residential properties, would not integrate in a satisfactory manner into the visually prominent receiving environment. It is considered therefore, that the proposed development would not be acceptable in terms of visual and residential amenity and would not be in accordance with the proper planning and sustainable development of the area.

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Adrian Ormsby

Planning Inspector

29<sup>th</sup> of January 2021