



An
Bord
Pleanála

Inspector's Report

ABP-308423-20

Development	Construct 6 self contained eco pods, amenity/shower facility building with associated site works.
Location	Mallranny, Westport, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	19768
Applicant(s)	Padraic Doherty
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party
Appellants	Cathal Hanley Joseph Carey
Observer	None
Date of Site Inspection	7 th January 2021
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The subject site has an area of 0.991Ha and is located on the southern side of the N59, south east of the village of Mulranny in west County Mayo. The site is located to the rear of an existing row of dwellings, which run along the southern side of the N59 national secondary road. Mulranny wastewater treatment plant is located to the immediate west, midway down the site, separated from the site by the Murrevagh River. Mulranny Golf course is located closer to the coast approximately 150m southwest of the site's southern boundary.
- 1.2. The site descends gradually from north to south and is bordered to the west by the Murrevagh River and an existing hedgerow combined with a low treeline consisting of mainly willow and ash. Extensive views of the coast and Clew Bay are visible from several points within the site and saltmarsh habitat is visible to the southwest of the site. Several drainage channels run through the site in different directions, eventually draining into the Murrevagh River. The southwestern portion of the site is poorly drained with visible rushes. The site has several low stone and sod walls running through it and along its boundaries.
- 1.3. A narrow local road which results in a cul-de-sac, runs southwards from the N59, approximately 80m east of the site. An existing layby/parking area is present at the gate to the larger landholding off this local road, with access provided to the site via a grassy trackway through the landholding. This grassy trackway runs to the immediate south of the boundaries of the dwelling houses located to the site's north.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Construction of 6 wooden eco pods - 15sq.m in area with a height of 3m.
 - Single storey amenity and shower facility building - 130sq.m in area.
 - Connection to existing public services, wastewater and water supply.
 - New connection walkways through site and associated site works.
- 2.2. In response to a further information request from the planning authority, the proposed entrance and access to the site was amended. Access is now to be

provided off the local public road (cul-de-sac) to the site's east, which connects to the N59 to the north. Access to the site from the cul-de-sac will be provided by upgrading the existing access track which travels westward through the applicant's family landholding. In addition, the proposed amenity building was also moved further south by a distance of circa. 7m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to grant permission subject to nine conditions, most of which are standard in nature, but also including the following specific conditions:

2. *Vehicular access shall be via the existing access road east with no vehicular access from N59. Details on the finishes associated with the upgrading of this access road shall be carried out in consultation with Mayo County Council Road Design Office and submitted to Mayo County Council Planning Officer for written agreement.*

Reason: *In the interest of Road Safety.*

3. *The disposal of surface water associated with the Pods shall be agreed with the Municipal District Engineer Mayo West Region.*

Reason: *In the interest of proper planning and development.*

4. *All lighting of the proposed development shall be low level illumination only, shall not spill beyond boundary of site and shall not cause any glare nuisance to neighbouring property.*

Reason: *In the interest of visual amenity and public safety.*

8. *The development shall not operate without Fáilte Ireland's Welcome Standard targeted at innovative, quirky or unusual tourist accommodation businesses (such as glamping, pods and log cabins) been in situ.....*

Reason. *In the interest of proper planning and development and to ensure a high standard quality tourist accommodation.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planner's Report November 2019

- Following an assessment of the information received with the application and a site visit, the area planner requested the following further information:
 - An assessment under Article 6 of the EU Habitats Directive.
 - Land ownership details for entirety of subject site.
 - Details of lines of connection to public utilities and location of soakpits associated with surface water drainage.
 - Details of access visibility at entrance onto N59 and if the applicant has legal entitlement to improve sightlines east and west of the existing entrance.
 - Whether or not the applicant is in position to access the development by branching off the existing access road east of the proposed development.
 - Details of existing and proposed access roads within the site.
 - Compliance with Fáilte Ireland's Welcome Standard for Quirky & Innovative Tourist Accommodation.
 - Details of materials for the proposed pods.
 - Details of proposed land use in the area between the pods and the amenity building.
 - Details of any proposed signage and a site lighting/illumination plan.

Planning Authority Report September 2020 – on receipt of further information

- A response to further information was received on 20th July 2020. The area planner considered the information received adequately addressed the issues raised. As part of the FI response a Natura Impact Statement (NIS) was submitted, along with land registry details, access arrangements and details of the tourism entity.

- The area planner noted that there are currently no similar type of tourist accommodation available within the area and that all technical considerations were considered to be in accordance with the requirements of the Mayo County Development Plan 2014-2020 Volume 2 Planning Guidance and Standards for Development.
- Revised vehicular access was proposed via a local public road to the east of the site and not directly off the N59 as originally proposed, the area planner found this proposal acceptable.
- Surface Water disposal associated with the individual pods is to be agreed with the Municipal Area Engineer – condition was attached to ensure same.
- The area planner considered the submitted NIS satisfactory and concluded the development would not adversely affect the integrity of European sites provided the mitigation measures contained in the NIS are implemented.
- Finally the area planner noted that development should not operate until the Welcome Standards are issued by Fáilte Ireland and if any of these standards require revised details or a new application, then the applicant should forward on details or whatever the case may be to Mayo County Council. Condition no.8 was attached to the notification to grant permission to ensure compliance.

3.2.2. Other Technical Reports

- Road Design Office – Mayo County Council (MCC) – report received 24/10/19 – FI requested regarding - rights of way, sightlines onto N59, willingness to construct internal access road and details if proposed, upgrading proposals for road east of proposed development.
- Architects Department - MCC - Report received 16/10/2019 – FI requested concerns that the proposal represents a low-quality application. Building design and facilities are poorly laid out and it was noted that no toilets are proposed within the pods. The pods are located at too great a distance from the amenities, toilets, shower building. No proposals for signage have been submitted. Proposals for surface water run off surrounding pod area is

required. Plans for the area between the pods and the amenity building should be submitted. Site illumination/lighting design is required.

- Environment, Climate Change and Agriculture Section – MCC - dated 16/10/19 – Preliminary Flood Risk Assessment Report by A/Senior Executive Engineer identified the site as requiring a flood risk assessment.

The Board should note however, that the area planner in their report noted that there were ‘no flooding issues or concerns’. No further information on flood risk has been submitted or is available in any planning authority reports.

- Environment Section – MCC – Report dated 23/09/2020 – the location of the access gate to the shoreline and access route to the coastal habitats beyond the Pod area has not been provided which is a major omission given the potential disturbance due to increased human activity in the SAC. Reference should have been made by the applicant to the now available Biodiversity Action Plan which includes mapping of coastal habitats in the area. Concerns with regard to the distance of the proposed pods from facilities (200m) and lack of detailed measures to control invasive species (Rhododendron). Also no mention of the suitability or otherwise of habitats on the site for overwintering birds.

3.3. Prescribed Bodies

- Transport Infrastructure Ireland (TII) - Responses received 24/10/19 and 05/08/20 – no objection provided adherence to national policy – Chapter 3 of the DoECLG Spatial Planning and National Roads Guidelines.
- National Roads Design Office - Response received 10/10/19 – no objection.

3.4. Third Party Observations

- 3.4.1. One third party observation was received from Cathal Hanley who is an adjoining landowner. The following concerns were raised:

- Access issues – proposed entrance off N59 poses risk to current road users and the occupants of the three houses along the access road.

- Location and siting of amenity building encroaches onto observer's property and has the potential to cause disturbance and visual impact.
- Connection to public services may result in possible disruption to access roadway.
- No objection to this type of development in principle in the area, however modifications to the proposal are need.

4.0 Planning History

On site

- P.A. Ref. 00289 – 2001 - Permission refused for 8 no. two bedroom sheltered housing units, 16no. single bedroomed sheltered housing units and 1 no. caretakers unit, 14 no. three bedroomed shared ownership units and a group home, with 2no. tennis courts and amenity area. ABP. Ref. PL16.12304 – Appeal Withdrawn.

5.0 Policy Context

5.1. National Policy and Guidance

- 5.1.1. The Planning System and Flood Risk Management Guidelines for Planning Authorities OPW November 2009 – Chapter 3 Principles and Key Mechanisms and Chapter 5 Flooding and Development Management.

5.2. Development Plan

The operative Development Plan is the Mayo County Development Plan 2014-2020 (as varied).

5.2.1. Volume 1 Written Statement

Tourism

Policy TM-01 - *It is an objective of the Council to support and promote sustainable tourism development, accessible to all throughout the County and to work in partnership with tourism organisations, and adjoining Local Authorities where*

necessary, in securing the development of tourism enterprises and infrastructure in suitable locations where it can be demonstrated that the development will not have significant adverse effects on the environment, including the integrity of the Natura 2000 network, residential amenity or visual amenity.

Policy TM-02 *It is an objective of the Council to ensure that tourism related accommodation such as holiday homes, hotels, caravan/camping parks etc., are located within existing settlements where there is existing infrastructure provision to service the development and where they can contribute to maintenance of essential rural services, unless it is proposed to reuse an existing structure outside a settlement and in such cases where it can be demonstrated that the development will not have significant adverse effects on the environment, including the integrity of the Natura 2000 network, residential amenity or visual amenity.*

Pedestrians & Cyclists

Policy PC-01 *It is an objective of the Council to encourage and facilitate the maintenance and further development of the public footpath network, public rights of way, walking and cycling routes and associated infrastructure, including the provision of bicycle racks in all towns and villages, in the County ...*

Flooding & Soil Erosion

Policy FS-01 *It is an objective of the Council to restrict inappropriate development in areas at risk of flooding (inland or coastal) as identified on flood risk maps, erosion and other natural hazards or would cause or exacerbate such a risk at other locations. As part of this, the Planning Authority shall require a Flood Risk Assessment and/or a Landslide Risk Assessment for any new development.*

- 5.2.2. Under the provisions of Volume 2 Planning Guidance and Standards for Development in County Mayo the following applies:

Section 58 Tourism Development - Proposals for tourism development must be sensitively located, not interfere with or detract from areas of special amenity value or nature conservation. They must be in keeping with the traditional character of the area in terms of scale and design and be sustainable.

Section 58.2 Residential Tourist Accommodation

Sub section 58.2.2 - Such developments shall be located in existing settlements unless the development has specific location needs that cannot be met within an existing settlement and is of strategic importance to the area or if the development involves the re-use and adaption of existing rural buildings.

Sub section 58.2.5 - The layout, design and amenity provision, of all camping and caravan developments shall be in accordance with the relevant Fáilte Ireland regulations and the requirements of the Health Authority and the Fire Authority.

5.2.3. Appendix 5 Environmental Assessments –

Flood Risk Assessment states that a Site Specific Flood Risk Assessment shall be required for all planning applications that are:

- In or within 50m of Flood Zone A and Flood Zone B

5.3. **Natural Heritage Designations**

- 5.3.1. The nearest Natura 2000 site is the Clew Bay Complex SAC (Site Code 001482) and other designations include the Clew Bay Complex proposed Natural Heritage Area, which border the site's southwestern boundary.

5.4. **EIA Screening**

Having regard to the nature and scale of the proposed development it is considered that the issues arising from the proximity and connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment) as there is no likelihood of other significant effects on the environment. 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**

- 6.1.1. Two third party appeals have been lodged by the following:

- Cathal Hanley of Murrevagh, Malranny, Co. Mayo (landowner of adjoining property to north of proposed site)
- Joseph Carey of Murrevagh, Malranny, Co. Mayo (landowner of adjoining property to northeast of proposed site)

6.1.2. The grounds of which can be summarised as follows:

- The nature and extent of the development is inappropriately described in the public notices – the eco pods are not self-contained as described.
- No site notice was located on the now proposed main entrance, to the east of the site, in line with Article 19 (1)(c) of the Planning and Development Regulations 2001 (as amended), the decision of the planning authority in the appellants opinion is therefore flawed and invalid.
- The appellants highlight a number of anomalies in the planning application form including those in relation to the legal ownership of the lands involved, lack of consent letters in relation to other lands, total landholding not indicated in blue, wayleaves not shown in yellow, levels/contours not displayed on site layout plans, incorrect fee scales used and classes of development.
- No site notices were erected at any of the entrances to the development as required under Article 35 (1) (d) of the P&D Regs 2001 (as amended) in relation to the significant further information received.
- The appellants private dwelling house abuts the boundary of the site and they oppose the development on the following grounds:
 - Right of access – patrons/customers will still use the right of way from the N59 for pedestrian access and this right of way passes several private properties. The appellants state that this is a private right of way and they are unaware of any dedication to suggest currently that this is a public right of way.
 - Loss of amenity– the use of the private right of way as a public right of way to and from the proposed development will have a considerable effect on the residential amenities of the appellants. In addition, artificial lighting may be required as per condition no.4 which would adversely impact the adjoining residential properties.

- Loss of property value as a result of the development.
- Noise pollution/nuisance – the use of the access right of way by tourists and other users will generate considerable additional noise. The proximity of the proposed development to the appellants' residential properties was not considered appropriately by the planning authority.
- Light pollution – lighting of the carparking area will have to be provided to a certain standard which would breach condition no.4 attached to the grant of permission. Any lighting in this area would have an impact on the appellants' residential amenity.
- Trespass – possible adverse effects on the appellants' residential amenities as a result of late night and early morning movements of patrons were not considered adequately.
- Traffic issues and changes to access to property – increased traffic movements will result in noise, air pollution and light pollution for occupants of the existing dwellings in the area. No traffic impact assessment (TIA) or road safety audit in accordance with the NRA's requirements was submitted with the application.
- A flood risk assessment was required by the A/Senior Executive Engineer of the Environment, Climate Change and Agricultural Section, yet none was requested as part of the further information request. From the appellant's research they state that a portion of the site is within the tidal flooding area and the area where the eco pods are proposed is particularly affected. OPW mapping has been attached which shows tidal flooding extent.
- Natura Impact Statement – concerns raised in relation to the imported gravel fill and potential for microorganisms from same to be washed into SAC.
 - Impacts on GS4 wet grasslands and FW4 drainage channels as a result of concrete slabs for eco pods.
 - The letter supporting separate toilets and facilities is without merit as these facilities will be located over 150m from the 6 eco pods. The pods should contain their own toilets to ensure pollution of the surrounding environment

does not occur or else the facilities building should be located within closer proximity to the pods.

- The final planner's report and appropriate assessment contain references to the wrong planning application and also the Lough Cara/Mask SAC sites that are located over 52km away.
- In summary the development is substandard and fails to protect the existing amenities of adjoining property owners, fails to protect the Clew Bay Complex SAC and also overlooks the potential for flooding.

6.2. Applicant Response

6.2.1. The applicant's response to the grounds of appeal can be summarised as follows:

- The paper notice clearly outlined the description of the proposed development including the amenity building.
- Site notices were erected on the N59 public road and the entrance to the site along the right of way access.
- The planning application was validated by MCC and the property boundaries are clearly delineated on the folios attached to the application.
- Significant further information was advertised in the newspaper.
- The applicant has a legal right of way to the north and to the east. Mr Hanley (appellant) also has a right of way over Folio MY57785F and MY19563.
- The applicant lives locally and sees this as a positive development for the area and notes the appellant's initial support of same.
- The applicant has previously met with the operators of the Mayo Dark Skies and will use lighting suggested by this organisation as detailed under condition 4.
- It was requested by the roads department of MCC that the entrance to the east be used for vehicles but that the right of way remain for pedestrian access.
- The applicant will adhere to all recommendations in the NIS.

- Signage, lighting, surface and waste drainage, waste collection and road surfaces will all be agreed with the planning authority prior to commencement of development and should therefore address the appellants concerns.
- The applicant had previously met with Mr Hanley and amended the plans to move the amenities building a greater distance south/southeast, away from the appellant's property.
- The applicant notes Mr. Carey's appeal also but contests his leave to appeal.

6.3. **Planning Authority Response**

- None.

6.4. **Observations**

- None.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Impacts on Residential Amenity and Traffic
- Flooding - New issue
- Other Matters
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. The appeal is located in a rural area, which is unzoned, but borders the settlement of the village of Mulranny, which is a key tourist village within County Mayo. I note the area planner's assessment stated that a proposal of this nature is open to consideration subject to satisfying both environmental and technical considerations

with regard to the N59 and the adjoining Natura 2000 site. No reference to flooding on site or other considerations is mentioned in their report.

- 7.2.2. Policy TM-01 of the development plan supports this type of development on the provision that the development will not have significant adverse effects on the environment, including the integrity of the Natura 2000 network, residential amenity and visual amenity. Policy TM-02 also supports the development of camping parks (a category that the subject proposal would come under) within existing settlements where there is existing infrastructure provision to service the development. Though located outside of the settlement, the development includes proposals for connection to public wastewater and water supply services, therefore it would appear to comply in the most part with this requirement.
- 7.2.3. Given the general support provided for in the development plan for this type of development and the location of the camp site close to Mulranny village centre, with connection to public infrastructure, the principle of the proposed development is considered generally acceptable, provided those other requirements listed in the policy documents under Section 5 of this report are also satisfied. These are examined in greater detail under the sections below.

7.3. Impacts on Residential Amenity and Traffic

- 7.3.1. The appellants raise concerns in relation to the proposed development and the impact that it will have on their residential amenity and the possible devaluation of their property as a result of the proposal.
- 7.3.2. The applicant states that amendments to the original proposal were made on foot of the observations received from one of the appellants at planning application stage. I note that the proposed amenity building is now to be situated further south within the site and that the car parking area is to now be solely located to the rear and western side of the same building. A distance of 14.57m between the northern elevation of the amenity building and the northern boundary of the site is now indicated on the site layout plan, this is a proposed increase of approx. 7m from that previously proposed. The Board should note that no scale is indicated on the site layout plan therefore these distances cannot be confirmed. I note that no landscaping is proposed along the northern boundary of the site and would consider this essential to ensure the proposed development is adequately screened from the existing

adjoining residential land uses, this can be addressed by way of condition if the Board are minded to grant the proposal.

- 7.3.3. Following concerns raised by the Roads Department of Mayo County Council on the initial planning application, the applicant relocated the main site entrance to the east. The proposed entrance now provides access via a local road (cul de sac) which runs along the eastern boundary of the greater landholding and connects with the N59 to the north. One of the appellant's dwelling houses is located to the immediate north of the proposed new access road and he has raised concerns in relation to patrons using this new access route and the requirement for street lighting along same. Similar concerns in relation to the lighting of the car parking area have been raised. I note that no details of lighting have been submitted with the application, however condition no.4 attached to the grant of permission requires low level illumination only and protection of glare from neighbouring properties, in addition the applicant has stated that consultation with the operators of the Mayo Dark Skies were held to ensure an appropriate approach to lighting on site. I note that a site illumination design plan was requested by the planning authority at further information stage, however none was submitted in response. I would recommend that if the Board are minded to grant the proposal that this issue be addressed by way of condition.
- 7.3.4. The appellants also raise concerns in relation to the condition of the local road which provides access to the revised entrance, stating that no traffic impact assessment (TIA) has been submitted and that the additional noise and dust generated as a result of additional traffic on this road will impact the amenity currently enjoyed by the residents of the surrounding properties. Having examined the proposal and carried out a site visit, I see no issue with the use of the eastern entrance, which is further removed from the cluster of dwellings located to the north of the site. While one dwelling house is located to the immediate north of this proposed eastern entrance, I do not consider the amount of traffic generated by the proposed 6 pod camping facility will lead to any detrimental impact on residential amenities. Details of the road surfacing proposed and suitable landscaping and screening along the northern boundary of the site to ensure no visual impacts on the existing residents can be dealt with by way of condition.
- 7.3.5. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion

set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

7.4. Flooding – New Issue

- 7.4.1. As part of the original assessment of the planning application, the site was identified as requiring a Flood Risk Assessment by the Environment, Climate Change and Agriculture Section of Mayo County Council. The planner in their assessment makes no reference to this recommendation and instead states that ‘no flooding issues or concerns’ were noted.
- 7.4.2. Having examined the sites location and the relevant Office of Public Works (OPW) data available on www.floodinfo.ie, in particular the Irish Coastal Protection Strategy Study (ICPSS) Flood Extent Map in relation to coastal flooding, I note that the southwestern portion of the proposed site, the area on which the 6 eco pods are proposed, is located within the current, mid-range and high end future scenarios for tidal flooding extents. Water levels on site may reach up to 1.5m depth 0.5AEP according to current tidal flooding scenario. The southwestern portion of the site is therefore currently located within Flood Zone A – where the probability of flooding from the sea is highest i.e. greater than 0.5% or 1 in 200 chance for coastal flooding. This raises major concerns in relation to the viability of the development on this site. According to Section 3.5 of the Planning System and Flood Risk Management Guidelines most types of development would be considered inappropriate in this zone. The guidelines state that development in this zone should be avoided and/or only considered in exceptional circumstances, such as in city and town centres, or in the case of essential infrastructure that cannot be located elsewhere. Land and buildings used for holiday or short-let caravans and camping, subject to specific warning and evacuation plans are considered less vulnerable development under the vulnerability classes referred to in Table 3.1, however as per Table 3.2 of the guidelines a justification test is required to determine the suitability of this type of development within a Flood Zone A.
- 7.4.3. Notwithstanding the availability of flood zone maps, the applicant is primarily responsible in the first instance for assessing whether there is a flood risk issue and how it will be addressed in the development they propose. Having examined the

planning application form I note that the applicant stated that he had no knowledge of any previous flooding on the site. Given the condition of the site, noted on site visit, and the numerous visible drainage channels which were holding sufficient levels of water, I would have serious concerns in relation to the location of the eco pods in this area of the site which has been identified as at risk of flooding.

- 7.4.4. Policy FS-01 of the Mayo County Development seeks to restrict inappropriate development in areas at risk of coastal flooding and states that the planning authority shall require a Flood Risk Assessment for any new development. Appendix 5 Environmental Assessments reinforces this stating that a Site Specific Flood Risk Assessment shall be required for all planning applications that are in or within 50m of Flood Zone A and Flood Zone B. Having regard to these policies and to the provisions of the national guidelines, it is considered that, in the absence of adequate information relating to the risk of flooding, the proposed development would be contrary to the proper planning and sustainable development of the area. The Board should note however that this is a new issue and they may wish to seek the views of the parties.

7.5. Other Matters

Legal Interest in subject lands

- 7.5.1. A right of way exists to the north of the site, which connects the northern portion of the site with the N59. This right of way provides access to the group of dwelling houses to the north of the site, as well as access to the subject site. While the initial issue in relation to additional vehicular traffic along this road has been addressed through the relocation of the proposed main entrance to the east of the site, the appellant states that the issue of patrons of the camp site using the right of way to access the village still remains. The appellant states that this is currently a private right of way and is unaware of any dedication by the owner of the lands to make this a public right of way. They also state that the noise and footfall generated by patrons of the proposed development will have a resultant effect on their privacy and residential amenities. In terms of the legal interest, I am satisfied that the applicant has provided sufficient evidence of their legal interest for the purposes of the planning application and decision, with the main access to the site to be provided from the eastern entrance. Any further consents that may have to be obtained are

essentially a subsequent matter and are outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of section 34(13) of the 2000 Planning and Development Act.

Site Notices

- 7.5.2. In terms of procedural matters and the alleged irregularities in terms of the erection of site notices, I note that both matters were considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned parties from making representations. The above assessment represents my de novo consideration of all planning issues material to the proposed development.

7.6. **Appropriate Assessment**

7.6.1. Stage 1 – Screening

In response to the request for further information the applicant submitted a Natura Impact Statement (NIS) prepared by Aster Environmental Consultants Ltd on 20th July 2020. The applicant's AA Screening Report which formed part of the NIS concluded that *'given the connectivity via drains to Clew Bay as well as the proximity of the pods to Annex I saltmarsh it was decided to prepare an NIS'*.

The proposed development will involve the construction of 6 eco pods on the southwestern area of the site and a separate amenity building on the northern site area. Internal walkways are also proposed and surfacing of access trackways. The pathways to the pods are to be constructed using Ecogrid, supplemented with gravel if required. No site levelling or disturbance of soil is envisaged towards the south of the site other than pipes for electricity connection. Concrete precast bases will be put in place. These will be brought on site by truck and craned into place. Pods will come pre constructed and will also be craned into place. Connection to public wastewater and water supply are also proposed, therefore no onsite treatment is required.

A summary of European Sites that occur within 15 km/ within a possible zone of influence of the proposed development is presented in the table below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail. The south western boundary of the site is immediately adjacent to the Clew Bay Complex SAC (Site Code 001482).

Table 1. Summary Table of European Sites within a possible zone of influence of the proposed development.

European Site (code)	Distance from proposed development (Km)	Connections (source, pathway receptor)	LSE - Likely significant effects identified as a result of the proposed development.
Clew Bay Complex SAC (Site Code:001482)	Immediately adjacent to site boundary	Hydrological connection	Y – the site is drained via drainage channels which link to the Murrevagh River (along the site's western boundary) which provide an indirect hydrological link to the SAC.
Owenduff/Nepin Complex SPA (Site Code:004098)	330m to north/northwest	No connections	N - (upstream of site) - outside of any zone of influence of the development due to the lack of ecological connections to the specific habitat type for which the site is designated.
Owenduff/Nepin Complex SAC (Site Code:000534)	330m to north/northwest	No connections	N (upstream of site) - outside of any zone of influence of the development due to the lack of ecological connections to the specific habitat type for which the site is designated.
Corraun Plateau SAC (Site Code:000485)	1.2km to west	No connection	N - outside of any zone of influence of the development due to the lack of ecological connections to the specific habitat type for which the site is designated.
Lough Gall Bog SAC (Site Code:000522)	3.1km northwest	No connection	N - outside of any zone of influence of the development due to the lack of ecological connections to the specific

			habitat type for which the site is designated.
West Connaught Coast SAC (Site Code:002998)	13.4km southwest	No connection	N - No possibility of effects.

Following the screening process, it has been determined that Appropriate Assessment is required, as it cannot be excluded on the basis of objective information that the proposed development individually or in-combination with other plans or projects will not have a significant effect on the following European site:

- Clew Bay Complex SAC (Site Code:001482)

The possibility of significant effects on those other European sites listed in Table 1. has been excluded on the basis of objective information. Measures intended to reduce or avoid significant effects have not been considered in the screening process.

7.6.2. Stage 2 – Appropriate Assessment

The NIS (which was submitted in response to further information) examines and assesses potential adverse effects of the proposed development on the Clew Bay Complex SAC. A site survey to inform the NIS was carried out on 24th February 2020. The applicant's NIS was prepared in line with current best practice guidance and provides an assessment of the Natura 2000 sites within the zone of influence. The report notes the location of the Clew Bay Complex SAC to the immediate southwest of the site and also that the Murrevagh River, which runs along the site's western boundary, which provides a hydrological connection to the designated site. Given the type and scale of project proposed, the report screened out all sites except the Clew Bay Complex SAC from further assessment. I would concur with the author's assessment in this regard as outlined under my screening assessment and Table 1 of Section 7.6.3 above.

The applicant's NIS goes on to examine the conservation objectives listed for the Clew Bay Complex SAC and concludes that '*no habitats of conservation importance are to be directly impacted on by the development. Indirect impacts such as water*

pollution, light pollution and disturbance of vegetation are addressed through mitigation. The conclusion is that with mitigation in place, no negative impacts on the conservation status of the Natura 2000 networks and its associated habitats and species are anticipated as a result of this development.

- 7.6.3. A description of the site, its Conservation Objectives and Qualifying Interests, are set out in the NIS and summarised in Table 2 below as part of my assessment. I have also examined the relevant Natura 2000 data forms and the Conservation Objectives supporting documents for these sites including the relevant attributes and targets for each conservation objective (where available), available through the NPWS website (www.npws.ie).

Table 2. Summary of conservation objectives for Clew Bay Complex SAC (Site Code 001482)

Code	Qualifying interest	Conservation Objectives
1013	Geyer's whorl snail <i>Vertigo geyeri</i>	Currently under review
1140	Mudflats and sandflats not covered by seawater at low tide	To maintain favourable conservation status
1150	Coastal lagoons	To maintain favourable conservation status
1160	Large shallow inlets and bays	To maintain favourable conservation status
1210	Annual vegetation of drift lines	To maintain favourable conservation status
1220	Perennial vegetation of stony banks	To maintain favourable conservation status
1330	Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)	To restore favourable conservation status
1355	Otter <i>Lutra lutra</i>	To restore favourable conservation status
1365	Common seal <i>Phoca vitulina</i>	To maintain favourable conservation status

2110	Embryonic shifting dunes	To restore favourable conservation status
2120	Shifting dunes along the shoreline with <i>Ammophila arenaria</i> ("white dunes")	To maintain favourable conservation status
21A0	Machairs (* in Ireland)	To maintain favourable conservation status
91A0	Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles	To maintain favourable conservation status

7.6.4. No direct effects are expected as a result of the proposed development as the development area is wholly outside of the designated site. The main aspects of the proposed development that could adversely affect the conservation objectives of the European site include indirect effects in relation to:

- Construction phase impacts - Impacts to water quality and water pollution as a result of construction activities.
- operational impacts - surface water management, light pollution, noise pollution;
- Increased recreational pressures and the resultant impacts on habitats and species caused by enhanced access to SAC; and
- Invasive species - *Rhododendron* were identified on eastern part of site and the spread of same species may be accelerated by construction related activity.

7.6.5. Following an examination of the conservation objectives (NPWS 19 July 2011 Version 1.0) associated with the Clew Bay Complex SAC and the proximity of those habitats and species listed (as displayed on the associated maps available with the conservation objectives document) the following were identified for further assessment:

Code	Qualifying interest	Distance from site
1140	Mudflats and sandflats not covered by seawater at low tide	260m to site's southwest
1160	Large shallow inlets and bays	260m to site's southwest
1330	Atlantic salt meadows (Glauco-Puccinellietalia maritimae)	Immediately adjacent to site's southwestern boundary.
1355	Otter Lutra lutra	Otter commuting zones have been recorded within 200m of the site's southwestern boundary.

The remaining qualifying interests were excluded based on their distance to the proposed development and likelihood of disturbance. It should be noted that the Otter and Atlantic Salt Meadows conservation objectives state 'to restore' the favourable conservation status, rather than 'to maintain', therefore these are set to higher bar than the other conservation objectives.

The footprint of the proposed development does not overlap with any of the Annex 1 habitats listed above. In addition, no signs of otter habitat including holts or couches, or sightings of the species were observed on site visit or noted in the submitted NIS, therefore no direct impacts are predicted on the identified qualifying interests. However indirect impacts may be likely as otters require freshwater and therefore the Murrevagh River to the immediate west of the site may be frequented by the species, and the proposed development may cause indirect effects on these species as a result of impacts on water quality and also noise disturbance and light pollution.

7.6.6. Potential Indirect impacts Construction Phase

Indirect impacts may also be possible during construction phase which include – risks to water pollution as result of soil disturbance, spillages, leaks, fuel spills, concrete construction etc. In particular the existing drainage channels on site were noted as a possible pathway, by which pollution could enter the Murrevagh River

which runs along the site's western boundary and provides a direct hydrological link to the SAC.

7.6.7. Potential Indirect Impacts Operational Phase

Indirect impacts as a result of the operational phase are also possible, these include ongoing leakages and pollution via surface water runoff and increased recreational pressure to the adjoining area of Atlantic Salt Meadow (saltmarsh) due to enhanced access and tourism activity adjacent to SAC. The NIS identifies possible impacts on overwintering birds also, from increased recreational activity and dog walking and enhanced access to the coastal area.

I note as part of the further information received by the planning authority on 20th July 2020 a letter was attached from Aster Environmental Consultants who stated that from an ecological perspective the provision of toilets within the pods and the associated sewage connections would not be desirable at the site given the risk of low level leaks and the proximity to the Clew Bay saltmarsh habitat.

7.6.8. In-Combination/Cumulative Impacts

As regards cumulative effects the Great Western Greenway is located approx. 0.5km north of the proposed site and Mulranny is located on the Wild Atlantic Way, both attract significant tourist numbers and therefore may result in increased pressures on habitats and resources in the area. Low intensity sheep farming is also noted in the vicinity and existing housing development, as well as aquaculture within the Clew Bay area. All could potentially have impacts on the Clew Bay area however none of the impacts are considered to be significantly enhanced by this particular project. In addition to this the protective policies of the current County Development Plan are noted and expected to have no adverse impacts cumulatively on the SAC.

7.6.9. Mitigation Measures

Mitigation is to be provided to address those indirect impacts identified above. These include a combination of avoidance measures, management during construction on the site and physical mitigation. These measures are listed as follows:

- Limited access to saltmarsh - Information boards which detail the sensitivities of the adjoining site, located at pods or at amenity building.

Restricting of BBQs and picnics off site and no dogs off leads beyond pod site.

- Construction of paths using Ecogrid or permeable gravels to reduce site run off.
- Avoidance of additional drainage on site that may direct water southwards/ westwards and impact the designated site.
- Employment of good construction management practices on site in line with current Control of Water Pollution from Construction Sites guidance and EPA guidelines. Those detailed in the NIS include for correct storage of materials to prevent leakages and also biosecurity measures on site.
- Rhododendron to be controlled on site – using invasive species Ireland methodology.
- Lights to pods to be low wattage and paths to be lit with ground level lights. Pod curtains to be closed at night to reduce light pollution and impact on otters. Directions for same to be posted on each pod.
- Gate to beach/saltmarsh from pod site to be locked October to March to prevent disturbance of wintering birds.

7.6.10. Examination of Mitigation Measures

I note under Section 5.2, page 18 of the submitted NIS that one of the indirect impacts at operational phase is listed as '*access to saltmarshes enabled through this development. Increased walkers in this area could have an impact on the saltmarsh vegetation*'. In response to this indirect impact Section 6.3 contains physical mitigation measures which is to include '*gate to beach/saltmarsh from pod site to be locked October to March to prevent disturbance of wintering birds*'. I would question the mitigation measures proposed in relation to access to the beach/saltmarsh area. The submitted plans indicate no access gate (as referred to in the NIS) to the saltmarsh/beach from the pod area on site, this is a major omission given that disturbance by increased human/recreational activity is highlighted as a potential effect on the SAC. The site is surrounded on all sides in this area by intermittent low hedgerow and remnants of a low stone wall. Therefore, the Annex 1 habitat is easily accessible from the site and according to the NIS access is to be enhanced through

the provision of an access gate. Restricted access to this area would be required to ensure no increase in recreational pressures as a result of the development. In addition, restriction to this area should be in place all year round and not just during wintering bird season.

I note also that no previous reference is contained in the NIS to wintering birds using the site or the surrounding area, nor has any assessment of this and the links to possible SPAs been carried out. The applicant has submitted no evidence of how any measures to restrict access to this area will be implemented and monitored and how any system failure could be rectified.

In addition, the applicant has submitted no invasive species management plan or details of the methodology to be used to address the species on site, reference to the invasive species Ireland website is not considered sufficient. With regard to construction management, although reference is made to various measures to be used during construction on site, no detailed construction management plan has been prepared for the development. In particular, I have concerns as to how the large concrete bases of the proposed pods are to be brought on site and craned into place without significant disturbance.

In order to ensure no adverse impacts on the site integrity, in view of the site's conservation objectives, the mitigation measures presented should be described in detail with evidence showing how adverse effects will be eliminated or reduced to non - significant levels. Information should be provided of how, when and by whom they will be implemented, and any monitoring required. All this is required in order to ensure there is no reasonable doubt as to the absence of adverse effects.

7.6.11. Conclusion

The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the Clew Bay Complex SAC (Site Code: 001482). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying interests of that site in light of their Conservation Objectives.

Following an Appropriate Assessment, and the consideration of mitigation measures, I am unable to ascertain with confidence that the project would not adversely affect the integrity of Clew Bay Complex SAC in view of the Conservation Objectives of this site, therefore it cannot be ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No. 001482, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

8.0 Recommendation

- 8.1. It is recommended that permission for the proposed development be refused for the reasons and considerations set out hereunder.

9.0 Reasons and Considerations

1. The proposed development is in an area which is deemed to be at risk of coastal flooding, by reference to the current Development Plan for the area, documentation on file and available Office of Public Works data. Having regard to the provisions of Policy FS-01 and Appendix 5 of the Development Plan in relation to development proposals in areas at risk of flooding, it is considered that, in the absence of adequate information relating to the risk of flooding, analysis of such risk, and appropriate mitigating measures to address any risk, the proposed development would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site, together with adjoining land which is within the Clew Bay Complex Special Area of Conservation, it is considered that the proposed eco pod development would give rise to increased access and disturbance to Atlantic salt meadow habitat, which is included on Annex I of the European Union Habitats Directive of 1992 from human activity in what was formerly a relatively undisturbed area.

Notwithstanding the above the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal,

that adequate information has been provided on the impact of the proposed development on hydrological conditions within adjoining SAC and the resulting implications for wildlife and flora.

It is therefore considered that the Board is unable to ascertain, as required by Regulation 27(3) of the European Communities (Natural Habitats) Regulations, 1997, that the proposed development will not adversely affect the integrity of a European Site and it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

Máire Daly
Planning Inspector

27th January 2021