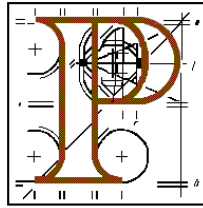


# An Bord Pleanála



## Inspector's Report

### Development

Description: Discharge of effluent from a business park to surface waters

Address: Páirc Ghnó Shailearna, na hAille,  
Indreabháin, Co. na Gaillimhe

### Planning Application

Planning Authority: Galway County Council.

Planning Authority Reg. Ref.: W494/19

Applicant: Údarás na Gaeltachta

Type of Application: Licence

Planning Authority Decision: Grant Licence

### Planning Appeal

Appellant(s): Máire Uí Mhuirín, Wild Ireland Defence  
CLG, & Peter Sweetman

Type of Appeal: Third Party Appeal under Local  
Government Water Pollution Act, 1977 to  
2007.

Observers: None.

Date of Site Inspection: 2<sup>nd</sup> March, 2022

Inspector: Kevin Moore

## **1.0 INTRODUCTION**

- 1.1. An application for a discharge licence for the discharge of wastewater from Páirc Ghnó Shailearna in Indreabháin was received by Galway County Council from Údarás na Gaeltachta on 19<sup>th</sup> December, 2019. The local authority granted the Licence on the 16<sup>th</sup> July, 2021. Under the provisions of Section 8 of the Local Government (Water Pollution) Act, as amended, the appellants, Máire Uí Mhuirín, Wild Ireland Defence CLG, & Peter Sweetman, submitted an appeal against the Licence.

## **2.0 SITE LOCATION AND DESCRIPTION**

- 2.1. Páirc Ghnó Shailearna is located approximately 6km west of Spiddal in County Galway. There are a number of industrial units on the site. The existing treatment plant is located on the east side of the site. Treated effluent from the plant discharges to the Áille River located approximately 120 metres west of the site. The river flows southwards for a distance of approximately 1.1km and discharges into Galway Bay. This outlet is approximately 1.6km west of designated bathing waters and 1.4km east of recreational waters.

## **3.0 THE APPLICATION DETAILS**

- 3.1. The following is noted from the application:
- The trade effluent originates from two facilities within the business park, Micro Moulding and Advant Medical, which produce micro injection moulding products for the medical device industry.
  - The majority of effluent is of domestic origin and injection moulds use cooling water recycled within the moulding tools.
  - The maximum volume of effluent discharged in one day is 1.95m<sup>3</sup>/day at present, rising to 2.75m<sup>3</sup>/day in the future.

- Water demand, other than domestic use, is extremely low, with water measured to the site varying from 0.1 – 1.0 cu.m/day, maximum peak 1.2 cu.m.
- The estimated volume of water used per day is 1.0 – 2.0 m<sup>3</sup>/day.
- The discharge has been existing since the start of operations in early 2000.
- The outflow from the treatment plant discharges into a local stream situated due west of the plant, with the discharge point entering the stream 150m north of the R336. The stream reaches coastal waters 1km due south.
- The treatment plant is approximately 30 years old and is in need of general upgrade.
- The plant does not contain process controls for regular monitoring of its operation. Daily checking of physical functioning is conducted by the plant supervisor and fortnightly grab sampling is conducted by an external laboratory. Effluent flow monitoring is conducted on a fortnightly basis
- Minimal sludge is produced, with sludge removed by a waste contractor from the aeration chamber.
- The outflow of the treatment plant has a sampling point suitable for grab sampling.
- There are no critical discharges and in the event of pump failure a second back-up pump is configured within the wet well. In the event of two pump failure and/or power failure, the wet well has a capacity equivalent of 5 working days influent.
- Emergency response provisions are set out.
- The receiving water is not located within the boundary of a European site nor is it designated a salmonid water, inland bathing water, pearl mussel water, drinking water or a sensitive water.
- The receiving water has no status under the Water Framework Directive.
- The discharge is located within Aille IE-WE-31A090790 – Loughaunbeg Lake River Basin District.
- A SAC and SPA are located a minimum 495m north of the discharge point, with the stream flowing south from the discharge point.

- 3.2. The application included a report entitled “Wastewater Treatment Assessment Pairc Ghnó Shailearna” and a “Screening Statement for Appropriate Assessment Proposed Construction for a Factory Extension for Udaras na Gaeltachta”. These reports relate to a proposed extension to an existing factory within the business park.
- 3.3. Further to the above, I note email correspondence from Galway County Council to Údarás na Gaeltachta, dated 12<sup>th</sup> October 2020, requesting assimilation capacity calculations in relation to the receiving waters, identification of nearby areas used for bathing, and, if bathing areas are identified, the submission of an assessment of the risk to water quality in terms of microbiological contamination. In response, the applicant submitted a “Waste Assimilation Capacity Assessment” on 28<sup>th</sup> October 2020, which also addressed nearby areas used for bathing and an assessment of risk to waters.
- 3.4. Two objections were received by Galway County Council as follows:

Mike Mór Breathnach raised concerns relating to the Environmental Protection Agency (EPA) being the correct authority to assess and licence the application, restricted consultation and public access to information on the application, incomplete information in the application, a need for an Environmental Impact Statement and the requirement for an assessment under the Habitats Directive, assurance that the unlicensed discharge is not presenting a risk to people and the environment, and a need for a Foreshore Licence.

Máire Uí Mhuirín raised concerns relating to the need for the application being made to the EPA, consultation and access to information, the need for environmental assessments, inadequacy of application details, the unlicensed discharge activity since the 1980s, the receiving water being in a sensitive area, the requirement to apply the ‘precautionary principle’, and non-compliance with environmental legislation and case law.

## **4.0 GALWAY COUNTY COUNCIL DECISION**

- 4.1. By order dated 16<sup>th</sup> July 2019, Galway County Council decided to grant a Discharge Licence to Údarás na Gaeltachta to discharge effluent from Sailearna Business Park through a treatment system to surface water, subject to conditions.
- 4.2. The report of the Executive Scientist, prior to the decision, noted that development has been in place for several years and that a planning application was submitted in 2018 (Ref. No. 18/1364). It was stated that the Environment Section noted that there was no discharge licence in place. Proposals as part of a further information, detailing upgrades to the wastewater treatment plant (WWTP), were referenced and it was submitted that one of the planning conditions stated that a programme of works was to be agreed with the Environment Section in relation to the upgrade of the WWTP prior to commencement of works. It was noted that the discharge licence application was in response to this. It was submitted that the discharge is small, equivalent to approximately four domestic houses, with maximum volume discharged at present being 1.95m<sup>3</sup>/d, with an estimated maximum volume to be discharged in the future being 2.75m<sup>3</sup>/d. It was noted that the discharge is to an unassigned surface water called the Áille River. The source of the effluent was stated to be from two facilities, Micro Moulding and Advant Medical, which produce micro injecting moulding products for the medical device industry. The effluent was stated to be domestic in nature. It was acknowledged that two objections were received, raising concerns that the information submitted was inadequate to ensure the application can be assessed in accordance with applicable environmental legislation. It was stated that further information was requested, including assimilation capacity calculations in relation to the receiving waters and an assessment of the risk to water quality in terms of microbiological contamination. It was submitted that the report received in response concluded that standard secondary treatment of BOD: 25mg/L, COD: 125mg/L and TSS: 35mg/L was sufficient to comply with the Surface Water Regulations 2009 and to ensure that recreational and designated bathing waters would not be impacted. It was noted that the existing treatment plant was constructed on-site in the 1990s, consisting of a primary sedimentation well, an aeration tank and a final settling tank. It was submitted that upgrade works were required to the

treatment plant to ensure the standards are met. It was acknowledged that a screening report for appropriate assessment was submitted and the conclusions of that report were noted. A grant of a discharge licence, subject to conditions, was recommended.

## **5.0 GROUNDS OF APPEAL**

5.1 The grounds of the appeal may be synthesised as follows:

- Lack of access to information – The Council’s decision was received by email on 20/07/21 without a copy of the licence and without information on the decision made. Several requests were made to the Council seeking a copy of the licence. While a copy was sent on 03/08/21, no information was provided about the decision made.
- Absence of decision reasons – There is no understanding about the attention given to the issues of concern in the submissions made or if the environmental assessment was satisfactory to meet necessary standards and the Council’s statutory responsibilities. It is unclear how one is to participate in the process when access to appropriate information is unavailable and there is restricted access by the Council under Freedom of Information.
- Ultra Vires – It is questioned who has jurisdiction over licensing in this instance, the EPA or the Council.
- Aarhus Convention – There was no public notice on line that the application was made and the application was not available to the public on line. There was no public consultation and apparently no consultation with any environmental NGO or public body with relevant statutory responsibility, e.g. NPWS.
- Environmental Assessments – There is a requirement for environmental assessment under the provisions of Directives 2014/92/EU, 92/43/EEC and 2000/60/EEC before statutory consent can be given. There is no indication of whether this was or was not done. Reference is made to reports published by EPA, IPBES and by the Department of Culture, Heritage and the Gaeltacht on water standards in rivers and lakes in Ireland, on the rate of decline in nature and accelerating rate of species extinctions, and on biodiversity decline in

Ireland. Passages from each of the reports are set out in the appeal submission.

- Application Details – The details in the application are lacking, unclear, inadequate, incorrect and/or erroneous. It is unclear if every industry in the estate is using the same effluent discharge facility or what they are using and is an appropriate assessment done to discharge to water.
- Unpermitted Discharge Activity - Part III Section 1B of the application states “Discharge existing since start of operations early 2000”. Is the applicant suggesting that unpermitted discharge has been taking place for 20 years? Apparently, Part III Section 2B gives a partial account on the continuous discharge process but no discharge licence was identified for this activity. This is a matter of environmental concern that demands clarity and investigation by the planning and appropriate health authorities.
- Receiving Waters and Protected Sites – The receiving water is situated in a sensitive district, opposite to what is stated in the application. The appropriate environmental assessments must be undertaken in accordance with EU Directive provisions before the appropriate authority can issue consent.
- Precautionary Principle – The application is not sufficiently detailed for the appropriate authority to be clear that the precautionary principle is being met.
- Environmental Legislation and Caselaw – It appears that the application and the licence is not compliant with appropriate environmental legislation and caselaw to ensure compliance with EU legislation, namely the Water Framework Directive, the Environmental Impact Assessment Directive, and the Habitats Directive. Reference is made to caselaw examples.

5.2. The following were attached to the appeal - a copy of the discharge licence, a copy of the appellant's submission to Galway County Council, the Council's acknowledgement of the submission, and correspondence between the applicant and Galway County Council.

## **6.0 GALWAY COUNTY COUNCIL'S RESPONSE**

- 6.1. By email dated 13<sup>th</sup> September 2021, the Council confirmed that Inland Fisheries Ireland were emailed and the Council did not receive any reply.

## **7.0 SUBMISSION BY ÚDARÁS NA GAELTACHTA**

- 7.1. Údarás na Gaeltachta outlined details on the wastewater treatment system at the site and reiterated that the collected load consists almost entirely of domestic wastewater from employees on site, with a small element of trade flows comprising cooling water from on site processes. The application documentation was identified. With regard to the grounds of the appeal, the following is submitted:

- All information required by the discharge to surface waters application process and/or requested by Galway County Council as part of the application process was provided by the applicant.
- Given that the volumes of trade effluent fall below the thresholds specified in the First Schedule of the Environmental Protection Agency Act, the Council is responsible for licensing discharges to water from the activities.
- Regarding the Aarhus Convention, all actions and information required and requested as part of the application process was provided.
- Regarding compliance with Directives:
  - EIA Directive: Whilst the project falls under the category of “waste water treatment” in Schedule 5 of the Planning and Development Regulations, given that the maximum population equivalent (PE) of the collected load at the business park is 33, it does not exceed any specified relevant quantity, area or other limit specified in either Part 1 or Part 2 of Schedule 5. Thus, a mandatory EIAR is not required. Furthermore, when assessed against the criteria outlined in Annex III of the EIA Amendment Directive, the project is not one which is likely to have significant effects on the environment, either



by itself or in combination with other plans or projects. Therefore, an EIAR is not required.

- Habitats Directive: Neither the receiving waters or the surrounding areas are a designated Natura 2000 protected area. Furthermore, there is no source-pathway-receptor chain linking the discharge waters to any designated Natura 2000 protected areas. Therefore, the project is not likely to have a significant effect on any Natura 2000 site and an appropriate assessment screening is not required.
  - Water Framework Directive: The 2013-2018 WFD Status of the Áille River is “Unassigned”. However, the results of ambient monitoring samples taken upstream and downstream of the existing discharge point indicate that the quality of the water in the Áille River upstream does not comply with the requirement for Good status. Given that the WFD aims to achieve “Good Status” for all waters, the target water quality status for the river is Good Status. A waste assimilative assessment was carried out to assess the discharge in regard to legislative requirements and to determine appropriate Emission Limit Values (ELVs) for the discharge. This indicated that secondary treatment, as is currently in place, is sufficient for discharge to the river.
- 
- Regarding the application details, the functioning of the wastewater treatment system is outlined and any information required in the process and requested by the Council was provided. Additionally, neither the receiving waters nor the surrounding areas are designated Natura 2000 protected areas. There is no source-pathway-receptor chain linking the discharge waters to any designated Natura 2000 protected areas. Therefore, the project is not likely to have a significant effect on any Natura 2000 site and an appropriate assessment screening is not required.
  - Regarding unlicensed discharge activity, the applicant has endeavoured to rectify the licensing situation at the business park and have submitted the licence application which is the subject of the appeal. Furthermore, a

Waste Assimilative Capacity Assessment was submitted with the application and it has been determined that secondary treatment, as is currently in place, is sufficient for discharge to the river.

- Regarding the receiving waters and protected sites, the effluent is discharged to the Áille River. The receiving waters are not identified as being of a sensitive nature or being located in a sensitive location. Given that neither an EIAR or AA Screening is required for the project, it is considered that all necessary environmental assessments have been provided.
- The discharge was assessed based on scientific analysis of results from samples taken from both the receiving waters and the collected wastewater. Consequently, the precautionary principle is not considered to be applicable or relevant in this case.
- The applicant is satisfied that all relevant environmental legislation, amendments thereof and relevant case law has been considered and taken into account during the preparation of the application for the licence and its supporting documentation.

## **8.0 STATUTORY CONTEXT**

### **Local Government (Water Pollution) Act 1977, as amended**

#### Section 4

- (1) (a) Subject to subsection (2), a person shall not, after such date as may be fixed for the purpose of this subsection by order made by the Minister, discharge or cause or permit the discharge of any trade effluent or sewage effluent to any waters except under and in accordance with a licence under this section.
- (b) A licence under this section may be granted—

- (i) in the case of a discharge to waters in the functional area of a local authority, by that local authority, and
  - (ii) in any other case, by a local authority in whose functional area any premises, works, apparatus, plant or drainage pipe from which the effluent is discharged is situated ...
- (3) (a) A local authority may at its discretion refuse to grant a licence under this section or may grant such a licence subject to such conditions as it thinks appropriate and specifies in the licence.

### **European Communities Environmental Objectives Surface Water Regulations 2009 (SI 272 of 2009)**

The Surface Water Regulations 2009 seek to give effect to the environmental objectives set out in the Water Framework Directive (Directive 2000/60/EEC).

The Regulations set out: -

- Measures for the protection of surface waterbodies whose status is determined to be higher good.
- Measures for establishing environmental quality standards in relation to waters seeking to achieve good status and high status.
- Measures set out to identify the ecological potential of bodies of surface water in accordance with the provisions of the Directive.

## **9.0 ASSESSMENT**

### **9.1. Introduction**

- 9.1.1. I consider that the principal issues requiring consideration are clarity on the nature and extent of the proposed development, lack of information provision,

licence responsibility, environmental assessments addressing the need for environmental impact assessment, appropriate assessment and consideration of the Water Framework Directive, unpermitted discharge activity, and the application of the precautionary principle.

## 9.2. Nature and Extent of Proposed Development

9.2.1. The appellants submit that the details in the application are unclear and query if every industry in the estate is using the same effluent discharge facility.

9.2.2. I note that the effluent discharge licence application has arisen from a planning application submitted in 2018 to Galway County Council (P.A. Ref. 18/1364). It was acknowledged at that time that there was no discharge licence in place for the established treatment plant. Upgrading of the plant was understood to form part of the development proposals to achieve required standards and works were to be agreed with the Council's Environment Section. As part of this, the discharge licence application was made to Galway County Council.

9.2.3. I note that the existing treatment plant is primarily treating domestic waste from the employees at the business park. The trade effluent takes the form of cooling waters derived from processes in two facilities in the industrial estate, namely Micro Moulding and Advant Medical.

## 9.3. Lack of information

9.3.1. The appellants have raised a number of concerns that can be considered to relate to deficiencies on information provision from Galway County Council. It has been submitted that there were particular issues with gaining access to information on the licence, on the decision, on the decision process, and on reasons for the decision, while concerns were also raised about the lack of

public notice and lack of public consultation in the context of the Aarhus Convention.

9.3.2. I first note that Galway County Council appears not to refute these submissions, having regard to the nature of its response to the appeal. I also acknowledge that the applicant submitted the level of information to the Council that was requested by the Council. Further to these observations, I submit that the appellants' concerns are mainly procedural matters which can only be addressed by Galway County Council. The Board is in receipt of an appeal on the licence issued and is best placed to deal with the grounds of appeal on which it can reasonably adjudicate on. While it is reasonable to conclude that it appears that there have been limitations to access to information and to public notice and consultation during the application process, I note that an appeal has been received by the Board which references a range of issues. Addressing the requirements for environmental assessment is of particular relevance and appears to be of notable concern to the third party. This is a matter which will be considered further in this assessment.

#### 9.4. Licence Responsibility

9.4.1. The appellants question who has jurisdiction over licensing in this instance, i.e. the Environmental Protection Agency or Galway County Council.

9.4.2. Based on the application form and its appendices and other details provided in the application to Galway County Council, the activities which generate cooling waters going to the wastewater treatment plant are not activities which would be subject to an integrated pollution control licence (IPPC) under section 82 of the Environmental Protection Agency Act 1992, falling below thresholds for activities specified in the First Schedule of this Act. The load from the existing wastewater treatment plant is mainly domestic wastewater from employees at the business park. The remainder is cooling water from the on-site industrial activities of Micro Moulding and Advant Medical and this comprises the element of trade effluent being treated. I note from

the report entitled “Wastewater Treatment Assessment Pairc Ghnó Shailerna” submitted to Galway County Council on 28<sup>th</sup> August 2020 that there are no metered flows from the factory operations into the treatment plant. The estimated loading is based on wastewater treatment characteristics and population equivalent. The maximum volume of effluent discharged in one day is 1.95m<sup>3</sup>/day at present and it is estimated that the maximum volume of effluent to be discharged in the future would be 2.75m<sup>3</sup>/day. The licence application was required to be submitted to Galway County Council in the first instance under section 4 of the Local Government (Water Pollution) Act 1977.

## 9.5. Environmental Assessments

9.5.1. I note that the appellants have submitted that there is a requirement for environmental assessment under the provisions of Directives 2014/92/EU, 92/43/EEC and 2000/60/EEC before statutory consent can be given. It has been submitted that there is no indication of whether this was or was not done. Reference has also been made to caselaw considered to be of relevance. I propose to consider the need for environmental impact assessment (EIA), undertake a screening for appropriate assessment, and offer considerations on the discharge relative to the Water Framework Directive.

### 9.5.2. *Need for EIA*

I first note that the appellants submit that there is a requirement for environmental assessment under the provisions of Directive 2014/92/EU. It appears from the nature of the submission that this is a typographical error as the stated Directive is on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features. Directive 2014/52/EU is the relevant Directive relating to environmental impact assessment, which the nature of the appeal appears to focus on. Thus, it is accepted that this is the Directive which the appellants intended to reference.

I acknowledge the applicant's response to the need for EIA. The applicant submits that, whilst the project falls under the category of "wastewater treatment" in Schedule 5 of the Planning and Development Regulations, given that the maximum population equivalent (PE) of the collected load at the business park is 33, it does not exceed any specified relevant quantity, area or other limit specified in either Part 1 or Part 2 of Schedule 5. Thus, it is submitted that a mandatory EIAR is not required. Furthermore, when assessed against the criteria outlined in Annex III of the EIA Amendment Directive, it is submitted that the project is not one which is likely to have significant effects on the environment, either by itself or in combination with other plans or projects. Therefore, an EIAR is not required according to the applicant.

I note the nature of the application under appeal to the Board. This is an appeal against an application for a licence for a discharge from a wastewater treatment plant to surface waters. This is not an application for a wastewater treatment plant. I note that the EIA Directive and Schedule 5 of the Planning and Development Regulations 2001 (as amended) do not refer to such a project. This is not a development for the purposes of Part 10 of the Planning and Development Act 2000, as amended.

Further to the above and regarding environmental assessment, I note as follows:

- The discharge licence application has arisen from an application for planning permission for a factory extension.
- The established wastewater treatment plant has been discharging to the Áille River for some twenty years and has not been subject to a discharge licence. This application seeks to rectify this matter.
- It can reasonably be ascertained that the licensing of this plant, which would provide for the scope and setting of parameters for the plant (including treated effluent standards to be met), can only seek to improve the condition of the wastewater treatment at the business

park and, thus, improve its environmental impacts for the wider environment.

- The applicant's submission on assimilation capacity has demonstrated that standard secondary treatment of BOD: N25mg/L, COD: 125mg/L, and TSS: 35mg/L is sufficient to comply with the Surface Water Regulations 2009, as amended, and would ensure that recreational and designated bathing waters in the vicinity would not be impacted by the discharge.
- The treatment plant consists of a primary sedimentation well, an aeration tank and a final settling tank and upgrade works are also proposed to the plant.
- It is apparent that Galway County Council are satisfied that the volume, treatment, management and discharge of waste generated can be addressed without causing any known significant environmental effects on and in the vicinity of this business park.
- The appellants have not demonstrated that there would be any significant adverse environmental impacts arising from the discharge of treated effluent to the Áille River.
- The appellants have not challenged the nature and extent of the conditions attached by Galway County Council in its decision on the discharge licence.

### 9.5.3. *Appropriate Assessment - Council Directive 92/43/EEC*

#### **Screening for Appropriate Assessment**

##### *Background*

As part of the details forwarded to Galway County Council, the applicant submitted a "Screening Statement for Appropriate Assessment" relating to the proposed construction of an extension to an existing factory unit at An Tulach industrial estate west of Indreabhán. This is some 7km west of the business park at Sailearna. This screening report cannot be used in consideration of the



effects of the proposed discharge at Sailearna on European sites. I further note that Galway County Council did not undertake a screening for appropriate assessment as part of its considerations on the discharge licence application.

### *Description of Development*

The application relates to a licence for discharge of trade effluent to surface water. It seeks a licence for the discharge of treated wastewater from Páirc Ghnó Shailearna wastewater treatment plant to the Áille River west of the site. Galway County Council note that the discharge is equivalent to approximately four domestic houses. The source of trade effluent is from two facilities in the business park and comprises cooling waters. Galway County Council notes that the effluent is domestic in nature. The application for the discharge licence has arisen from an application for an extension to an industrial unit in the business park (P.A. Ref. 18/1364).

### *European Sites*

The extensive Connemara Bog Complex Special Area of Conservation (Site Code: 002034) lies to the north of this location and comprises the sole European site requiring consideration. There are no other European sites in the vicinity of this site. Other European sites are at significant distances via open marine waters and are located in Galway Bay, including Kilkieran Bay and Islands SAC to the west in the coastal Carraroe area, Inishmore Island SAC to the south, and the Inner Galway Bay SAC east of Bearna. It is considered that any indirect pathway link via the Áille River and across expansive open marine waters could not reasonably be seen as a distinct indirect pathway to these distant European sites.

## *Identification of Likely Effects*

### **General Observations**

- The discharge (i.e. the project) is not directly connected with, or necessary to, the conservation management of any Natura 2000 site.
- The business park relating to the proposed discharge is not located in any European site.
- The business park does not have any known habitat of conservation interest.
- The business park does not have any known habitat to support Special Conservation Interests of any Special Protection Area.
- The location and the general vicinity of the outfall of the Áille River into Galway Bay does not form part of any Natura 2000 site.

### **Connemara Bog Complex SAC**

The qualifying interests of this SAC are:

*Coastal lagoons*

*Reefs*

*Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae)*

*Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea*

*Natural dystrophic lakes and ponds*

*Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation*

*Northern Atlantic wet heaths with Erica tetralix*

*European dry heaths*

*Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae)*

*Blanket bogs (\* if active bog)*

*Transition mires and quaking bogs*

*Depressions on peat substrates of the Rhynchosporion*

*Alkaline fens*

*Old sessile oak woods with Ilex and Blechnum in the British Isles*

*Euphydryas aurinia* (Marsh Fritillary)

*Salmo salar* (Salmon)

*Lutra lutra* (Otter)

*Najas flexilis* (Slender Naiad)

The Conservation Objectives are:

- To maintain the favourable conservation condition of Coastal lagoons, Reefs, Oligotrophic waters containing very few minerals of sandy plains, Oligotrophic to mesotrophic standing waters, Natural dystrophic lakes and ponds, Water courses of plain to montane levels, Molinia meadows on calcareous, peaty or clayey-silt-laden soils, Old sessile oak woods with Ilex and Blechnum, Marsh Fritillary, Otter, and Slender Naiad.
- To restore the favourable conservation condition of Northern Atlantic wet heaths with *Erica tetralix*, European dry heaths, Blanket bogs, Transition mires and quaking bogs, Depressions on peat substrates of the Rhynchosporion, Alkaline fens, and Atlantic Salmon.

The following is noted:

- Connemara Bog Complex SAC lies to the north of the point of discharge associated with the business park's wastewater treatment plant.
- The Áille River flows south from this location into Galway Bay, approximately 1.1km south of the business park.
- There is no hydrological link between the discharge point for the wastewater treatment plant and this European site.
- There is no other known pathway between the site of the proposed development and this European site.

It can reasonably be determined that the proposed development would not have any direct or indirect effects on the qualifying interests of this European site.

#### *In-combination Effects*

I have no knowledge of any other plan or project with which consideration could be given to in-combination effects. Having regard to the proposed development itself having no direct or indirect effects on the conservation objectives of any European site, it is reasonable to conclude that there would be no potential for in-combination effects.

#### *Mitigation Measures*

No measures designed or intended to avoid or reduce any harmful effects of the proposed alterations on a European site have been relied upon in this screening exercise.

#### *Screening Determination*

Having carried out Screening for Appropriate Assessment of the project (i.e. the discharge from the established wastewater treatment plant), it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European site, in view of their Conservation Objectives, and Appropriate Assessment is, therefore, not required.

This determination is based on the following:

- There are no known pathways between the discharge and any European site, and
- The site for the proposed development does not have habitat to support the Special Conservation Interests of any Special Protection Areas.

#### 9.5.4. *Water Framework Directive 2000/60/EC*

I note that the appellants have submitted, in relation to receiving waters and protected sites, that the receiving water is situated in a sensitive district and that the appropriate environmental assessments must be undertaken in accordance with EU Directive provisions before the appropriate authority can issue consent. My considerations above are firstly acknowledged relating to EIA and AA.

With regard to the surface water into which the treatment plant discharges, I first note that the Áille River is “unassigned” when regard is had to the status of the river under the Water Framework Directive. The applicant has submitted in response to the appeal that the results of ambient monitoring samples taken upstream and downstream of the existing discharge point indicate that the quality of the water in the Áille River upstream does not comply with the requirement for Good status. Given that the Water Framework Directive seeks to achieve “Good Status” for all waters, the target water quality status for the Áille River would be Good Status. I acknowledge the applicant’s waste assimilative assessment that was carried out to assess the discharge in regard to legislative requirements and to determine appropriate Emission Limit Values (ELVs) for the discharge. This indicated that secondary treatment is sufficient for discharge to the river. I note that secondary treatment is provided in the treatment process.

With regard to the sensitivity of the location relative to protected sites, the Board will note my considerations above in relation to European sites. The business park is not within any European site and I note that the location into which the discharge to the Áille River takes place is downstream of the nearest European site (Connemara Bog Complex SAC). Thus, there is no hydrological connectivity with this nearest European site. It is further noted that the outfall of the river to the sea 1.1km from the site is at a location which is many kilometres from any European site and separated by expansive open marine waters.

Further to the above, I note that the discharge is distant from any designated bathing waters and recreational waters.

It is reasonable to determine that the discharge from the existing wastewater treatment plant is not to waters that may be determined to be 'sensitive waters'.

#### 9.6. Unpermitted Discharge Activity

9.6.1. I note the appellants' environmental concern relating to the apparent unlicensed discharge activity that has been taking place for some twenty years. The appellants reasonably request clarity and investigation by the planning and appropriate health authorities. I acknowledge that the discharge licence application seeks to rectify the current unlicensed activity. In acknowledging the reasonable concerns raised, I note that investigation and any follow-up enforcement is a matter for Galway County Council in this instance. There is no role for the Board in enforcement on this matter.

#### 9.7. Precautionary Principle

9.7.1. The appellants submit that the application is not sufficiently detailed for the appropriate authority to be clear that the precautionary principle is being met.

9.7.2. Having regard to my considerations above, I am satisfied that the level of scientific analysis has been provided in the application and that the likely effects and impacts have been assessed such that it may reasonably be concluded that the application of the precautionary principle does not arise in this instance.

### **10.0 CONCLUSION**

10.1. Having regard to my considerations above, I recommend that a discharge licence should be granted. I am of the opinion that the discharge from the treatment plant at Páirc Ghnó Shailearna, subject to the conditions set out in the decision by Galway County Council, will not adversely impact on the water quality of the Áille River to a material extent, will not impact on the integrity of any European site, and will not adversely impact on designated bathing waters,

recreational waters or any other sensitive waters in the wider area. I consider that the conditions set out in the decision of Galway County Council are appropriate and necessary to safeguard the quality of the discharge to the Áille River. I consider that the parameters set out in the Council's decision can be adhered to under the operating conditions of the business park. I recommend that the Board attach the conditions set out in the decision by Galway County Council in the grant of any discharge licence from Páirc Ghnó Shailearna to the Áille River.

## **11.0 DECISION**

In exercise of the powers conferred on it by Section 8 of the Local Government (Water Pollution) Act, 1997 as substituted by Section 6 of the Local Government (Water Pollution) (Amendment) Act, 1990, An Bord Pleanála directs the said licensing authority to grant the said licence in accordance with the conditions attached to its decision of 16<sup>th</sup> July, 2021.

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**Kevin Moore**  
**Senior Planning Inspector**

**9<sup>th</sup> March, 2022.**