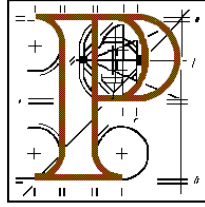


# An Bord Pleanála



## Inspector's Report

### Proposed Development

Facility centre for water sports activities, car park and pedestrian crossing at Acres and Drumduff North, Drumshanbo, County Leitrim

**Applicant:** Josephine Rogers

**Planning Authority:** Leitrim County Council

**Type of Application:** EIA screening determination under article 120(3)(b) of the Planning and Development Regulations, 2001, as amended

**Site Inspection:** 22<sup>nd</sup> March, 2022

**Inspector:** Kevin Moore

## **1.0. Introduction**

- 1.1. A letter was received by An Bord Pleanála from Josephine Rogers on 10<sup>th</sup> November, 2021. This letter did not meet the minimum requirements for the making of an application for a determination under article 120(3)(b) of the Planning and Development Regulations 2001, as amended. The Board requested, by letter dated 13<sup>th</sup> January 2022, a statement indicating what class of development set out in Schedule 5 to the Regulations the proposed development the subject of the request is considered to belong. A response to this request was received by the Board on 25<sup>th</sup> January 2022. A further notice was issued to Josephine Rogers on 27<sup>th</sup> January 2022 requiring the provision of a statement indicating the reasons why it is considered the proposed development would be likely to have significant effects on the environment and a statement indicating the nature of such effects. The Board received a response to this request on 9<sup>th</sup> February 2022.

## **2.0 Legislative Provisions**

- 2.1. The following provisions are noted in relation to an application for a determination under article 120 of the Planning and Development Regulations:

### ***Planning and Development Regulations 2000, as amended***

#### **Sub-threshold EIAR**

#### **Article 120.**

- (1) (a) *Where a local authority proposes to carry out a subthreshold development, the authority shall carry out a preliminary examination of, at the least, the nature, size or location of the development.*

- (b) Where the local authority concludes, based on such preliminary examination, that—*
- (i) there is no real likelihood of significant effects on the environment arising from the proposed development, it shall conclude that an EIA is not required, ...*
- (3) (b) Where any person considers that a development proposed to be carried out by a local authority would be likely to have significant effects on the environment, he or she may, at any time before the expiration of 4 weeks beginning on the date of publication of the notice referred to in article 81(2), apply to the Board for a screening determination as to whether the development would be likely to have such effects.*
- (c) An application for a screening determination under paragraph (b) shall, in order to be considered by the Board, state the reasons for the forming of the view that the development would be likely to have significant effects on the environment and shall indicate the class in Schedule 5 within which the development is considered to fall ...*

### **3.0 The Site of the Proposed Development**

- 3.1. The site of the proposed development is located at the south-eastern edge of Acres Lake and south-west of settlement of Drumshanbo in County Leitrim. Regional Road No. R207 flanks the site to the east and there is housing in the form of ribbon development on the opposite side of the road and one small group of detached self-catering holiday units. The site is in two parts. The northern plot comprises part of an existing car park and adjoins a pier at the lake. Tennis courts, an outdoor swimming pool and playground is located to the north of the car park. There is an existing pedestrian crossing of the regional road south of

the entrance to the car park. The southern section of the site forms part of lowlying fields adjoining the lakeshore. A boardwalk runs along the lakeshore edge and flanks both parts of the overall site.

#### **4.0 The Proposed Development**

4.1. The proposal would comprise the development of a facility centre for water sports activities, a car park and a pedestrian crossing. The development would consist of:

- A facility for water sports activities which would include indoor and outdoor showers, toilets, external and internal seating, and a communication workspace which will be a multifunctional, multimedia education and learning area. It will also include for the connection of all utility services to the building. This part of the development would be provided at the northern end of the site at the location of the existing car park.
- A car park to facilitate 70 car parking spaces and a new entrance to Regional Road R207. This part of the proposed development would be located at the southern section of the site.
- The installation of a raised controlled pedestrian crossing on the R207. This crossing would be provided immediately south of the proposed vehicular entrance into the new car park.

#### **5.0 The Applicant's Submission**

5.1. The applicant has submitted that she feels that the development falls under class 10 (infrastructure projects) and class 12 (tourism and leisure) of Schedule 5 of the Planning and Development Regulations. The applicant states that she has

reservations about the construction of the building for water sports enthusiasts, but the main concern is the size of the car park, located 1km from the town, with 70 spaces outside the town being too extreme.

5.2. The following is submitted as to why it is considered that the proposed development needs an environmental impact statement:

- A 70 space car park is not appropriate in this area. There is too much development if the centre and car park go ahead.
- A detailed study on the likely impact the loss of lakeside wetland to a car park would have on the local surface drainage system, which extends far beyond the immediate vicinity of the lake, should be undertaken before proceeding with irreversible changes such as this development.
- Acres Lake is drained through a canal system and has a slow rate of exchange of water. Any drainage from a car park is likely to include amounts of oil and fuel remnants from cars, leading to a substantial risk of persistent oil pollution to the lake. It would not be appropriate to proceed in the absence of detailed studies.
- The proposed development does not adequately, or at all, consider the adverse effects on the qualifying interests of the adjacent or hydrologically connected European sites.
- The proposed development does not take account of the combined environmental effects of forestation, traffic congestion, effects of car use and extant environmental pollution. It does not take into account the non-temporary, adverse and significant environmental effects in combination with the effects from other adjacent plans, developments, projects and existing pollution.

- The proposed development does not, in particular, take into account the effects on the birds foraging in the Acres Lake area, on the numbers of Black headed Gull, Cormorant, Mute Swan, Snipe, Water Hen and Heron. A Stage 2 appropriate assessment is not carried out.
- The precautionary principle should apply and there is an onus on the local authority to prove beyond reasonable scientific doubt that the development will not have a deleterious effect on birds and habitats.

## **6.0 The Planning Authority's Submission**

- 6.1. I note that the planning authority has been afforded the opportunity to respond to the applicant's initial submission to the Board only, which was a letter that did not meet the minimum requirements for the making of an application for a determination under article 120(3)(b) of the Planning and Development Regulations 2001. The planning authority submitted a full suite of documents from the Part 8 public consultation process, including an Environmental Impact Assessment Screening Report, an Ecological Impact Assessment, an Appropriate Assessment Screening Statement, and an Arboricultural Impact Assessment, Tree Protection Plan & Method Statement for Acres Lake Amenity Block.
- 6.2. The submission in response to the applicant's initial submission may be summarised as follows:
- Acres Lake is a semi-natural lake that has been excavated to improve the flow and provide canal channels. The area is long established and has been managed to create swamp areas. There is an existing pier and established activities. It has an overall moderate to high local ecological

- importance due to freshwater habitats and riparian woodlands on the far side of the lake.
- No Annex I habitats or rare/protected floral species were found on the site. Some of the habitats on the site are of high local importance. Wet grassland would be the main type of habitat lost as a result of the proposed development and is a low diversity pasture field of low local ecological value.
  - Overall, the implementation of the project would have temporary impacts associated with water quality and the loss of wet grassland habitats.
  - Mitigation measures to address adverse impacts on local biodiversity during the construction stage are set out in the submitted Ecological Impact Assessment Report.
  - The submitted Ecological Impact Assessment and Arboricultural Impact Assessment, Tree Protection Plan & Method Statement relate to the entire site.
  - The AA Screening report is based on best scientific knowledge and has identified that the project is not likely to have significant effects on any European site.
  - The water levels in Acres Lake and the canal system are controlled / managed by ESB and Waterways Ireland. Surface water from the proposed car park would be collected along the northern site boundary and discharged to an existing drain along the southern boundary via a petrol interceptor.
  - The development is not a use which is sensitive to the effects of flooding and a flood risk assessment is not required. There is no record of any incidence of flooding at this location. The loss of the extent of wet

grassland proposed would not be of significance to the effect of flooding in the wider area.

- The ground level would be raised by approximately 0.5m and would consist of material which would not prevent surface water from infiltrating below the completed car park. The petrol interceptor would be above the level of the existing ground and would prevent any residues from being discharged into the water system.
- The planning authority will consider the use of SuDS within the proposed car park and will include a condition to this effect in the Chief Executive's recommendation to the elected members.

## **7.0 The Need for Environmental Impact Assessment**

7.1. I note the following from the Planning and Development Regulations 2001:

### *SCHEDULE 5 - DEVELOPMENT FOR THE PURPOSES OF PART 10*

#### *Part 2*

##### *10. Infrastructure projects*

*(b) (ii) Construction of a car-park providing more than 400 spaces, other than a car-park provided as part of, and incidental to the primary purpose of, a development ...*

*(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.*

##### *12. Tourism and leisure*



*(a) Ski-runs, ski-lifts and cable-cars where the length would exceed 500 metres and associated developments.*

*(b) Sea water marinas where the number of berths would exceed 300 and fresh water marinas where the number of berths would exceed 100.*

*(c) Holiday villages which would consist of more than 100 holiday homes outside built-up areas; hotel complexes outside built-up areas which would have an area of 20 hectares or more or an accommodation capacity exceeding 300 bedrooms.*

*(d) Permanent camp sites and caravan sites where the number of pitches would be greater than 100.*

*(e) Theme parks occupying an area greater than 5 hectares.*

7.2. The proposed development provides a car park with 70 car parking spaces. However, this car park is to be provided as a car park which would be part of, and incidental to, the primary purpose of a recreational, leisure and amenity facility at Acres Lake. Thus, it is reasonable to determine that the proposed car park is a category of development which does not fall under Class 10(b)(ii) of Part 2 of the Planning and Development Regulations.

7.3. The location of the proposed development is to the south-west of the settlement of Drumshanbo. It lies outside of the development envelope of this town as defined in the Drumshanbo Land Use Zoning Strategy which forms part of Leitrim County Development Plan 2015-2021, i.e. the current development plan for this area. Development which could be described as urban in nature lies on the east side of the regional road and primarily comprises detached houses, mainly in the form of ribbon development. Acres Lake and its lakeshore form part of the rural

hinterland south-west of settlement of Drumshanbo. It could not reasonably be determined to form part of any business district or part of the built-up area of Drumshanbo. The proposed project is clearly development that is of a recreational, leisure and amenity nature and could not be expressly defined as an urban development due to it clearly not being in an urban area. Therefore, it is reasonable to determine that it is a category of development which does not fall under Class 10(iv) of Part 2 of the Planning and Development Regulations.

- 7.4. I acknowledge that the applicant has submitted to the Board that she feels the development falls under class 10 (infrastructure projects) and class 12 (tourism and leisure) of schedule 5 to the Planning and Development Regulations. The Board will note Class 12 above. The proposed development does not consist of a ski run/ski lift/cable cars, a sea water marina, a holiday village, a camp site and caravan site, nor a theme park. Thus, the proposed development is not a category of tourism and leisure development for the purposes of Part 10.
- 7.5. Overall, it may reasonably be concluded that the proposed development does not constitute development for the purposes of Part 10 of the Planning and Development Regulations. The preparation of an Environmental Impact Assessment Report by Leitrim County Council and the undertaking of environmental impact assessment by the Board is not required for the proposed development.

## **8.0 Recommendation**

I recommend that the Board determines that environmental impact assessment of the proposed development is not required by reason that the development described does not come within a class of development set down in either Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 (as amended).

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Kevin Moore

Senior Planning Inspector

23<sup>rd</sup> March, 2022