



An
Bord
Pleanála

Inspector's Report

ABP-317423-23

Development

Chun Dioglann Fuisce, Siopa Earraí, Caife, Beár Blaiseadh, Ionad Oidhreachta agus foirgneamh stórála oscailte, a thógáil, chomh maith le hoibreacha suímh ghaolmhara agus páirceáil. Spás urláir comhlán na n-oibreacha beartaithe: 1394 sq. m. Raiteas tionchair natura curtha isteach.

Location

Roisin na Mainiach, Carna, Co. na Gaillimhe.

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

22965

Applicant(s)

Udaras na Gaeltachta

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellant(s)

Aine Ni Cheannabhain

Observer(s)

Date of Site Inspection

17/01/24

Inspector

Darragh Ryan

Contents

1.0 Site Location and Description

- 1.1. The proposed development is located at the industrial estate Ionad Fiontraiochta Charna, Rusheennamanagh, Carna, County Galway. The industrial estate is located 500m outside of Carna village. The development is proposed to be built on the site of a former industrial building that burnt down.
- 1.2. The site fronts onto the R340 and is adjacent to Kilkieran Bay and Islands SAC, 150m south of the site.
- 1.3. The site is bordered to the east by Carna Industrial Park and commercial buildings to the west. There is agricultural grassland to the rear of the site. The site area is .75ha.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of the two storey Cnoc Bui Whiskey distillery of approx. 1394m².
- 2.2. The distillery building shall contain the following:
 - Distillery production
 - Café
 - Shop/Kitchens
 - Exhibition space
 - Events areas
 - Administrative rooms and toilet facilities
- 2.3. The following additional documentation was submitted with the application:
 - A Natura Impact Statement
 - Explosion Risk Management
 - Domestic Wastewater Management Report
 - Process wastewater storage and disposal management

- Road Safety Audit

3.0 Planning Authority Decision

3.1. Decision

There are two planning reports on file. Planning Authority issued a decision to grant with 18 conditions following receipt of further information in relation to wastewater treatment, road safety audit and Natura Impact Statement. The conditions of note are:

1. Condition 3 –

Loading of the wastewater treatment system arising from the development shall not exceed the 2 year projections set out in the submitted domestic and process wastewater management – engineers report dated February 2023

Annual Monitoring report shall be submitted to demonstrate to the local authority that capacity of waste water treatment system has not been exceeded.

2. Condition 9

The developer shall appoint an Environmental Manager with suitable ecological and construction expertise to ensure adherence to the plans and mitigation measures set out within the NIS.

3. Condition 10

During the construction stage of the development, best practice mitigation measures shall be employed.

4. Condition 13

The development shall comply with the recommendations and conclusions of the Traffic and Transport Assessment

5. Condition 15

A monitoring report for the Workplace Travel Plan (Mobility Management plan) shall be submitted to the planning authority on the first, third and fifth anniversary.

6. Condition 18

A planning and development contribution shall be paid to the local authority of €15,334

3.2. Planning Authority Reports

3.2.1. Planning Reports

First Planning Authority report –

- The planning authority has concerns with respect to capacity of wastewater treatment system on site and control and management of surface water on site.
- Concerns with regard to the road safety audit submitted with application and requirement to address all the recommendations within the road safety audit. A traffic assessment is required to demonstrate how the proposed development will have an impact on existing roads and infrastructure in the area.
- The Natura Impact Statement submitted, needs further consideration with respect to surface water management and wastewater treatment system.
- Having regard to Explosion Protection Documentation submitted, details are required with respect to the location and site history of maturation warehouse and whether an Explosion Protection Document has been submitted with respect to same.
- As the development requires use of potentially explosive materials and chemicals outlined under Directive 2012/18 EU the applicant is requested to show consultation with Health and Safety Authority in relation to Explosions/ Industrial Accidents.

10 points of further information sought having regard to the above.

Second Planning Authority report

- Details of wastewater treatment plant are noted. The plant was upgraded in 2022 with a volumetric design capacity of 10m³/ day and biological design capacity of 66PE.

- An updated road safety audit and traffic and transport assessment has been submitted.
- Updated details of surface water management have been provided.
- An updated of Screening, NIS and Construction Environment Management Plan provided to address issues of wastewater management and surface water management.
- An explosion risk assessment and drawing indicating location of maturation building which is located 38m to the north -west of the site. This building will be subject to a future separate planning application.
- The Health and Safety Authority has submitted documentation on file to indicate that the proposed development will not fall under the Major Accident Hazard Regulations based on the proposed quantities of ethanol and petroleum products to be stored on site.

Having regard to the further information submitted it is considered that the applicant has provided sufficient information in respect of proposed development on this brownfield site. The proposal is in compliance with policy objectives of the Galway City Development Plan 2022 - 2028.

3.2.2. Other Technical Reports

Roads & Transportation Department – recommend conditions with respect to Road Safety Audit, Traffic and Transport Assessment and Mobility Management Plan

Environment Department - Insufficient detail has been submitted on wastewater disposal. Site assessment information, loading rates to onsite wastewater treatment system and its design capacity have not been submitted. (it is stated by the applicant that a meeting was held between the applicant and Environment Section of Galway County Council after the further information was issued, however there is no further report on file from the Environment Department)

3.3. Third Party Observations

Three third party submission on file

- Failte Ireland on behalf of the National Tourism Development Authority welcome the proposed development.
- The Irish Whiskey Association is the lead representative to the Irish Whiskey Industry welcomes the proposed development.
- Aine Ni Cheannabhain –Aill na Brun, Cill Chiarain, Conamara, Co na Gaillimhe. The submission on file is very similar to the grounds of appeal, this shall be dealt with in Section 6.0 below.

4.0 Planning History

PA Reg Ref – 59687 (1989) – Permission granted for an office extension to existing building

PA Reg Ref – 98/4163 Udaras na Gawltachta granted permission subject to 8 no conditions for the construction of an entrepreneurial unit on an industrial estate

PA Reg Ref – 97/3219 Udaras na Gaeltachta granted planning permission for the construction of an entrepreneurial unit on an industrial estate

5.0 Policy Context

5.1. Development Plan

Galway County Development Pan 2022 – 2028

Chapter 13, The Galway Gaeltacht and Islands Section 13.2 – Strategic Aims

- To promote and facilitate sustainable development that is appropriate to the character, heritage, amenity and strategic role of the Gaeltacht and Island communities in County Galway;
- To adhere to the aims of the Government’s “20-Year Strategy for the Irish Language 2010 – 2030” including the preservation and promotion of Irish in the Gaeltacht, conserving and protecting the heritage, culture and richness of the language as well as strengthening the position of the Irish Language in the home, workplace and community;

Chapter 8 Tourism

TI 1 Tourist Infrastructure

- Encourage and promote tourism related facilities and accommodation within existing settlements in the county. Consideration will be given to such facilities in rural areas where there is a justified requirement for the proposal at that location. These proposals are required to comply with environmental considerations and the relevant DM Standards.

FC 1 Food & Crafts

- To support the development and marketing of the foods and crafts of the County through networking and developing trade links with regions, locally, nationally and internationally.

Infrastructure Utilities and Environmental Protection

WW6 Private Wastewater Treatment Plants

- Ensure that private wastewater treatment plants, where permitted, are operated in compliance with Environmental Protection Agency (EPA) Code of Practice for Domestic Waste Water Treatment System 2021 (Population Equivalent ≤ 10).

5.2. Natural Heritage Designations

Kilkieran Bay and Islands SAC – lies immediately adjacent to the site to the west

Connemara Bog Complex SAC – .70km North of the Site

5.3. EIA Screening

EIA See completed form 2 on file. On the issue of Environmental Impact Assessment screening, I note that the relevant class for consideration is class 7 (d) "Installations for commercial brewing and distilling; installations for malting, where the production capacity would exceed 100,000 tonnes per annum".

Based on preliminary desk research, the calculated figures outlined below represent the upper limit of cask sizes and corresponding outputs. It should be noted that actual output may be potentially lower, contingent upon the specific dimensions of the casks utilized. Cask size was not explicitly provided in the documentation accompanying the application.

The stated maximum output is 1480 casks per year. The largest cask used in whiskey distillery is 700 litres. Whiskey typically has a density of around 0.94 to 0.96 kilograms per litre (kg/L).

- The mass of each cask is calculated at 700 litres x 0.96kg/l = 672kilograms.
- 1 cask of whiskey is calculated of having a weight of .67 metric tonnes.
- Total weight = 0.67 metric tonnes/cask x 1480 casks
- Total weight ≈ 991.60 metric tonnes.

Having regard to the size of the development site and scale of development, it is sub threshold and the proposal does not require mandatory Environmental Impact Assessment. Having regard to the nature and scale of the proposed development and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for Environmental Impact Assessment can, therefore, be excluded at preliminary examination. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.2. There are two number of appeals on file. The 1st appeal is from Aine Ni Cheannabjain who submitted an objection within the timeframe of original application.

- It is required that the local community be involved in the decision-making process regarding the environment. The decision (application number: 22/965) does not

comply with the Aarhus Convention requirements; access to information and public participation in environmental decision-making.

- The development is located in the Gaeltacht, situated in the area of the Connemara Language Plan. The application and planning permission are not available in the Irish language; for example, there is no Irish on any map provided or available on other documentation, e.g., Irish Water, Explosions Protection Document, Traffic Impact Report, the Planner's Report, and the notice regarding the Decision to Grant.
- Giving special consideration to the nature and proposed development location, and environmental impact assessments, there is a deficiency within the application having regard to the Environmental Impact Assessment Directive and the provisions of the Water Framework Directive and the Habitats Directive. The Precautionary Principle is not applied.

6.3. The second appeal on file is from Friends of the Irish Environment, the appellant did not make a submission to Galway County Council in the timeframe for submissions to the planning authority but relies on Sections 37 (4) (c) and (d) of the Planning and Development Act for its entitlement to lodge an appeal. The appellant also relies on the direct effect of article 9 (2) of the Aarhus Convention and/or Article 11 of the EIA Directive

The validity or otherwise of the appeal will be dealt with at assessment stage of this report. The appeal largely reflects the issues outlined by the 1st Appellant on file.

- The proposed development is sub-threshold EIA development, and therefore required at the very least a preliminary examination as to whether EIA was required.
- The proposed development is sub-threshold development under Categories 7(d) and 10 of Part 2 Schedule V of the Planning and Development Regulations. The location of the development in close proximity to the Natura 2000 as acknowledged with a hydrological connection to a Natura 2000 site, requires the submission of an EIAR.
- The existing wastewater treatment system is indicated to have been upgraded in 2022, there is no evidence that planning permission has been received for

these works. In other parts of the application, it is indicated that the upgrade works are anticipated. There is no possibility of properly assessing the anticipated PE loading on the existing wastewater treatment plant in the absence of information on its current functioning.

- No discharge licence has been provided under the Section 4 of the Local Government Act 1977 for discharge to groundwater.
- The initial percolation tests for wastewater treatment facility indicate the site might not be suitable for the treatment of effluent. Concerns with respect to high water table and shallow bedrock. The area is extremely vulnerable at this location in terms of risk to surface and groundwater, no evidence provided in the application that there are no environmental effects from the wastewater treatment plant. The NIS submitted does not address all issues with respect to wastewater treatment plant including additional PE loading.

6.4. Applicant Response

None

6.5. Planning Authority Response

None

6.6. Observations

None

7.0 Assessment

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

- Domestic Wastewater Treatment System
- Natura Impact Statement

- Other Matters

7.2. Domestic Wastewater Treatment System

Regarding the domestic wastewater matter, I've sought inhouse advice from Environmental Scientist at An Bord Pleanála, and their comprehensive findings are detailed in the attached memorandum.

- 7.2.1. The proposed development intends to manage domestic waste through the existing on-site wastewater treatment plant, which currently serves the industrial estate. This system is situated outside the red line boundary of the site, on an adjacent site to the east. Appeal documentation includes a domestic wastewater management engineer's report and a site suitability assessment dated March 2007. According to the submitted engineers report, the existing wastewater treatment plant (WWTP) underwent an upgrade in 2022 to accommodate the entire industrial estate.
- 7.2.2. The submitted site characterisation form dates to March 2007. The soil type is identified as blanket peat, with groundwater vulnerability classified as extreme. The site characterisation includes for a proposal for the importation of 370m² of soil to provide an area for percolation. A wastewater treatment plant site layout has been submitted with the application, this includes a layout of the system and a section for the polishing filter.
- 7.2.3. The trial hole excavation revealed bedrock encountered at a depth of 600mm below ground level. Notably, the trial hole log did not mention any indications of mottling. In accordance with the EPA (2021) Code of Practice, pre-soaks were conducted 4-24 hours before testing to simulate adverse precipitative conditions. However, it's essential to note that pre-soaks for both the permeability (P) and triaxial (T) tests were unsuccessful.
- 7.2.4. The applicant's proposal entails implementing a secondary wastewater treatment system with a modular peat filter that discharges to the ground. However, there is notable ambiguity surrounding the polishing filter component of the plan. Mention is made of excavating 500m² of soil to a depth of 900mm and backfilling with stone. This approach is likely to create a "bathtub" effect, drawing groundwater into the area rather than effectively distributing and attenuating effluent. Moreover,

references to 370m³ of gravel distribution and 225m³ of imported soils lack clarity regarding the infiltration point.

The proposed polishing filter appears undersized to accommodate the maximum occupancy of the development. Additionally, a loading rate of 20l/m² exceeds the soil's capacity to attenuate and dispose of effluent effectively. Given these considerations, the only feasible option for effluent disposal from the proposed development would be a drip dispersal system, as per the EPA (2021) Code of Practice.

Presently, the loading rates amount to 4.56m³ per day based on submitted occupancy figures. Considering an expected 5-year growth in the project, an additional 3.91m³ will be generated daily, resulting in a maximum daily hydraulic load of 8.47m³. Assuming a daily loading per head of population of 150 liters/day, this translates to a population equivalent (PE) of 56.46, necessitating a plant with a biological capacity of 3.4kg of BOD per day. However, the proposed polishing filter is inadequate to manage this daily effluent loading effectively.

- 7.2.5. In conclusion, given the insufficient information provided in the appeal to demonstrate the suitability of the site for effluent treatment, coupled with indications of poorly draining soils and an extreme groundwater vulnerability, I do not consider that effluent treatment on site can proceed without posing a risk to groundwater. As the applicant has failed to demonstrate that the wastewater treatment system complies with the EPA Code of Practice 2021, I do not consider the proposed development complies with Objective WW6 of the Galway County Development Plan 2022 – 2028.

7.3. **Appropriate Assessment**

Stage 1 Screening

- 7.3.1. Compliance. The requirements of Article 6(3) of the Habitats Directive as related to screening the need for appropriate assessment of a project under Part XAB, Section 177U of the Planning and Development Act 2000, as amended, are considered fully in this section.

- 7.3.2. Background. The applicant submitted an Appropriate Assessment Screening and Natura Impact Assessment report for the proposed development to the Planning Authority. 9 no. European sites within a 15km zone of influence of the appeal site were examined in the Stage 1 Appropriate Assessment Screening report. Following this screening exercise and adopting a precautionary approach in light of the location of the appeal site, 4 no. European sites were identified on the basis that impact pathways exist between the proposed development and European sites both during construction and operation of the proposed development. The applicant's Stage 1 Appropriate Assessment Screening report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. Having reviewed the document, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.
- 7.3.3. Supplementary Reports/Studies. A domestic and process wastewater management – Engineers report and a construction and environment management plan has been submitted with the application.
- 7.3.4. Likely Significant Effects. The project is not directly connected with or necessary to the management of a European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated as SACs and SPAs to assess whether it may give rise to significant effects on any European site.
- 7.3.5. Potential Effects of the Proposed Development. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of the implications for likely significant effects on European sites:
- The uncontrolled release of pollutants to ground water and surface water (e.g. run-off, silt, fuel, oils, etc.) and subsequent impacts on water quality sensitive habitats of Kilkieran Bay and Islands SAC (002111); Connemara Bog Complex

SAC (002034); Slyne Head to Ardmore Point Islands SPA (004159); and Connemara Bog Complex SPA (004181).

- Potential for the release of contaminated wastewater generated by the proposal at operational stage.
- Should any bird species which are Special Conservation Interests (SCI) of Slyne Head to Ardmore Point Islands SPA (004159); and Connemara Bog Complex SPA (004181).or another European site use the site for resting, foraging, breeding etc., then the proposed development would have the potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts).

7.3.6. European Sites and Connectivity. A summary of European sites that occur within a possible zone of influence of the proposed development is presented in Table 7.1. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail. I note that the applicant included a greater number of European sites in their initial screening consideration with sites within 15km of the development site considered. There is no ecological justification for such a wide consideration of sites, and I have only included those sites with any possible ecological connection or pathway in this screening determination. I am satisfied that other European sites proximate to the appeal site can be ‘screened out’ on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site or given the absence of any direct hydrological or other pathway to the appeal site.

Table 7.1 - Summary Table of European Sites within a possible zone of influence of the proposed development.

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N

Kilkieran Bay and Islands SAC (002111)	<ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • Coastal lagoons [1150] • Large shallow inlets and bays [1160] • Reefs [1170] • Perennial vegetation of stony banks [1220] • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Machairs (21A0) • Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> [3130] • Lowland hay meadows (<i>Alopecurus pratensis</i>, <i>Sanguisorba officinalis</i>) [6510] • Lowland hay meadows (<i>Alopecurus pratensis</i>, <i>Sanguisorba officinalis</i>) [6510] • Lutra (Otter) [1355] • <i>Phoca vitulina</i> (Harbour Seal) [1365] • <i>Najas flexilis</i> (Slender Naiad) [1833] 	c. immediately west of the site	<p>Groundwater vulnerability is indicated on the GSI website as 'extremely vulnerable'.</p> <p>Noting the proximity of the appeal site to SAC a likelihood of significant effects exists.</p>	Y
Connemara Bog Complex SAC (002034)	<ul style="list-style-type: none"> • Coastal lagoons [1150] • Reefs [1170] • Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletea uniflorae</i>) [3110] • Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> [3130] 	c. 800metres north of appeal site.	Connemara Bog complex SAC is hydrologically connected to the Galway Bay, Connemara Coastal Waterbody via Doonletter East 010.	Y

	<ul style="list-style-type: none"> • Natural dystrophic lakes and ponds [3160] • Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] • Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] • European dry heaths [4030] • <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410] • Blanket bogs (* if active bog) [7130] • Transition mires and quaking bogs [7140] • Depressions on peat substrates of the <i>Rhynchosporion</i> [7150] • Alkaline fens [7230] • Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] • <i>Euphydryas aurinia</i> (Marsh Fritillary) [1065] • <i>Salmo salar</i> (Salmon) [1106] • <i>Lutra lutra</i> (Otter) [1355] • <i>Najas flexilis</i> (Slender Naiad) [1833] 			
Slyne Head to Ardmore Point Islands SPA (004159)	<ul style="list-style-type: none"> • Barnacle Goose (<i>Branta leucopsis</i>) [A045] • Sandwich Tern (<i>Sterna sandvicensis</i>) [A191] • Arctic Tern (<i>Sterna paradisaea</i>) [A194] • Little Tern (<i>Sterna albifrons</i>) [A195] 	4.2km west of the appeal site	Barnacle Geese have a core range of 15km. As the Slyne Head to Ardmore Point Islands SPA are located 4.2km to the west, there is potential for impact on this QI.	Y

Connemara Bog Complex SPA (004181)	<ul style="list-style-type: none"> • Cormorant (Phalacrocorax carbo) [A017] • Merlin (Falco columbarius) [A098] • Golden Plover (Pluvialis apricaria) [A140] • Common Gull (Larus canus) [A182] 	10km north of appeal site	Comorant ranges between 25 and 35km, the Connemara Bay Complex SPA is north of the proposed development and holds suitable habitat in its surroundings. The development holds suitable habitat for the Common Gull.	
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7.3.8. Following an examination of sites within the zone of influence, and upon an examination of the connectivity between the appeal site and these sites (see Table 7.1 above), Kilkieran Bay and Islands SAC (002111); Connemara Bog Complex SAC (002034); Slyne Head to Ardmore Point Islands SPA (004159); and Connemara Bog Complex SPA (004181) have been screened in having regard to the following:

- The release of pollutants to ground water and surface water (e.g. run-off, silt, fuel, oils, etc.) and subsequent impacts on water quality sensitive habitats.
- Potential for the release of contaminated wastewater generated at operational stage of the proposal.
- Should any bird species which are Special Conservation Interests (SCI) of Slyne Head to Ardmore Point Islands SPA (004159); and Connemara Bog Complex SPA (004181).or another European site use the site for resting, foraging, breeding etc., then the proposed development would have the potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts).

All other Natura 2000 sites surrounding the proposed development have been 'screened out' due to a lack of connectivity.

7.3.9. Screening Determination. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act, 2000, as amended. Having carried out Screening for Appropriate Assessment of the project, it

has been concluded that the project individually **could have a significant effect** on Kilkieran Bay and Islands SAC (002111); Connemara Bog Complex SAC (002034); Slyne Head to Ardmore Point Islands SPA (004159); and Connemara Bog Complex SPA (004181), in view of the Conservation Objectives of these sites, and Appropriate Assessment is therefore required.

7.3.10. **Stage 2 – Appropriate Assessment**

7.3.11 Screening the Need for Appropriate Assessment. 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 have a significant effect on the following European sites:

- Kilkieran Bay and Islands SAC (002111);
- Connemara Bog Complex SAC (002034);
- Slyne Head to Ardmore Point Islands SPA (004159);
- Connemara Bog Complex SPA (004181)

The possibility of significant effects on other European sites has been excluded on the basis of objective information and noting that there is no possible ecological connection or pathway between the appeal site and other Natura 2000 sites surrounding the proposed development. Measures intended to reduce or avoid significant effects have not been considered in the screening process.

7.3.12 The Natura Impact Statement.

A NIS, prepared by Inis Environmental Consultants Ltd, examines and assesses potential adverse effects of the proposed development on the SAC's and SPA's indicated above. The NIS identifies the main potential impact from the proposed development as being the potential for pollution to enter groundwater during the construction phase of the proposed development and enter the SAC and SPA, affecting aquatic dependent QI's and SCI supporting habitat. During the operation phase, increased human presence on site could result in disturbance effects which

may disrupt mobile Qualifying Interests (QIs) and Special Conservation Interests (SCIs) found in the vicinity of the site.

I note that there are no recent planning applications for the surrounding area that share a direct link with the subject site. The NIS states that as the proposed development will not result in any residual adverse effects on any European site, their integrity or conservation objectives when considered on its own, there is therefore no potential for the proposed development to contribute to any cumulative adverse effects on any European site when considered in combination with other plans or projects.

7.3.13. The NIS refers to mitigation measures which will be adhered to. Measures are proposed for the construction phase of the proposed development and include;

- A Construction Environmental Management Plan (CEMP) has been created and submitted that outlines environmental measures to be put in place during construction phase of the development.
- An Environmental Clerk of works will be employed by appointed contractor to oversee construction works and monitor and prevent any source of likely significant effects.
- In the event of spill the contractor is to ensure Emergency Response Plan procedures are in place
- The appointed contractor on site shall ensure that all personnel working on site are adequately trained in pollution incident control response

Mitigation for Disturbance as outlined within the CEMP

- No unnecessary tree or hedgerow removal will occur with fencing and signage to be erected around the habitats and trees to be retained. Any necessary removal of vegetation will only take place outside of the bird nesting season.
- A 2m high fence is to be erected around the alluvial woodland and adjacent wet woodland, with signage identifying the habitat as a sensitive ecological receptor.

Mitigation for Contamination as outlined in CEMP

- Fuels, lubricants and hydraulic fluids for equipment used on the site will be carefully handled to avoid spillage, properly secured against unauthorized access or vandalism, and provided with spill containment.
- The contractor shall clean equipment prior to delivery on site.
- Any fuel or oil brought on site shall be kept away from watercourses and fully banded to 110% of volume stored.
- Refueling or servicing of equipment shall be carried out at designated fuel stores within the main compound, away from watercourses.
- Spill kits shall be utilized at appropriate locations
- Drip trays shall be provided on plant machinery
- There will be no release of suspended solids to any watercourse as a direct or indirect result of the proposed works.
- Prior to the commencement of earthwork silt fencing shall be placed at appropriate locations. Petrol interceptors to be utilised.
- The design, construction and maintenance of an on-site drainage system can prevent sediment related pollution of nearby surface waters. Ground disturbance should be kept to a minimum, water from excavations should be filtered.

Mitigation during the Operational Phase

- An increase in height of boundary fencing to 1.8m and extend boundary fencing to the perimeter of the site to prevent human trampling on vegetation
- The height of new light units will be low to prevent disturbance to birds nesting in trees and bat populations. Reduced intensity lighting is to be used to reduce the overall amount and spread of illumination. Lighting shall only be directed where it is needed to avoid spilling.

7.3.14 The NIS concludes that when the mitigation measures are implemented, there is no potential for adverse impact on the QI or SCI of Kilkieran Bay and Islands SAC (002111); Connemara Bog Complex SAC (002034); Slyne Head to Ardmore Point Islands SPA (004159); Connemara Bog Complex SPA (004181) as a result of deterioration of water quality.

7.3.15 Having reviewed the documents, submissions and consultations, I am not satisfied that the information allows for a complete examination and identification of all potential significant effects of the development. The Natura Impact Statement makes no reference to ground water vulnerability of the area and the potential for contaminated wastewater to enter into the adjoining SAC's or SPA's.

7.3.16 The appropriate Assessment Screening Document and Natura Impact Assessment fails to address the groundwater vulnerability in the area, which is classified as an extreme risk. It is plausible to infer that groundwater in this location flows into the Special Area of Conservation (SAC) immediately to the west of the site. Moreover, given the proposal's reliance on connection to a wastewater treatment system whose effectiveness remains inadequately demonstrated, I cannot ascertain that the presented proposal would not adversely impact the Kilkieran Bay and Islands SAC (002111) Connemara Bog Complex SAC (002034) and Connemara Bog Complex SPA (004181).

7.3.17 Assessment of proposed Mitigation Measures -The NIS presents several mitigation measures primarily aimed at preventing the release of contaminated runoff from the site to groundwater and surface water at construction phase, as well as minimizing human disturbance that could impact the Qualifying Interest (QI) and Qualifying Special Interest (QSI) of neighbouring Special Protection Areas (SPAs). While these measures appear sufficient to address the identified effects outlined in the NIS, it is essential to note a significant omission in the identification of all potential significant effects, as indicated in Section 7.3.16 above.

7.3.18 Integrity test. Following the appropriate assessment and the consideration of mitigation measures, I am not able to ascertain with confidence that the project would not adversely affect the integrity of Kilkieran Bay and Islands SAC (002111) and Connemara Bog Complex SAC (002034) and Connemara Bog Complex SPA (004181). in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

7.3.19 In conclusion, there is a lack of sufficient detail to demonstrate compliance of the existing on-site wastewater treatment with the EPA code of practice (2021), raising concerns about its potential impact on groundwater. Additionally, the adjacency of

the Kilkieran Bay and Islands SAC to a Classified Shellfish Area of Kilkieran North warrants consideration. In light of these factors, I am unable to conclude that the proposal will not adversely affect the Conservation status and Qualifying interest of the Kilkieran Bay and Islands SAC (002111), Connemara Bog Complex SAC (002034) and Connemara Bog Complex SPA (004181).

7.4 Other Matters

7.4.1 It is noted that Friends of the Irish Environment submitted an appeal to the Board under Sections 37 (4) (c) and (d) of the Planning and Development Act, asserting their eligibility based on environmental protection objectives. Sections 37(4)(c) and (d) of the Act, pertain to provisions regarding the rights of individuals or groups to appeal decisions made by planning authorities, even if they did not participate in the initial submission process. Paragraph (c) states a body or organisation shall be entitled to appeal to the Board against a decision by a planning authority on an application for development being development of which an Environmental Impact Assessment Report was required to be submitted.

7.4.2 Additionally, the appellant appears to be asserting their rights under international agreements, specifically mentioning Article 9(2) of the Aarhus Convention and/or Article 11 of the EIA Directive. Article 9(2) of the Aarhus Convention pertains to access to justice in environmental matters, ensuring that members of the public have the right to challenge decisions related to environmental issues, such as those made by planning authorities.

7.4.3 However, I advise that this appeal is invalid as Section 37 (c) of the Act pertains to the requirement for an application for development to require an Environmental Impact Assessment Report (EIAR). As per my assessment, it is determined that the development is sub threshold and does not require mandatory Environmental Impact Assessment. The third party argues for an EIAR based on the development's proximity to Natura 2000 sites and a recognised hydrological connection through sewerage effluents and groundwater discharge. I disagree with this assertion,

deeming the submitted Natura Impact Assessment sufficient for evaluating potential impacts on Natura sites, thus negating the need for an EIAR.

Despite these considerations, Environmental Trust Ireland's concerns related to EIAR, Natura 2000 sites, and wastewater treatment have been addressed in the assessment of this appeal. I conclude that the appellant does not qualify to make submission under Section 37 of the Act, as an EIAR is deemed unnecessary based on the comprehensive assessment of pertinent issues.

8.0 Recommendation

Having regard to the above it is recommended that planning permission be refused for the proposed development based on the following reasons and considerations:

9.0 Reasons and Considerations

Having regard to the soil conditions and extreme groundwater vulnerability, the Board is not satisfied, based on the information supplied with the planning application, that effluent from the development can be satisfactorily treated (and/ or) disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.

Furthermore, the site's location on lands where groundwater is classified as extreme risk, coupled with its immediate adjacency to Kilkieran Bay and Islands SAC (002111), where there is a potential hydrological pathway to the SAC . The Board cannot determine, beyond reasonable scientific doubt, that the proposed development, either on its own or in conjunction with other plans and projects, would not have an adverse impact on Kilkieran Bay and Islands SAC (002111), Connemara Bog Complex SAC (002034) and Connemara Bog Complex SPA (004181) in light of the site's Conservation Objectives. Consequently, the proposed development would be contrary to the principles of proper planning and sustainable development in the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Darragh Ryan
Planning Inspector

15th of February 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	317423 -23			
Proposed Development Summary	Chun Dioghlann Fuisce, Siopa Earraf, Caife, Bear Blaiseadh, Ionad Oidhreachtá agus foirgneamh st6rala oscailte, a th6gail, chomh maith le hoibreacha suimh ghaolmhara agus pairceail. Spas urlair comhlan na n-oibreacha beartaithe: 1394 sq. m. Raiteas tionchair natura curtha isteach.			
Development Address	Raisin na Mainiach, Carna, Co. na Gaillimhe.			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes		
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		Class.....	EIA Mandatory EIAR required	
No	X		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No	X	N/A		No EIAR, Preliminary Examination required
Yes		Class/Threshold.....		Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	317423 -23	
Proposed Development Summary	Chun Dioglann Fuisce, Siopa Earraf, Caife, Bear Blaiseadh, Ionad Oidhreachta agus foirgneamh st6rala oscailte, a th6gail, chomh maith le hoibreacha suimh ghaolmhara agus pairceail. Spas urlair comhlan na n-oibreacha beartaithe: 1394 sq. m. Raiteas tionchair natura curtha isteach.	
Development Address	Raisin na Mainiach, Carna, Co. na Gaillimhe.	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site is located in a brownfield site, with an existing hardcore area. The proposed development is not exceptional in the context of existing environment.</p> <p>No demolition, however groundworks on site will be required. A construction and demolition plan has been submitted as part of the application. The development is not exceptional in the context of its urban environment.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative</p>	<p>No the red line boundary of the site remains the same. There is no extension to boundary as a result of proposed development.</p> <p>There are no other developments under construction in proximity to the site. All other development are established uses.</p>	No

considerations having regard to other existing and/or permitted projects?		
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The proposed development is immediately adjacent to Kilkieran Bay and Islands SAC (002111), SAC. There is potential for impact on Special Area of Conservation. A Natura Impact Statement has been assessed as part of this application.</p> <p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</p>	No
<p style="text-align: center;">Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)