



An
Bord
Pleanála

Inspector's Report

ABP-317522-23

Development	A dhéanamh ar cead foirgneamh stórála sealadach agus fál 2.4m ar airead timpeall an fhoirgnimh a thogáil.
Location	An Tulach 1, Eastat Tionscail na Tulaigh, An Tulaigh, Baile na hAbhainn, Co. na Gaillimhe.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	23151
Applicant(s)	Hitech Health
Type of Application	Permission
Planning Authority Decision	Grant Decision
Type of Appeal	Third Party
Appellant(s)	Michael Breathneach
Observer(s)	None
Date of Site Inspection	9/11/23
Inspector	Darragh Ryan

1.0 Site Location and Description

- 1.1. The existing site is located in townland of Ballinahown, Tully, within an existing Industrial estate. The estate is located on the northern side of the regional road R336, within the 50kph speed limit. There are four buildings within the industrial estate, these include “studio telegal” to the West, “HID” to the East and the subject site to the North West “Hitech Health”.
- 1.2. The site has a stated area of 0.1854ha. The gross floor area of the existing building on site is 319m². “ Hitech Health” develops products for the pharmaceutical industry, specialising in cell and gene therapies.
- 1.3. There is a car parking area to the front of the site. The industrial estate is serviced by wastewater treatment and on-site surface water drainage.

2.0 Proposed Development

- 2.1. The proposal is to provide a 2.4m high fence around the perimeter of the site and to construct a standalone temporary storage unit of 42sqm. The fence would encompass the entirety of the site and the storage building would sit to the west (rear) of the existing building.

The applicant is not the owner of the site, a letter of consent has from Udras Na Gaeltachta giving consent to make the application has been provided.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission for the development subject to 6 conditions. The conditions of note include:

C3- Permission is for a limited period of 5 years for the temporary storage unit (foirgneamh storala) after which time the structure shall be removed, unless a subsequent permission has been granted. The site shall be reinstated after the removal of the structure.

C5- Applicant shall take all appropriate measures to ensure that no spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

3.2. Planning Authority Reports

3.2.1. Basis for Planning Authority Decision

The planning report considered the proposed development in the context of the details submitted with the application, site history, observation on file and development policies specific for the area and type of use on site. The report also includes an Appropriate Assessment Screening report.

- The planning report contends that the proposed development does not lead to an intensification of use on the proposed site.
- The Galway County Development plan was considered along with Landscape Sensitivity, in which it was considered owing to site location within an industrial site and nature of proposed development, it was considered that the development (fence & storage building) would not have a visual impact.
- Based on the minor nature of the development, the proposed development is considered acceptable at this location and is not likely to have any significant effect on any European site.

3.2.2. Other Technical Reports

None

3.3. Prescribed Bodies

None

3.4. Third Party Observations

There is 1 third party submission on the planning authority file as follows:

- There is insufficient information available which would enable the public and the planning authority to fully assess the development at issue, including assessment under the provisions of the Birds & Habitats, the Water

Framework, and The Environmental Impact Assessment (EU) Directives. It is requested that the planning authority ensures that the planning application is assessed in a manner fully consistent with all relevant domestic and EU planning and environmental protection legislation and regulations.

4.0 Planning History

The following is the relevant planning history pertaining to the proposed site:

- **PA ref 05/3142:** Permission granted (2005) for chun leathnuchan le n-usaid mar coire-theach agus seomra innealra a thogail le monarchan ata a chur in oiruint do Aontec Teo., ag Eastat Tionscail na Tulaigh (space for the utility room and construction of a mechanical room to be built for customised machinery)

Relevant history within the Industrial Estate:

- **ABP ref PL07.222746 (PA ref: 06/4802):** Permission refused by ABP (2007) for the construction of an extension to existing data processing facility and all associated site works at Fintrax, Údarás na Gaeltachta Industrial Estate, An Tulaigh, Ballinahown, County Galway. the reason for refusal was as follows:
The proposed development would be premature by reference to the existing deficiencies in the foul sewerage facilities serving the industrial estate and the period within which the deficiencies may reasonably be expected to cease.
- **ABP ref PL07.232438 (PA ref: 08/2169):** Permission refused by ABP (2008) to upgrade to the Wastewater Treatment Works serving Tully Industrial Estate Baile na hAbhainn.
- **ABP ref PL07.246356 (PA ref: 15/1601):** Permission Granted by ABP (2015) for the construction of a WWTP at Tully Industrial Estate with a P.E. of 350 and a 2.65km long discharge pipe to the sea at Ballynahown Quay.

5.0 Policy Context

5.1. Development Plan

Galway County Development Plan 2022 -2028

- Policy Objective LCM1 – Preservation of Landscape Character

Preserve and enhance the character of the landscape where, and to the extent that, in the opinion of the Planning Authority, the proper planning and sustainable development of the area requires it, including the preservation and enhancement, where possible of views and prospects and the amenities of places and features of natural beauty or interest.

- Policy Objective LCM2 – Landscape Sensitivity Classification
- Policy Objective FL1 – Flood Risk Management
- DM Standard 27 – Surface Water Drainage and flooding

5.2. Natural Heritage Designations

Connemara Bog Complex SAC (approximately 0.25km north/west of the subject site)

5.3. EIA Screening

See completed form 2 on file. Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site as well as the criteria set out in Schedule 7 of the Planning & Development Regulations there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal against the decision to grant permission. The appeal was made by Michael Breathneach of An Tulach, Bailen na hAbhain, on the 5th of July 2023. The grounds of the appeal can be summarised as follows:

- 6.1.1. The planning application contains insufficient details to permit the competent authorities or the public to fully consider and assess the planning application in a manner fully consistent with all required domestic and EU legislation.
- 6.1.2. The application is lacking regarding the following:
 - No information has been provided regarding the nature of material to be stored in the temporary storage facility. The material could be liquid, gas or solid, toxic or nontoxic, flammable or inflammable, explosive or stable.
 - No information is available regarding the current use of the existing industrial unit, there are three separate permissions on site.
 - No information or assessments are available regarding the potential impacts of the proposed “Hitech Health” development upon the “Udras na Gaeltachta/ Antec Beo developments permitted under planning permission ref no 45789. – there are significant concerns with respect to the lack of information or assessment regarding the ongoing absence of a wastewater treatment plant on site.
 - No information is available for consideration with respect to the nature of other developments in the area surrounding the industrial estate.
 - There has been no consultation provided by environmental statutory consultees with responsibilities for environmental protection for example NPWS and EPA.
 - No information is available that seems capable of supporting the AA screening carried out by the planning authority. No “likely effects” are precisely listed while possible likely effects of the unknown elements have been excluded.

- Insufficient information is available that seems capable of supporting the determination made in the report of the planning authority that an EIA assessment is not required. The full nature of the project is unknown
- Insufficient and incorrect information appears to have been provided regarding Flood Risk Management and assessment. Previous surface water flooding issues have been communicated by the applicant to the local authority, this is referenced in correspondence to the local authority in 1994.

6.2. Applicant Response

- None

6.3. Planning Authority Response

- None

6.4. Observations

- None

7.0 Assessment

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

- Proposed nature of temporary storage facility
- On site wastewater treatment
- Flood Risk
- Environmental Impact Assessment
- Appropoate Assessment

7.2. Proposed nature of temporary storage facility

- 7.2.1. The appellant contends that there is insufficient information on the file to determine what will be stored within the temporary onsite storage facility. The material that may be stored on site could consist of any number of materials that could be hazardous or potential pollutants.
- 7.2.2. There are no specifics available within the application submitted to indicate the exact nature of the proposed storage of materials on site. The site and adjacent lands have planning permission for industrial use and “hitech health” is a company specialising in designing and producing products for the pharmaceutical industry. The site is located within an industrial estate which has the benefit of a planning permission. The most recent permission for the building was for an extension to the existing building associated with the preparation of a manufacturing facility. Based on the site layout submitted which indicate 3 lab rooms and a plant room and a site inspection which indicated a significant level of plant to the rear of the building, I consider it appropriate to deduce that the current building is used in research and development or manufacturing of pharmaceutical products.
- 7.2.3. The use of a temporary storage building in line with existing use is acceptable and not exceptional in terms of an industrial use. I note the appellants concerns with respect to nature of material proposed to be stored on site. The applicants have indicated within section 16 of the planning application that the major accident regulations do not apply to the proposed development. The major accident regulations place an obligation on operators of establishments that store, handle or process dangerous substances above certain thresholds to take all necessary measures to prevent major accidents and to limit the consequences for human health and the environment. Having regard to the above I consider there is sufficient information to make an assessment of the proposed use of temporary storage building and consider that the proposed is appropriate in light of the industrial nature of the site.

7.3. Wastewater treatment system

- 7.3.1. The issue of no working wastewater treatment system is raised as a serious concern by the appellant. I note, this matter has persisted unresolved for several years without action from Údarás na Gaeltachta. Additionally, several expansion plans for

businesses in the industrial estate were denied due to insufficient wastewater treatment facilities.

Addressing this, the Board, ABP ref PL07.246356 (PA ref: 15/1601), granted permission to Údarás na Gaeltachta to build a WWTP at Tully Industrial Estate, designed for a population equivalent of 350, with a discharge pipe extending 2.65km to Ballynahown Quay. The decision was made on 02/08/2016, and the permission expired on 01/08/2021. It does not appear that this permission has ever been taken up.

- 7.3.2. While I accept the legitimate concerns of the appellant regarding this issue and the consistent failure of the owners of the site to address this issue, the proposed development works are considered very minor. The erection of a fence and construction of a temporary storage building are ancillary to the main use on site. There is no evidence that there will be any additional personal employed on site as a result of the proposed development and therefore there shall be no additional loading on any system. On the basis of wastewater treatment system, I have no objection to the proposal based on its minor nature.

7.4. Flood Risk

- 7.4.1. Concerns are raised by the appellant with respect to the level of flooding that has occurred on site. The appellant refers to a letter between the owners of the site in 1994 and the local authority at which point it was established that there was a flood event on site. Concerns with respect to surface water drainage are outlined as being a potentially contributing factor to flood events.
- 7.4.2. Within the planning application the applicant has stated that they have not known the site to flood. The planning authority report states that the proposed site is not identified to be within any flood risk area. The applicant has indicated that water shall discharge to an existing on site drain. A condition has been imposed by the planning authority that requires all surface water generated on site to be managed on site.
- 7.4.3. I have reviewed the relevant GIS mapping and floodmaps.ie website. The site does not appear to be within any flood zone. I agree with the planning authority condition to require that all surface water be disposed of onsite so that no water discharges to the public road or adjoining properties. There is ample capacity in terms of site size to accommodate such a requirement and in my opinion, it is appropriate that such a

condition be retained. Having regard to the relatively minor level of works proposed, I do not consider the proposal will contribute to flooding within the industrial estate or surrounding environment. I have no objection to the proposal on the grounds on flood risk.

7.5. Environmental Impact Assessment

The appellant sets out that there is insufficient information provided within the application and the planning authority report to determine that an assessment under the provisions of the Environmental Impact Assessment Directive is not required. I refer to section 5.3 of this report and conclude that having regard to the limited scale of development on site and to the criteria set out in Schedule 7 of the Planning & Development Regulations there is no real likelihood of significant effects on the environment arising from the proposed development.

7.6. Appropriate Assessment

The site doesn't fall within any designated area. The nearest Natura 2000 site is the Connemara Bog Complex SAC (& pNHA) (Site Code: 002034), which encompasses Loch na Tulai, situated around 250 meters northwest of the appeal site.

While I acknowledge the submission of the third party, overall, I consider it is reasonable to conclude that the proposal individually or in combination with other plans or projects, would not give rise to lightly significant effects on a Natura 2000 site having regard to the minor nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also considered that the development would not be likely to have a significant effect individually or in combination with other plans or projects on a European Site

8.0 Recommendation

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 Reasons and Considerations

Having regard to the existing pattern of permitted development in the area, to the provisions of the Galway County Development Plan 2022 -2028, and to the nature of the proposed development as submitted, the Board considered that, subject to compliance with the conditions set out below, the proposed development would not be prejudicial to public health and would not adversely affect the integrity of any Natura 2000 site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, received on the 5th day of July 2023 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be used solely as ancillary to the adjoining use on site (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.</p> <p>Reason: In the interest of clarity</p>
3.	<p>(a) This permission is for a limited period only, for a period of 5 years from the date this decision, after which time the foirgneamh storla shall be</p>

	<p>removed from site, unless an additional limited permission has been granted by the Planning Authority for the retention of the structure for a further period.</p> <p>(b) The site shall be reinstated on removal of the foirgneamh storla. Full photographic detail of the removed structure and reinstated ground shall be submitted for the written agreement of the planning authority.</p> <p>Reason: In the interest of clarity and to enable the Planning Authority to review the orderly planning and development of the area.</p>
4.	<p>All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.</p> <p>Reason: In the interests of traffic safety and proper planning and sustainable development.</p>
5.	<p>All necessary measures shall be taken by the applicant to prevent the spillage or deposit of clay, rubble or other debris onto adjoining roads during the course of works.</p> <p>Reason: In the interest of proper planning and sustainable development of the area and in the interest of traffic safety.</p>
6.	<p>Construction on site shall be limited to between 0800 hours and 1800 hours, Monday to Friday and between 0900 hours and 1700 hours on Saturday, unless otherwise agreed in writing with the Planning Authority.</p> <p>Reason: In the interest of residential amenity and orderly development</p>

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

17th of November 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary			
Development Address			
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) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No			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)
		N/A	Conclusion
No			No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____