



An
Bord
Pleanála

Inspector's Report

ABP-317853-23

Development

EIA screening determination for a Strategic Road Maintenance Facility and all associated site development works, landscaping, and associated drainage including associated on site effluent treatment system.

Location

Drumfin, Co. Sligo.

Planning Authority

Sligo County Council

Developer

Sligo County Council

Applicant(s)

Cathal Quigley and Jacqueline Quigley

Type of Appeal

EIA Screening Determination

Date of Site Inspection

19th October 2023

Inspector

Susan Clarke

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1.0 Introduction

- 1.1. Under the provisions of Article 120(3)(b) of the Planning and Development Regulations 2001, as amended ('PDR'), Cathal Quigley and Jacqueline Quigley are seeking a determination from An Bord Pleanála as to whether or not a proposed development, comprising a strategic road maintenance facility on a site at Drumfin, Co. Sligo would be likely to give rise to significant effects on the environment, and thereby require the preparation of an Environmental Impact Assessment Report (EIAR). Sligo County Council are of the opinion that the works do not require an EIAR and has initiated the process set out in Part XI of the Planning and Development Act 2000, as amended ('PDA'), and Part 8 of the PDR.

2.0 Site Location and Description

- 2.1. The 3.1ha site is located within the townland of Drumfin in Co. Sligo, approximately 16km south of Sligo town and 6km northeast of Ballymote. It is located adjacent to the N4 National Road, which was recently re-aligned and upgraded to a dual carriageway between Castlebaldwin and Collooney. Approximately one third of the site is brownfield containing a hardstanding area and a warehouse building, while the balance is greenfield land in agricultural use.

3.0 Proposed Development

3.1. Development Description

- 3.1.1. The proposed development comprises the construction of a Strategic Road Maintenance Facility on a 3.1ha site at Drumfin, Co. Sligo. The proposal includes:
1. **Site clearance:** Removal of unauthorised site compound, including access from the L1502, shed and all associated elements.
 2. **Strategic Resilience Salt Barns:**
 - 4 no. Strategic Salt Barns, with capacity of 30,000 tonnes of salt, for national reserves and resilience salt stocks. The barns will be constructed on a reinforced concrete plinth structure, with a profiled metal roof with solar panels. Each barn will be 50.9m x 20.0m x 8.8m, with a collective floor area

of 4,072sq m. The walls will be made of concrete and each barn entrance will have 1 No. industrial metal roller shutter. The barns will have an isolated drainage network, intercepting salt-contaminated runoff and outfalling to a sealed underground storage tank. This tank will be periodically emptied on an 'as-needed' basis, with the contents transferred to a licensed water treatment facility by an appropriately licensed Contractor.

3. TII Maintenance/Operation Depot (13,200 sq m):

- Two storey Administration Building for Maintenance/Operation activities which includes internal storage area, welfare facilities, offices, and canteen facilities on the ground floor, with offices and meeting/training room on the first floor.
- Maintenance & Operation Barn including lean-to vehicle storage and secure internal storage for maintenance and operation salt supplies.
- Truck washdown area with isolated drainage network for salt-contaminated runoff.
- Underground storage tank for collection of brine/contaminated runoff from salt containment and truck washdown.
- Bunded fuel storage for approximately 15,000L of on-site diesel storage tanks. The fuel storage will be bunded with the bund providing a storage capacity equivalent to 110% of the tank capacity it protects.
- Staff/visitor car park for Maintenance/Operation Depot with provision for EV charging points.
- Rainwater harvesting system.
- Air-source heat pump for temperature control within the office building

4. Sligo County Council Municipal District Depot (3,810 sq m):

- Single storey Maintenance & Operation Depot Building (375 sq m) which includes vehicle storage, workshop, and secure internal storage.
- Road materials storage areas for Local Authority Machinery Yard (640sq m).

- Secure storage area for Local Authority Machinery Yard.
- Parking Area for Sligo County Council staff (approx. 5-10 spaces anticipated).

5. Ancillary Structures and Works

- 7.0m internal access road with access to the L3700 road via simple priority junction.
- Weighbridge for use during loading and unloading of resilience salt supplies.
- Site boundary and internal boundary treatments.
- Drainage works, including surface water systems and foul wastewater treatment and outfalls.
- Lighting for internal road network and compounds.
- Landscaping.

3.2. Part 8 application

3.2.1. The proposed development is the subject of a Part 8 application. The documentation associated with the Part 8 application is available on Sligo County Council's website and includes, *inter alia*:

- Planning Report, including a Flood Risk Assessment, Cultural Heritage Impact Assessment, and Traffic Impact Assessment
- Statutory Notices (Site Notice and Newspaper Notice)
- Part 8: Drawings
- Engineering Report
- Appropriate Assessment (AA) Screening Determination
- Appropriate Assessment Screening Report
- Environmental Impact Assessment (EIA) Screening Determination
- Environmental Impact Assessment Screening Report.

4.0 Request for Determination

4.1. Applicant's Request

- 4.1.1. Cathal Quigley and Jacqueline Quigley submitted a request on 23rd August 2023 seeking a determination from the Board as to whether EIA would be required for the proposed development.

The key issues raised in the request can be summarized as follows:

- The proposed development is unprecedented in scale (10 acres with several large and tall warehouses and commercial offices as well as ancillary buildings) and will be built in an agricultural area.
- The Council are attempting to use Part 8 planning and in turn avoid a rigorous and appropriate environmental assessment.
- The statutory notices for the Part 8 application are invalid as they underplay the nature of the proposed development. The notices make no mention of road salt and have no date printed on them.
- The proposed complex is out of context in terms of its scale, function, and aesthetics and will be a blight on the landscape of the area.
- Drumfin is an area that is not facilitated by Sligo County Council with a mains water or sewerage system. The local group water scheme was not designed to supply a massive endeavour like the salt storage complex. The Applicants have not stated what levels of water are required for the proposed development. A similar, but smaller capacity salt facility in Kildare, is expected to generate a daily demand for 45,000 litres of potable water and is expected to generate 45,000 litres of wastewater per day. As this proposed facility will be larger than the Kildare equivalent, one can assume that in turn that water requirements will be larger.
- The old N4 is cited for the exit and entrance point for this proposed development. This road was previously the national route from Sligo to Dublin. This road was replaced as a primary route by the new dual carriageway as it was a very dangerous road and had one of the worst rates of road collision, serious injury and road fatality in Ireland. The smaller similar type facility in

Kildare is expected to have 84 arrivals and 84 departures by vehicles in a 12-hour period (i.e. 168 journeys per half day). The proposed development will undo the benefits of the road upgrade for the local community.

- The only traffic study that was completed by the developers as part of their submission was done at a time when secondary schools and many primary schools were on holidays at the end of June and is wholly insufficient.
- The proposed development will introduce heavy industrial noise to the area at all hours of the day and night, which will materially change the character and type of activity in the area. It will create a noise nuisance that was up to now non-existent and will have a negative effect on the native fauna.
- Due to the rural nature of the location, there is no light pollution. The proposal includes 22 light columns, giving the facility a sport stadium appearance. Light pollution has potential serious implications on people's wellbeing and general health and will affect birdlife and other existing wildlife species in this proximity.

The proximity of the proposed development to the Unshin River is extremely risky. The primary function of this complex storing road salt which is proven to have potential catastrophic effects on freshwater life in an environment.

4.2. Applicant's Clarification

Subsequent to the Applicant's initial request, the Board sought clarification with respect as to which class of development set out in Schedule 5 of the PDR the proposed development was considered to belong, and to provide a statement indicating the reasons why it is considered that the proposed development would be likely to have a significant effect on the environment and a statement indicating the nature of such effects. Cathal Quigley and Jacqueline Quigley responded on 6th September 2023. The key points can be summarised as follows:

- Sligo County Council, TII, and the Department of Transport are all in agreement that the proposed development falls within a class of development that requires EIA as an Environmental Impact Screening Report was prepared in relation to the subject development.

- It is well established that if one applies for an Environmental Impact Assessment or applies the criteria that are applicable to an Environmental Impact Assessment then the Directive applies. As such, the County Council are now estopped from denying that such an Environmental Impact Assessment applies to the particular development, and accordingly the Board are required to address whether the development is likely to have significant effects on the environment.
- The proposed development cannot be the subject matter of an application under Part 8. The proposed Development is not exempted development for the purpose of the PDR.
- A warning letter was issued in relation to the subject site under Section 152 of the Planning and Development Act 2000 in respect to the development of a large shed with a hard-core area. The works were carried out as part of the Collooney Bypass Development, however they were not assessed in the EIAR that was approved by An Bord Pleanála for the road scheme. It is not possible for the development to proceed via a Part 8 application acknowledging the unauthorised development.
- The redevelopment of this site for the purposes of the Road Maintenance Facility must be subject to Environmental Impact Assessment, but that Assessment must also consider the direct and indirect effects of the overall development including that which has been already undertaken. The lands and the development carried out to-date cannot be separated from the Collooney/Castlebaldwin Road Project for the purposes of EIA.
- The Council's EIA Screening Report makes no reference to the site's history.
- The only way the development carried out to date can be regularised is through the substitute consent procedures.
- Request that there be an investigation into the extent of noncompliance with the conditions that have been imposed in respect of the Collooney Bypass Development.
- The proposed development falls within Class 11(b) of Part 2 of Schedule 5 of the PDR. This provides that installations for the disposal of waste with an

annual intake greater than 25,000 tonnes not included in Part 1 of the Schedule as specified developments for the purposes of Schedule 5 and therefore require a mandatory EIA. The extent of waste that is required to be removed given the hard surfaced area and the various installations and structures constructed on the site far exceed the 25,000 tonnes of waste that is required to be disposed of and therefore falls within this class of development.

- Paragraph 11(e) provides that the storage of scrap metal including vehicles where the site area would be greater than 5 hectares also requires a mandatory EIA. This site by virtue of the extent of waste, including scrap metal, would fall within the provisions of Schedule 5 which provides for this class of development.
- Paragraph 11(c) provides that Wastewater Treatment Plants are within a category of development for the purposes of Schedule 5. Therefore under at least 3 separate headings the proposed development is within a category or class of development to which the Environmental Impact Assessment Directive applies. However, there has been a deliberate omission to these classes by the Council.
- Reference is made to the Commission -v- Ireland where the European Court has held that where any development comprises a potentially specified development for the purpose of the EIA Directive, even if that is ancillary to the principal development, it nonetheless requires the application of the Environmental Impact Assessment Directive.
- The proposed development will involve a significant removal of waste, which will include hazardous waste and contaminated land. There is no recognition of the formal procedures that are required in respect of waste removal and disposal operation.
- The site's proximity (20m) to the Unshin River SAC (site code: 001898) is not referenced by the Council.
- The proposed wastewater treatment plant, which includes a polishing filter, will require considerable excavation of soil, the disposal of excavated material and

the installation of sophisticated treatment, which is likely to give rise to significant effects.

- The likely noise and dust nuisance and effects will impact on the health and welfare of human beings and is capable of affecting the species identified in the Habitats Directive, specifically otter and salmon. Both surface water and groundwater drain to the SAC. This must be considered under the Habitats Directive, is a significant effect, and would require an Appropriate Assessment.
- There are three recorded monuments close to or likely to be affected by the development: SL033-33 a ring fort rath, SL034-001001 a castle and SLO 034-001002 an exhibitionist figure. These are all located approx. 500m of the site, as well as Behy Bridge which is a protected structure. There is likely to be significant environmental effects on the cultural heritage sites, including archaeological sites.
- The proposed development will significantly affect seven neighbouring dwellings in terms of noise, dust, traffic impacts and impacts on ground water supplies for domestic purposes and livestock.
- Given (i) the location of the site so close to a European Site, (ii) the nature of the development which requires major site development works, major waste disposal including the disposal of hazardous/contaminated waste, (iii) the nature of the use, which involves very large quantities of salt that is dissolvable in water, and (iv) the nature of the overall area, which is ecologically extraordinary important given the Unshin River (a special area of conservation) and the salmon population of the Owenmore river (which is now probably regarded as one of the best salmon fisheries in the Country), it is undeniable that an appropriate assessment is required for the development. The potential for damage to the European Site which is the fundamental test for the purpose of the Habitats Directive could never conclude in the absence of mitigation measures that it would have no effect. The extent of excavation itself which envisages significant quantities of silt laden material discharging to the river in the absence of mitigation is sufficient in itself to require AA under the Habitats Directive.

- It is not appropriate that such a facility be provided in any event under Part 8 given the requirements of both the Habitats Directive and the requirements of the EIA Directive.

4.3. Schedule 7A Information (EIA)

- 4.3.1. Schedule 7A of the PDR relates to information to be provided for the screening of sub threshold development for the purposes of EIA. The planning authority was requested to submit the information set out in Schedule 7A of the PDR.
- 4.3.2. With regard to the requested Schedule 7A information, the Planning Authority submitted a copy of their EIA Screening Report and EIA Determination (as included in the Part 8 documentation). In addition, they made a submission responding to the matters raised in the three requests for a determination.

5.0 Planning History

- 5.1. With the exception of the abovementioned Part 8 application on the site, I am not aware of any recent relevant planning history on the site. The site is located adjacent to the N4 National Road, which was recently re-aligned and upgraded to dual carriageway between Castlebaldwin and Collooney (ABP Reg. Ref. 21.HA0044/21.KA0030). In addition, I note that there are a number of applications relating to the development of rural dwellings located to the north of the subject site.

6.0 Policy Context

6.1. National Investment Framework for Transport in Ireland

- 6.1.1. NIFTI is the Department of Transport's high-level strategic framework to support the consideration and prioritisation of future investment in land transport and represents the Department's contribution to Project Ireland 2040. It aims to ensure sectoral investment is aligned with the National Planning Framework (NPF) and supports the delivery of the ten National Strategic Outcomes (NSOs).

6.2. Sligo County Development Plan 2017-2023

- 6.2.1. The life of the Sligo County Development Plan 2017-2023 has been extended from July 2023 to July 2024, and as such is the operative development plan for the area.
- 6.2.2. The subject site is not zoned in the Development Plan.

Transport and Mobility

- 6.2.3. Section 8.2 (road Network) states that *Maintenance and upgrading the road network is a priority for Sligo County Council... The maintenance of the existing network, which includes restoration, improvements and minor realignments, is a key priority for the DTTAS. Sligo County Council will continue to work with the DTTAS and TII to appropriately maintain these roads on an annual basis.*
- 6.2.4. Policy P-NR-4: Maintain the national road network in accordance with the TII Pavement Asset Management System.

Environmental Quality

- 6.2.5. Policy P-WQ-1: Ensure that all development proposals have regard to the Sligo Groundwater Protection Scheme, in order to protect groundwater resources and groundwater-dependent habitats and species.
- 6.2.6. Policy P-WQ-4: Prohibit any development which is likely to lead to the deterioration of water quality.
- 6.2.7. Policy P-AQ-2: In conjunction with the EPA, ensure that all existing and new developments are operated in a manner that does not contribute to deterioration in air quality.
- 6.2.8. Policy P-AQ-3: Ensure all new and – where possible – existing developments incorporate appropriate measures to minimise odour nuisance from the development.
- 6.2.9. Policy P-NC-1: When assessing proposals for activities that are likely to generate significant levels of noise, seek to protect the amenity of dwellings, community facilities and other noise-sensitive developments by ensuring that all new (and where possible existing) developments incorporate appropriate measures to minimise noise nuisance.
- 6.2.10. Policy P-NC-2: Developments that operate at night – e.g. restaurants, takeaways, pubs, hotels, night clubs – should not be located close to dwellings, where possible.

Cultural Heritage

6.2.11. There are no designated archaeological sites within the boundary of the proposed development site. In the wider 500m study area, there are three Recorded Monuments:

- SL033-023----: Ringfort – rath
- SL034-001001-: Castle - tower house
- SL034-001002-: Sheela-na-gig.

There is one area of archaeological potential (AAP1) within the proposed development area. AAP1 comprises the greenfield area in the eastern two-thirds of the proposed development site. It is considered to be of medium to high archaeological potential due to its proximity to the excavated archaeological remains identified during the Construction Phase of the N4 Cooiloney to Castlebaldwin, as well as its proximity to the River Unshin.

Landscape Characterisation

6.2.12. The landscape of County Sligo is categorised into 4 no. categories according to visual sensitivity and capacity to absorb new development without compromising the scenic character of the area. The subject site is located in a “Normal Rural Landscape”, with these areas generally having the capacity to absorb a wide range of new development forms.

6.3. Natural Heritage Designations

The subject site is not located in a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA. However, the Unshin River Special Area of Conservation (SAC) (site code:001898) is located approx. 12m from the north-east corner of the site. while the Drumfin River is located approx. 90m from the site boundary.

7.0 Legislation and Guidelines

7.1. Planning and Development Act 2000, as amended

7.1.1. **Section 172(1)** states that an EIA shall be carried out in respect of certain applications for consent for proposed development. This includes applications for 'sub threshold' development, namely those which are of a Class specified in Part 2 of Schedule 5 of the PDR, but do not exceed the relevant quantity, area or other limit specified and the competent authority determines that the proposed development would be likely to have significant effects on the environment.

7.1.2. **Section 172(1A)** specifies that the above is relevant to development that may be carried out by the local authority under Part X.

7.2. Planning and Development Regulations 2001, as amended

7.2.1. **Article 120(3)(b)** states that any person at any time before the expiration of 4 weeks beginning on the date of publication of the notice may apply to the Board for a screening determination as to whether a development proposed to be carried out by a local authority would be likely to have significant effects on the environment.

7.2.2. **Article 120(3)(c)** indicates that such applications for screening determination shall 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.

7.2.3. **Schedule 5** sets out the classes of development where EIA is required.

- Part 1: Sets out the development classes which are subject to mandatory EIA.
- Part 2: Sets out development classes subject to EIA where they exceed a certain threshold in terms of scale or where the development would give rise to significant effects on the environment.

7.2.4. **Schedule 7** sets out the criteria for determining whether a development would, or would not be likely to have significant effects on the environment, under three headings:

1. Characteristics of the proposed development.
2. Location of the proposed development.

3. Types and characteristics of potential impacts.

7.2.5. **Schedule 7A** relates to information to be provided by the applicant or developer for the screening of sub-threshold development for the purposes of EIA.

8.0 **Assessment**

8.1. **Introduction**

8.1.1. The proposed development comprises the construction of a strategic road maintenance facility at Drumfin, Co. Sligo. The proposed facility will provide storage and security of salt supplies for the north-western region and environs including counties Sligo, Leitrim, Longford, Galway, Donegal, Mayo, and Roscommon.

8.1.2. The sole question for determination by the Board is whether the proposed development requires environmental impact assessment to be carried out. Other matters raised by the applicants in relation to unauthorised development or the validity of the Part 8 application, are, in my opinion, not for consideration by the Board under Article 120. I am not aware of any request for the Board to make a screening determination under article 250 of the PDR as to whether the proposed development would be likely to have significant effects on a European site requiring Appropriate Assessment.

8.1.3. An EIA Screening report supported the planning authority's Part 8 application and a copy was submitted to the Board. This report concludes that there is no real likelihood of significant effects on the environment arising from the proposed development and that an EIAR is not required in respect of the proposed development.

8.1.4. The following matters are considered relevant in the assessment of whether the submission of an EIAR is required:

- Assessment of project type/class of development under Schedule 5 of the PDR relevant to the proposed development.
- Assessment of relevant thresholds under Part 2 of Schedule 5 of the PDR.
- Assessment of proposed development under the criteria set out in Schedule 7 of the PDR.

8.2. Relevant Project Types / Class of Development

8.2.1. As outlined above, the applicant contends that the proposed development falls under the following Part 2, Schedule 5 classes:

- Class 11(b): *Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.*
- Class 11(c): *Waste water treatment plants with a capacity greater than 10,000 population equivalent as defined in Article 2, point (6), of Directive 91/271/EEC not included in Part 1 of this Schedule.*
- Class 11(e): *Storage of scrap metal, including scrap vehicles where the site area would be greater than 5 hectares.*

8.2.2. SSC's EIA Screening Report, prepared as part of the Part 8 application documentation, states that "*The proposed development is not a type of development listed in Schedule 5 of the Planning and Development Regulations 2001-2022 as amended.*" The Screening Report provides an assessment of whether the proposed development would or would not have likely significant effects on the environment by addressing the criteria and information set out in Annex III and IIA of the EIA Directive and Schedules 7 and 7A of the PDR. Ultimately, the Local Authority determined that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact report is not therefore required.

8.2.3. I concur with SCC that the aforementioned classes under Part 2 of Schedule 5 referenced by the applicant are not relevant to the subject development. Section 3.1.3 of the EIA Screening Report states that the proposal would involve the excavation of 22,000m³ of soil, some of which would be re-used for landscaping within the proposed development and the remainder removed off site. However, I do not consider that this classifies the proposed development as a waste disposal installation and as such, I do not consider that Class 11(b) is relevant to the subject case. Similarly, having regard to the nature and type of the proposed development (i.e. a strategic road maintenance facility), I do not consider that Class 11(c) (waste water treatment plants) or Class 11(e) (scrap metal storage) are applicable to this case. Having regard to the foregoing,

in my opinion, the proposed development does not fall within a class listed under Part 1 or Part 2 of Schedule 5 and as such, the proposal does not require EIA.

- 8.2.4. Therefore, notwithstanding that SCC prepared an EIA Screening Report in respect of the proposed development, in my view, the Board is precluded from assessing the proposal in accordance with the criteria set out under Schedule 7 of the PDR.

9.0 Recommendation

- 9.1. Having regard to the nature and type of development proposed, I do not consider that it is of a class listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (As amended), and as such, the preparation of an environmental impact assessment report is not required. I therefore recommend that Sligo County Council be advised that the preparation and submission of an environmental impact assessment report to An Bord Pleanála is not required in respect of the proposed development.

10.0 Reasons and Considerations

Having regard to the nature and type of development proposed, it is not considered that it falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (As amended), and as such environmental impact assessment is not required. Accordingly, the preparation and submission of an environmental impact assessment report is not required.

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

Susan Clarke

Senior Planning Inspector

20th October 2023