



An  
Bord  
Pleanála

## Record of Meeting

### Galway Harbour Extension

<b>Case Reference</b>	61.PA0033		
<b>Description</b>	Galway Harbour Extension		
<b>Case Type:</b>	Section 37E Application		
<b>Date:</b>	13 <sup>th</sup> December 2016	<b>Start Time:</b>	3.10 p.m.
<b>Location:</b>	Offices of NPWS	<b>End Time:</b>	4.45 p.m.
<b>Chairperson:</b>	Rachel Kenny Director of Planning	<b>Executive Officer:</b>	Kieran Doherty

<b>Attendees:</b>
<b>Representing An Bord Pleanála</b>
Rachel Kenny – Director of Planning
Philip Green – Assistant Director of Planning
Kieran Doherty – Executive Officer
<b>Representing National Parks and Wildlife Service</b>
John Fitzgerald – Principal Officer
Niall Redmond – Assistant Principal Officer
Gabriel Staunton – Higher Executive Officer
Ciaran O’Keeffe - Principal Officer
Karen Gaynor - Wildlife Inspector
Gregory McLucas – Legal Advisor

on the basis of discussions at these meetings, a second report was prepared by Aquafact for the applicant. This document (dated December 2016) was received the afternoon before the tripartite meeting and as such full consideration of its contents had not been possible in advance of the meeting. It was however agreed that it would form the basis for the tripartite meeting and would be considered as the most up to date proposals in relation to compensatory measures.

ABP outlined that the tripartite meeting was being held in accordance with the provisions of 37F(1)(e) of the Planning and Development Act, 2000, as amended. A record of the meeting will be held on file.

**Current Status of the Planning Application:**

The representatives of ABP advised the applicant in brief of the meeting between NPWS and ABP representatives and the agreed position in relation to the current status of the planning application (as outlined above). ABP representatives stated that the purpose of the tripartite meeting was to discuss and progress the initial proposals for compensatory measures to address the impacts on the integrity of the Galway Bay Complex SAC, as submitted by the Harbour Company in November 2015. The NPWS previously commented on same in writing, and a copy of this had been furnished to the applicant. Further detailed documentation from the Harbour Company had been received by ABP and NPWS on the 9<sup>th</sup> December 2016 for consideration at this meeting.

The representatives of ABP stated that the Article 6(4) process had been discussed with the NPWS and, once the proposed compensatory measures had been finalised, ABP would be in a position to submit its Statement of Case required under s177AA to the Minister.

The representatives of ABP noted that generic guidelines for the Article 6(4) process had not yet been produced by the Department of Communications, Climate Action and Environment and referred to the role that the NPWS would play later in the IROPI process. NPWS input is to be welcomed at this stage to assist and better inform the process in accordance with guidance contained in the EC document 'Managing Natura 2000 Sites', which encourages tight coordination and cooperation between the Natura 2000 Authority (NPWS), the assessment authority (An Bord Pleanála), and the applicant.

The assistance provided to date by the NPWS was acknowledged, and it was recognised that it facilitated and informed the submission of the second report by the applicant on the 9<sup>th</sup> December 2016, which provided a preferred approach regarding identification of preliminary compensatory measures, albeit noting that further assessment was required and that we were still in phase 1 of the process.

### **An Bord Pleanála's Comments**

The representatives of ABP stated that they had visited sites in the United Kingdom where the provisions of Article 6(4) of the Habitats Directive apply, and taken advice from the European Commission, and were of the opinion that the designation of sites issue was still to be clarified but that it may not be as critical as the provision and maintenance of compensatory measures. Separately, and in particular where it relates to stony bank, it was noted that where new mitigation measures are proposed as an alternative to compensation, appropriate assessment (or at minimum screening) in respect of such mitigation measures/works may be required, in addition to any potential requirement for appropriate assessment of the compensatory measures themselves.

The representatives of ABP stated that all of the proposals would be referred to its ecologist for comment in order for the Board to be satisfied that the measures proposed are appropriate.

### **NPWS Comments**

The representatives of the NPWS stated that the action with regard to the intertidal reef may not be adequate if a maintenance regime should already be in place. Creating a reef would be very invasive and it would be difficult to prove the impact on the qualifying interest. Additional designation may be the appropriate option. Barna would be a like for like option; the saltmarsh is outside of the SAC but it could be upgraded. However, there could be appeals against designations.

All of the focus should not be put on any one option and the correct procedures must be followed to be legally valid. The proposed sites do have potential but there must be a method to assess the benefits of any measure put in place.

To cease the maintenance of defences could be less invasive than removing blocks that would be eroding anyway. However, management of habitat should not be composed of just letting nature take its course as this would not imply any significant measure of compensation. Any degree of doubt or uncertainty may require a compensatory area greater than that lost, to allow for the risk of potential failure of the compensatory habitat at least in part.

If a site is not owned by the Harbour Company, or binding agreements are not in place, then the feasibility of any management plan would be put into question. Long term maintenance must be assured. There should be no uncertainty around the compensatory measures.