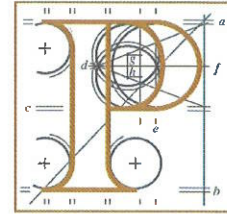


Our Case Number: 61.PA0033



**An
Bord
Pleanála**

The Minister
Department of Housing, Local Government and Heritage,
C/o Eamonn Kelly, Principal,
EU and International Planning Regulation Section
Custom House,
Dublin 1
D01 W6XO

**Department of Housing,
Local Government and Heritage**

26 MAR 2021

RECEIVED

Date: 24th March, 2021

Re: Galway Harbour Extension.

Dear Minister,

I have been asked by An Bord Pleanála to refer to the above-mentioned strategic infrastructure application submitted to the Board under the provisions of section 37E of the Planning and Development Act 2000 as amended.

The Board is of the view that the proposed development as part of this application should be given consent for imperative reasons of overriding public interest (IROPI).

In this regard and in accordance with the provisions of section 177AA of the Planning and Development Act 2000 as amended the Board is required to set out the imperative reasons of overriding public interest that necessitate the giving of consent for the proposed development.

In coming to its decision on the Statement of Case to be submitted to the Minister in relation to the above application, in accordance with the requirements of Section 177AA(2), the Board had regard to a range of matters, including the following:

- (a) the report of the Senior Planning Inspector dated the 27th day of February 2015, together with the associated reports of the Ecological Consultant and the Consultant Marine Hydrologist,
- (b) the Environmental Impact Statement, the Natura Impact Statement and the addenda to the Natura Impact Statement (January 2015) and (April 2019), and all supplementary documentation submitted with the original application,

**Teil
Glao Áitiúil
Facs
Láithreán Gréasáin
Ríomhphost**

**Tel
LoCall
Fax
Website
Email**
(01) 858 8100
1890 275 175
(01) 872 2684
www.pleanala.ie
bord@pleanala.ie

**64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902**

**64 Marlborough Street
Dublin 1
D01 V902**

- (c) all the observations and submissions on file including all oral submissions made at the oral hearing held between the 13th day and the 23rd day of January 2015,
- (d) the European Commission Habitats Directive 92/43/EEC,
- (e) the European Commission document, entitled "Managing Natura 2000 Sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC" (2000),
- (f) 'Habitats Directive 92/43/EEC' – Clarification of the Concepts of Alternative Solutions, Imperative Reasons of Overriding Public Interest, Compensatory Measures, Overall Coherence, Opinion of the Commission - 2007/2012,
- (g) the various bilateral and tripartite meetings that were held between the Board, the Applicant and the National Wildlife and Parks Service of the Department of Culture, Heritage and the Gaeltacht in respect of potential compensatory measures proposed,
- (h) the reports prepared on behalf of the applicant in relation to the potential compensatory measures submitted to An Bord Pleanála on the 9th day of August 2017 and the 26th day of April 2019,
- (i) the supplementary reports prepared by the Consultant Ecologist dated the 11th day of September and the 19th day of December 2019,
- (j) the report from the National Parks and Wildlife Service, dated the 8th day of April 2020,
- (k) the supplementary report prepared by the Senior Planning Inspector in respect of the compensatory measures proposed dated the 6th day of October 2020,
- (l) the meetings held by the Board on the 25th day of June, the 2nd day of July, the 13th day of August and the 3rd and 21st days of September 2015, in respect of the original application and the Inspector's recommendation, and
- (m) the subsequent meetings in respect of the Compensatory Measures Report submitted by the applicant and the supplementary reports pertaining to this information held on the 28th day of June 2016, the 13th day of December 2016, the 3rd day of April 2017, the 27th day of July 2017 and the 11th day of December 2017.

On foot of the above information, the Board concluded as follows:

Deliberations on Article 6(3) and Article 6(4) of the Habitats Directive

- In its meeting on the 21st day of September 2015, the Board focussed its deliberations on the Appropriate Assessment issues required under Article 6(3) of the Habitats Directive, and on the possible application of Article 6(4) of the Directive (Imperative Reasons of Overriding Public Interest - IROPI) to the case. The Board accepted and adopted the Appropriate Assessment carried out in the report of the Senior Planning Inspector and the specialist ecological consultant appointed by the Board in respect of the potential effects of the proposed development on the potentially affected European Sites, having regard to the Sites' Conservation Objectives, namely that the integrity of the Galway Bay Complex

Special Area of Conservation (site code: 000268) will be affected by the direct and permanent loss of fucoid-dominated reef habitat [1140] and mud and sand flat habitat [1140] and the loss of perennial vegetation of stony banks [1220].

- It was also concluded that a significant adverse effect on the integrity of the Inner Galway Bay Special Protection Area (site code: 004031) or the Lough Corrib Special Area of Conservation (site code: 000297) will not arise in view of the Sites' Conservation Objectives. It was also concluded that the proposal will not lead to any negative impacts on the priority habitats associated with the Galway Bay SAC at Lough Atalia and Renmore Lough.
- The Board decided that consent could not be granted under the provisions of Article 6(3) of the Directive and decided to invoke Article 6(4) (IROPI) for further consideration of the proposal.
- In deciding not to accept the Senior Planning Inspector's conclusion that the proposed development will adversely impact on the integrity of the European sites, that viable alternative solutions could exist which may have a lesser impact in terms of affecting the integrity and coherence of European Sites and on that basis, that there was no convincing case for invoking IROPI, the Board weighed the loss of the qualifying interests of the Galway Bay SAC against the imperative reason for the proposed development which were primarily social and economic in nature.
- The Board therefore noted that the provisions of Section 177AA(3) would apply in this instance, in that the European sites affected do not host a priority natural habitat type or priority species, and that the imperative reasons of overriding public interest therefore may include reasons of a social or economic nature.

Imperative Reasons of Overriding Public Interest

In accordance with the provisions of Section 177AA(a) of the Act, setting out the imperative reasons of overriding public interest that necessitate the giving of consent for the proposed development, the Board noted the following:

- The Board concluded that the proposal presents an integrated development that enhances the social, economic and recreational benefits of the port for the wider benefit of the population of Galway and its regional hinterland.
- The enhancement of port facilities also aligns with the European transportation policy's promoting 'short-sea shipping' as a cost effective and environmentally sustainable alternative to road transport. The enhancement of the port serving the region will therefore align with European, national and regional policies in favour of balanced spatial and economic development.
- The port and the tradition of maritime trade is fundamental not just to the economy of Galway but also to its culture and identity.
- In relation to alternatives, the Board took a step-by-step approach to this question, as advised in the relevant guidance from the European Commission. In relation to (i) the do-

nothing scenario, the Board concluded that failing to address the existing constraints would make the port unviable and ultimately lead to the demise of the port in the medium to long term and would fail to address the existing Seveso constraints, would impede tourism and the potential to develop a new urban quarter.

- In relation to (ii) alternative locations within Galway Bay, the Board generally agreed with the Inspector that alternative proposals for a harbour extension within the Bay was not feasible and would result in greater impacts on the Conservation Objectives of the Galway Bay SAC and Inner Galway Bay SPA.
- While it is acknowledged that there are several other Irish ports, including Shannon-Foynes which are capable of handling the existing and planned future commercial freight tonnage at Galway Port, however, shifting commercial shipping activities away from Galway to Shannon-Foynes would seriously impair the Port of Galway's ability to fulfil its historical role as Tier 3 regional port as envisaged in the National Ports Policy. It may also undermine Galway's development as a Gateway City designated in the NSS and subsequently reinforced in the National Planning Framework, and would inhibit marine/leisure tourism-related expansion within Galway City.
- In relation to (iii) alternative configurations, the Board concluded that there was no alternative design available that would deliver on project aims but result in less interference with the sensitive ecology of the area.
- The Board therefore concluded that there were no feasible alternatives.
- The Board also had regard to the existing constraints affecting the existing operations of Galway Port. Failure to address these deficiencies would signal the demise of commercial shipping in the medium to long term. The social and economic benefits of the project include positive impacts to tourism, marine research and development, including offshore renewable energy, urban regeneration and marine leisure opportunities.
- The loss of the qualifying interests of the Galway Bay SAC has been weighed against the imperative reasons for the proposed development which are primarily social and economic in nature.

On the basis of the above considerations the Board decided to explore the possibility of compensatory measures, as provided for in Article 6(4) of the Directive.

Compensatory Measures

In accordance with the provisions of Section 177AA(b) of the Act, relating to the compensatory measures, the Board invited Galway Harbour Company to confirm that it wished the project to be considered for approval under Article 6(4) of the Directive. The Board indicated to the applicant that the compensatory measures should offset the negative effects of the project such that the overall coherence of the European Sites network is maintained.

- A report, entitled 'Proposed Compensatory Measures', was submitted to An Bord Pleanála on the 9th day of August 2017. This report contained information relating to initial preliminary desk-based studies assessment and mapping of potential areas in the

Tell
Glaó Áitiúil
Facs
Láithreán Gréasáin
Ríomhphost

Tel
LoCall
Fax
Website
Email

(01) 858 8100
1890 275 175
(01) 872 2684
www.pleanala.ie
bord@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

Greater Galway Bay area. The eastern part of Galway Bay was identified as the most suitable for the purposes of potentially providing habitats that can be improved by way of compensatory measures.

- The Phase 2 Report was subsequently submitted to the Board on the 26th day of April 2019. A separate addendum to the Natura Impact Statement to include the consideration of compensatory measures was submitted to accompany the Compensatory Measures Report. This report set out detailed compensatory measures at Tawin Island in East Galway Bay and assessed the compensatory measures against EU guidance criteria.

The Board concluded, on the basis of:

- (a) the Compensatory Measures Report submitted,
- (b) together with the further clarification on certain matters issued through additional information submissions, including comments from the National Parks and Wildlife Service,
- (c) the report prepared by the Consultant Ecologist employed by the Board, and
- (d) the supplementary report prepared by the Senior Planning Inspector specifically in relation to the compensatory measures proposed,

that the chosen site at Tawin Island was deemed to be suitable to provide effective compensatory measures for the loss of habitat associated with the proposed expansion of Galway Harbour. The Board also have regard to the monitoring programme proposed which sets out clear and unambiguous objectives with appropriate targets and indicators which are considered to be fit for purpose. Thus, the Board is satisfied that appropriate compensatory measures can be put in place to offset and compensate for any impact that will arise as a result of the Galway Harbour Extension, so as the overall coherence of the network of European Sites is maintained.

Conclusions in respect of Statement of Case

On the basis of the foregoing, the Board is satisfied that an appropriate Statement of Case can be prepared and submitted to the Minister in accordance with the provisions of Section 177AA(2) of the Planning and Development Act 2000, as amended.

The Board prepared a statement of case in accordance with the provisions of section 177AA(2) of the Act in support of planning consent to be given for imperative reasons of overriding public interest (IROPI) and compensatory habitat measures. A copy of the Statement of Case is attached as an appendix to this letter.

Copies of the following documentation are enclosed:

1. A copy of the planning application (cd no. 1), a copy of the Natura impact statement dated (January 2015) (hard copy) and dated (April 2019) (cd no.2)

Teil
Glaio Áitiúil
Facs
Láithreán Gréasáin
Ríomhphost

Tel (01) 858 8100
LoCall 1890 275 175
Fax (01) 872 2684
Website www.pleanala.ie
Email bord@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902

2. Reports prepared on behalf of the applicant in relation to the potential compensatory measures submitted to An Bord Pleanála on the 9th day of August, 2017 and the 26th day of April, 2019 (cd no.2)
3. The supplementary report prepared the Inspector in respect of the compensatory measures proposed dated the 6th day of October, 2020 (hard copy).
4. The Natura impact statement dated (January 2014) (cd no.1).
5. Errata and Addenda to the Natura impact statement (October 2014) (cd no.2).
6. Additional Addendum/Errata to the Natura impact Statement (January, 2015) (hard copy) and addendum to the Natura impact statement to include consideration of the Compensatory Measures (April, 2019) (cd no.2).
7. The supplementary reports prepared by the Consultant Ecologist dated the 11th day of September and the 19th day of December, 2019 (hard copy).

The Board requests that you consider the adequacy of the compensatory measures proposed by the applicant, and to advise as to whether there are imperative reasons of overriding public interest in this case to enable consideration of the proposed development to proceed. If you request any further information/clarification in relation to this process please do not hesitate to contact the undersigned officer of the Bord.

Yours faithfully,


Josephine Hayes
Senior Executive Officer
01-8737264