

Niamh Thornton

From: Cliona OBrien (Housing) <Cliona.OBrien@housing.gov.ie>
Sent: Tuesday 22 February 2022 15:25
To: Niamh Thornton
Cc: Andy Bleasdale (Housing); Aoife Delaney (Housing); David Lyons (Housing); Conor O'Dowd
Subject: Letter from NPWS to ABP in relation to Galway Port Compensatory measures
Attachments: Letter to ABP on scope of compensation 22Feb2022.pdf; Letter on Galway Port updated 03082021 Signed.pdf

Dear Niamh

Please find attached a copy of the letter referenced above, as well as the correspondence referred to within it.

We'd appreciate the clarification requested at the Board's earliest convenience, as we have not yet received it in relation to the August correspondence which was forwarded on to you by colleagues in the Planning Section in this Department.

Thanks in advance,
Cliona

Please note that my email address has changed to Cliona.OBrien@housing.gov.ie

Cliona O'Brien
Wildlife Inspector, Grade 1

An tSeirbhís Páirceanna Náisiúnta agus Fiadhúlra
National Parks and Wildlife Service

An Roinn Tithíochta, Rialtais Áitiúil agus Oidhreachta
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An Roinn Tithíochta,
Rialtais Áitiúil agus Oidhreachta
Department of Housing,
Local Government and Heritage

Eamonn Kelly,
EU and International
Planning Regulation,
Department of Housing, Local
Government and Heritage,
Customs House,
Dublin 1.

3rd August 2021.

Re: Compensatory Measures for Galway Port Development

Dear Eamonn,

I write in relation to Minister O'Brien's request (26th March 2021) to Minister Catherin Martin, in accordance with section 177AB(1)(a) of the Planning and Development Act 2000, as amended ("the 2000 Act"), for views as to whether the compensatory measures proposed in **Galway Harbour Extension (IROPI) Planning Application, ABP Ref. 61. PA0003** are sufficient to ensure that the overall coherence of the Natura 2000 network is protected.

The proposed compensatory measures have been reviewed as to their adequacy. There are a number of proposed compensatory measures that are to be welcomed and that will contribute to the ongoing coherence of the Natura Network. However, there are questions outstanding as to the scale of the benefits that will arise from some measures, and the precise nature of the legal arrangements that are to be implemented to ensure long-term effectiveness and sustainability. Thus, NPWS will not be in a position to confirm their adequacy until such time as these matters are addressed.

The following matters need to be clearly addressed and stated within the proposed compensation package:

The Board's appropriate assessment concluded that compensation would be required for the following habitats as a result of the proposed development¹:

¹ See Letter of 24th March 2021 from An Bord Pleanála to The Minister, Department of Housing, Local Government and Heritage: "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

- The direct and permanent loss of 5.93 ha of Intertidal habitat [1170] Furoid Dominated Reef habitat and [1140] Mud and Sand Flat habitat in Galway Bay Complex SAC;
- The loss of perennial vegetation of 0.35 ha of stony banks [1220] due to the sheltering effect of the harbour extension, of which 0.2ha occurs within the SAC.

However, the Board's correspondence later states² that the integrity of Galway Bay Complex SAC will be also adversely affected because of the reclamation of land in the area carried out by the Galway Harbour Company in the mid-1990s to create the Galway Harbour Enterprise Park. The Compensatory Measures Report³ has included proposed compensatory measures for the losses/effects arising on the SAC as a result of the development of the Galway Harbour Enterprise Park and these are to be welcomed. However, due to the differing statements within the Board's correspondence as to the effects arising on the SAC (alone and later, in combination), it is not entirely clear if views are sought as to the adequacy of the compensation measures in relation to adverse effects that will arise *solely* as a result of the proposed development (as referred to in the Letter), or in relation to adverse effects arising in *combination* with the earlier habitat losses that occurred (as referred to in the Appendix).

Request: Clarification is required before any final views or opinion may issue.

Perennial vegetation of Stony Banks:

NPWS' earlier observations (April 2020) stated the following:

"2. Sensitive Repair of existing sea defence wall

...However, the on-going issue of shingle removal, which exacerbates destabilisation of the shingle ridge, has not been addressed. Furthermore, preventing shingle removal within the footprint of the proposed area for compensatory measures will not be adequate on its own to protect the habitat or preserve the ecosystem functions it provides as a barrier between the open sea and the lagoon."

It is regrettable that the issue above has still not been addressed in the documentation received to date. Firstly, the Compensatory Measures Report does not state the nature of the action that will be undertaken to prevent the removal of sediment, only that such prevention will occur. Secondly, no evidence has yet been provided that this cessation, on its own, will in fact be sufficient to protect the habitat or to preserve the ecosystem functions it provides as a barrier between the open sea and the lagoon. By preventing further extraction, the natural accretion processes acting at the site may result in an increase in the a total area of Perennial vegetation of Stony Banks at Tawin that may, in turn, constitute habitat re-creation due to restoration of the natural processes. Such re-creation could be considered to be compensatory in nature. Unfortunately, there is, as yet, no evidence or information provided by the applicant that allows NPWS to come to a clear view as to whether the proposed measures are adequate. NPWS would be happy to discuss with the applicant the nature of the information and analysis required to facilitate this.

Modification required:

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

² See the *Appendix: Statement of Case* to the 24th March letter, in its Reasons for Determination

³ CMR, 2019 and CMR Appendices 2019.

- The Applicant is to be requested to provide information/data and analysis to support its case that the cessation of sediment will in itself be sufficient to facilitate habitat re-creation at the site, and to develop any other measures that may be demonstrated to be necessary by that analysis, in order to achieve sufficient compensatory habitat re-creation.
- This analysis is to be shared with NPWS for its review, as part of the package of Compensatory Measures.
- The applicant's monitoring programme is to be expanded to include the monitoring of the accretion of the shingle bar, and its associated vegetation, in order to determine the success of the measure/s proposed.
- The Compensatory Measures Report is to be amended to specify exactly what type of action will be taken to ensure this cessation of extraction.

The Compensatory Measures Report states that only sensitive repairs will be undertaken on the sea wall due to the potential implications for the lagoon habitat if these sea defences were to fall into disrepair. However, such sea defences are likely to be interacting with the natural processes that sustain the stony bank habitat and vegetation.

Modification required:

- The CMR is to be amended to include the undertaking of a study of the potential implications for the Annexed habitats of the removal, or maintenance, of the sea defences, with a view to recommending the appropriate course/s of action for achievement of their favourable conservation condition.

Reef and Mud and Sand Flats:

The objectives of the conservation measures remain vague with respect to marine habitats; these must be further developed to ensure they can be adequately measured and tracked over time. It is also unclear how they can be implemented in an area of foreshore that would not be in the ownership of the proponents, and for which other potential users may come forward in due course. This lack of clarity has been raised previously in correspondence to An Bord Pleanála in August 2019 but it is not clear that this has been communicated to the proponents of the development by the Board.

Modification required:

- The objectives for the conservation measures for these habitats are to be further developed in an iterative manner, in line with their conservation objectives, and associated attributes and targets, in Galway Bay Complex SAC, as the compensatory measures are implemented,.
- The proponents must state in the CMR how they will extend and implement management measures on to the foreshore without a clear and exclusive right to those areas.

The applicant has proposed to undertake a number of conservation actions in the compensatory area that are not directly related to the adverse effects that will arise on the integrity of Galway Bay Complex SAC as a result of this expansion of Galway Port, but that arise from the previous losses incurred by the development of the Galway Harbour Enterprise Park. These measures are to nevertheless to be much welcomed as they should improve the conservation condition of the site, with the following modifications:

Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*): Grazing during the summer months reduces the wider ecological benefits provided by coastal habitats (specifically relating to bird breeding and pollination) and therefore, does not improve the overall coherence of the Natura 2000 network.

Modification required:

- **Summer grazing is not to occur; it is to be replaced with winter grazing and the monitoring programme amended accordingly.**

Long-term Management of the Site:

It is understood that the applicant will report annually to Galway City Council, as the appropriate planning authority, on the implementation of the Compensatory Measures.

NPWS would also welcome a role in reviewing the reports submitted and in the making of recommendations to the planning authority and the proponent on improvements or modifications that may be made to the management measures, in order to ensure the coherence of the Natura network, and the achievement of conservation objectives.

As allowed for in section 177AB (1) (b), further consultations will be required with An Bord Pleanála and with the applicant and subsequently, a modified proposal re-submitted to you, and henceforth to NPWS for further review. If these required modifications are made, and subject to the clarification regarding compensatory measures for the previous development, I expect to be able to confirm that the measures put forward by the applicant are adequate for the compensation of the Natura network in view of the adverse effects that the Board has concluded will arise to the site integrity as a result of the proposed development.

Yours sincerely,



Andy Bleasdale,
Principal Officer- Science and Biodiversity
National Parks and Wildlife Service



**An Roinn Tithíochta,
Rialtais Áitiúil agus Oidhreachta**
Department of Housing,
Local Government and Heritage

**National Parks and Wildlife Service,
Oak House,
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Niamh Thornton,
Executive Officer,
An Bord Pleanála,

By email : n.thornton@pleanala.ie

Re: Compensatory Measures for Proposed Galway Harbour Extension

Dear Niamh,

I am writing to follow up on earlier correspondence between NPWS and the EU and International Planning Regulation Section of this Department (dated 3rd August 2021) that was to be forwarded to the Board for consideration. I attach a copy as an Appendix for ease of reference. In that letter, NPWS/DHLGH raised a significant issue in terms of the scope of the compensation required, on which it was seeking clarification from the Board, in order to facilitate discussions with Galway Port Company. NPWS/DHLGH has not yet received any response from the Board on this matter and would welcome clarification at the earliest convenience so that discussions may proceed in as timely a manner as possible. Other matters raised in the letter of 3rd August have been discussed and resolved with the applicant, after very fruitful and constructive discussions in the intervening months.

With respect to the scope of the compensation required, it has been understood by NPWS/DHLGH that the scope of the compensation required concerned only the damage that may or would arise to Galway Bay Complex SAC as a result of the current proposal, and would not concern previous damage that arose as a result of the previous development of Galway Harbour Enterprise Park. This view was clearly expressed by

the Board at a meeting with NPWS/DHLGH in June 2016. However, recent documentation from the Board (see enclosed letter for further detail) later states that the integrity of Galway Bay Complex SAC will also be adversely affected by the reclamation of land as a result of the GHEP development. Due to the differing statements within the Board's correspondence as to the effects arising on the SAC (alone and later, in combination), it is not entirely clear if views are or will be sought as to the adequacy of the compensation measures in relation to adverse effects that will arise solely as a result of the proposed development (as referred to in the Board's Letter of 24 March 2021), or in relation to adverse effects arising in combination with the earlier habitat losses that occurred (as referred to in the Board's Appendix: Statement of Case to 24 March 2021 letter in its Reasons for Determination). In the interests of absolute clarity, NPWS/DHLGH requests confirmation from the Board as to the scope of compensation that it has deemed to be necessary to compensate for the proposed development of Galway Port. Until such time as this clarification is received from the Board, NPWS/DHLGH will not be in a position to express an opinion on the adequacy of the compensatory measures proposed.

We look forward to your reply.

Yours sincerely



Cliona O'Brien
Wildlife Inspector Grade I
Scientific Unit
National Parks and Wildlife Service
Department of Culture, Heritage and the Gaeltacht

cc. Conor O'Dowd, Galway Port Company