

**Written Record of the Pre-application consultation meeting between An Bord Pleanála and The Galway Harbour Company (prospective applicant) held in relation to a proposed Harbour Extension at Galway Harbour, Galway.**

- Venue: Offices of An Bord Pleanála
- Date: 1st October, 2012

**Present:**

**Representing An Bord Pleanála**

Des Johnson, Director of Planning  
Philip Jones, Assistant Director of Planning  
Diarmuid Collins, Senior Administrative Officer  
Kieran Doherty, Executive Officer

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CONFIDENTIAL**

**Representing the Prospective Applicant, The Galway Harbour Company**

Tom Broderick, Galway Harbour Company  
John Kelly, Director, Tobin Consulting Engineers  
Gus McCarthy, Director, McCarthy Keville O'Sullivan Ltd  
Brendan O'Connor, Director, Aquafact International Services Ltd  
Brendan Rudden, Project Engineer, Tobin Consulting Engineers

The meeting was chaired by Des Johnson

**Introduction**

The Board welcomed the representatives of the prospective applicant and stated that the consultation process would be conducted as follows:

- The Board will keep a record of the pre-application consultations.
- A copy of the record will become public when consultations are completed. The record will be placed with the application documents once the application has been submitted for approval.
- At the end of the pre-application consultation process the Board will serve notice of its decision on the issue of Strategic Infrastructure Development on the prospective applicant and on Galway City Council. The Board may also give written advice on matters requested by the prospective applicant.
- Board may require the prospective applicant to give notice to the public or to carry out consultations with the public in advance of any application being submitted.
- Board may require the prospective applicant to submit additional information during the pre-application process (or at any stage) if deemed necessary.
- It was likely that in the event of an application being made, an oral hearing would be held.
- Holding of consultations does not prejudice the Board in any way and cannot be relied upon in the formal planning process or in legal proceedings.

## **Purpose of meeting**

The meeting was in response to the prospective applicant's request by letter, received by the Board on 20th August 2012, and in respect of a project for which the prospective applicant intends to seek approval under section 37 of the Planning and Development Act, 2000, as amended.

The meeting was intended to be an information gathering exercise for the Board and for the prospective applicant to detail the nature of the issues on which it may wish to seek the advice of the Board in relation to the proposed development.

It was noted that the Galway Harbour Company previously engaged in pre-application consultations in relation to a proposed harbour extension at this location (reference PC0012). In that case the Board issued notice that it was of the opinion that the proposed development fell within the scope of S 37A(2) (a) and (b) of the 2000 Act, as amended, and, as such, constituted strategic infrastructure development within the meaning of the said Act. The notice issued in October 2010.

It was also noted that the Galway Harbour Company sought and obtained a written opinion from the Board on the information to be contained in the environmental impact statement in respect of a proposed Harbour Extension at this location (reference PS0004). The opinion issued in March 2011.

There were several specifics, which the Board would like to have addressed:

- Further details of the proposed development.
- Alternatives which were considered or are being considered.
- Expansion on the specific reference to proceeding with the planning process under Article 6(4) of the EU Habitats Directive (92/43/EEC) and the procedures this would entail.
- Give the prospective applicant the opportunity to expand on the nature of the issues on which it requires the Board to provide advice.
- Detail any discussions/correspondence held to date in relation to this specific proposed project.

At an appropriate stage in these consultations, and at the prospective applicant's request, the Board will advise on the following:

- Procedures involved in making an application
- Procedures involved in considering such an application
- Refer to the considerations, relating to the proper planning and sustainable development of the area which, in the Boards opinion, may have a bearing on the Boards decision in relation to the application.

### **Comments by the prospective applicant:**

The prospective applicant stated that it had considered the Board's decision with regard to the previous pre-application consultations. Work was progressing on the potential environmental impacts and at this time the studies showed adverse impact on the European Sites of Galway Bay SAC and SPA. It confirmed that the proposed development had not changed from that previously proposed and it would require the same development footprint. The prospective applicant stated that there had been some engagement with the National Parks and Wildlife Service (NPWS) and the European Commission.

The prospective applicant acknowledged that there would be a loss of habitat, irrespective of the quality of that habitat. It would not be possible, therefore, to rule out any adverse impact on the habitat and, therefore, it considered that a planning application would have to be progressed under Article 6(4) of the Habitats Directive on the grounds of Imperative Reasons of Overriding Public Interest (IROPI). As a result the prospective applicant requested to enter into this pre-application consultation to clarify the appropriate procedures for the making of a planning application. The prospective applicant required guidance from the Board on whether it needed to have the project regarded as a strategic infrastructure development project or could it proceed on the basis of previous consultation, and on the issue of compensatory measures, on which it was also in discussion with the NPWS.

The prospective applicant stated that it has been fine tuning the footprint of the proposed development and assessing issues arising out of the scoping process. It had been considered that the scale of the impact on the European sites was too small to be of consequence; however, this opinion may no longer be safe. Also, with regard to alternatives, the prospective applicant had examined alternatives within Galway Bay, but wished to clarify with the Board whether the consideration of alternatives would have to extend to other ports in Ireland (and not restricted to the west coast) and whether other studies are required for other sites. In relation to other ports, the consideration of whether there is the capacity to transfer to Galway Port would also be looked at by them. Alternatives have not been addressed in the NIS at this stage.

The prospective applicant now considered that there may be an adverse impact on the integrity of the European Sites with the species affected being seal, otter and birds. The prospective applicant stated that 27 hectares were being annexed to create land and is aware that any reduction of the area of a European Site would be considered as having an adverse impact. Lough Atalia is a priority habitat and the NPWS will shortly clarify whether it is considered to be a lagoon. It was noted that during the screening process the NPWS considered it to be a Priority 1 Habitat, whereas Galway Bay was not so considered.

The prospective applicant stated that the proposed development would be 600 metres from Lough Atalia and no dredging would take place when the tide is coming in so as to minimise any impact; however, there may be a slight increase in salinity by 1 part per 1,000. The site already has a dredged channel and each tide brings an exchange of salt water. Furthermore, the proposed development is to be situated on a brownfield site which is already affected by road run off and sewage.

The prospective applicant stated that it has agreements with CIE with regard to issues concerning the railway bridge.

## Comments by the Board

The Board stated that in the event of the proposed development being deemed Strategic Infrastructure Development the application should be made in the normal manner to the Board and that it would be for the Board, as the competent authority, to come to the view following an assessment of the project, and in the absence of alternative solutions, whether IROPI arises. In that event, the procedures relevant to Article 6(4) of the Habitats Directive would come into effect. The prospective applicant should give details of any proposed compensatory measures in the application and should detail these in an NIS.

The prospective applicant queried whether a socio-economic argument could be made for the proposed development. The Board stated that this could not be done for a European Site that contained a priority habitat. The prospective applicant stated that the proposed development will have an adverse impact, but not on a priority habitat.

The Board stated that alternatives must be assessed in the NIS. The assessment of alternatives must include a 'do nothing' scenario. The prospective applicant should consider any National Ports Policy especially for the West Coast.

In relation to the alternatives, the Board referred to page 42 of the guidance document entitled "Assessment of Plans and Projects in Ireland, where it states *"alternatives must be compared with respect to the significance of their likely effects on the integrity of the site. In this phase, therefore, other assessment criteria, such as economic criteria, cannot be seen as overruling ecological criteria"*.

The Board queried whether there any compensatory measures were being put forward. The prospective applicant stated that this issue formed part of its discussions with the NPWS.

The Board stated that the Minister for the Environment, Community and Local Government, and the Minister for Arts, Heritage and the Gaeltacht, must be consulted regarding the proposed compensatory measures.

In the absence of alternative appropriate solutions the Board noted that the legislation required it to produce a statement of case including:

- Considerations involved in the assessment that adverse effect arises.
- Why alternative solutions are not applicable, including refusing the application.
- Why IROPI applies to proposed development.
- Compensatory measures and whether these also have any adverse effects.

This statement of case then goes to the Minister, and there is no time limit in which the Minister is obliged to make his/her decision.

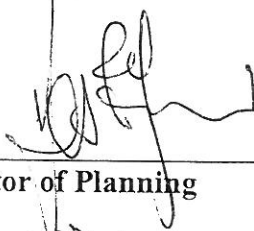
## Conclusion

Copies of the following documents were given to the prospective applicant:

- Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC.
- Part XAB of the Planning and Development Act 2000, as amended.
- Assessment of plans and projects significantly affecting Natura 2000 sites.
- Appropriate Assessment of Plans and Projects in Ireland.

The prospective applicant stated that it would contact the Board for a further meeting following further discussions with the NPWS. At that time the Board may inform the prospective applicant whether any further public consultation will be required.

The meeting concluded at 12.45 pm.



Director of Planning

Date 28 November 2012

**Attendees on behalf of An Bord Pleanála at the pre-application  
consultation meeting in relation to the proposed Harbour Extension  
at Galway Harbour.**

**Case Ref: PC0150**

Des Johnson, Director of Planning

Philip Jones, Assistant Director of Planning

Diarmuid Collins, Senior Administrative Officer

Kieran Doherty, Executive Officer

If you have any further queries in relation to the above pre-application consultation meeting or in relation to this case please contact the named officers listed below.

Kieran Doherty

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