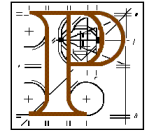


Record Of Meeting

An Bord Pleanála



Case Reference/Description	61.PC150 A proposed Harbour Extension at Galway Harbour, Galway.		
Case Type:	Section 37B		
1st/2nd/3rd Meeting:	2 nd Meeting		
Date:	15 th January 2013	Start Time:	11.00 am
Location:	Conference Room	End Time:	2.10 pm
Chairperson:	Philip Green	Executive Officer:	Kieran Doherty

Attendees:

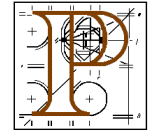
Representing An Bord Pleanála

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

Representing Prospective Applicant

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

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Introduction

The Board asked whether the prospective applicant had any comments on the written record of the previous pre-application meeting of the 1st October 2012. The prospective applicant wished to clarify some terminology on page 3 of the record. The prospective applicant stated that it was its view that it was the actual scale of the footprint of the proposed development that would have an adverse impact due to the land take from the SAC, therefore adverse impact can't be ruled out; but that this did not mean that there would necessarily be an impact in ecological terms. The Board stated that the Board's practice is that the record of a previous meeting is not amended but that the record of this meeting will reflect these comments.

The Board stated that the meeting would cover legislation regarding Imperative Reasons of Overriding Public Interest (IROPI). The Board stated that comments made during the meeting were not a legal interpretation of the legislation and should be taken as the Board's representatives' view of the legislative procedures in the context that no planning project, to the Board's knowledge, has yet been subject to IROPI.

The Board's representatives stated that IROPI is a matter for the Board itself, in dealing with the planning application. The IROPI procedures would therefore be outlined at the pre-application meetings entirely without prejudice to the eventual decision of the Board. This could, for example, be to refuse permission for the proposed development.

The Board stated that due to the nature and scale of the proposed development and issues arising, the Board will hold further meetings with other bodies such as the National Parks and Wildlife Service (NPWS) with regard to ecological issues, with the Department of Transport, Tourism and Sport with regard to national ports policy and possibly a further meeting with Galway City Council. Therefore, a further meeting will be required with the prospective applicant. The Board informed the prospective applicant that the pre-application file will be publicly available once the pre-application process is closed.

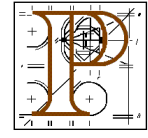
Prospective Applicant's Presentation

The prospective applicant suggested that the following issues be covered during the meeting:

- Alternative Assessment Findings
- NPWS Interactions Summary
- NIS Findings
- ABP Feedback
- IROPI Procedures

The prospective applicant referred to the New Port of Galway site layout drawing and stated that the blue line shown on the drawing represented the low water mark.

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New Port Galway (NPG) – Alternative Solutions

Legislative Requirements

The assessment of alternative solutions examines alternative ways of implementing the project or plan that, where possible, avoid any adverse impacts on the integrity of the Natura 2000 site. Before a project or plan, that either alone or in combination with other projects or plans has adverse effects on a Natura 2000 site, can proceed, it must be objectively concluded that no alternative solutions exist. The assessment of alternative solutions is required when the competent authority, having carried out appropriate assessment, has concluded that adverse impacts are likely, or cannot be ruled out. In examining alternative solutions, other assessment criteria, such as economic criteria, cannot overrule ecological criteria. The examination of alternative solutions requires therefore, that the conservation objectives and status of the Natura 2000 site will outweigh any consideration of costs, delays or other aspects of an alternative solution. The assessment of alternative solutions must include an assessment of the 'do nothing' alternative.

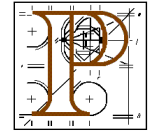
The prospective applicant stated that a new national ports policy may be published shortly before a planning application will be submitted. Port authorities were given an opportunity to feed into policy and have feedback. The prospective applicant was of the opinion that if the policy promoted the need for regional ports then this would assist Galway's case.

Possible alternative solutions could include the following:

- Locations
- Scale or size
- Means of meeting objectives (eg demand management)
- Methods of construction
- Operational methods
- Decommissioning methods at the end of the project's life
- Scheduling & timescale proposals (eg. Seasonal working during construction phase)

NPG Objectives

- To examine a range of alternative ways of achieving the objectives of the project or plan and these alternatives can then be assessed against their likely impacts on the conservation objectives of the Natura 2000 site.
- The primary requirement for the new port arises from the severe constraints within the existing harbour. The objectives for the new port therefore is to



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provide a facility which will serve existing and future long term needs over a minimum 30-year period and will include the following:

- Sufficient quay length to accommodate freight, cruise and offshore servicing and operational requirements.
- Sufficient draft for all tide access to each berth based on proposed use (minimum 8 metre all tide access).
- Sufficient capacity to accommodate 20,000 tonnes capacity vessel size (regarded as the minimum viable size).
- Sufficient land to support the necessary land based facilities for a sustainable port
- Addressing existing SEVESO issues through the construction of petroleum and bitumen terminals and transfer pipelines to the existing tank farms, to replace current unloading operations within the existing harbour/city centre area. The tank farm has been re-located; however, off-loading still takes place in the inner harbour dock and is transferred by pipeline.

Viable Alternatives

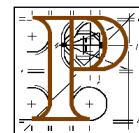
- The prospective applicant stated that some sites which may appear to present an alternative solution may have reduced impacts upon the Natura 2000 network. A determination needs to be made however, as to whether these alternatives are “viable”. In other words, if a potential alternative does not fulfil the objectives of the project, it cannot be accepted as viable. Furthermore if an apparently viable alternative solution is so prohibitively costly that it would not represent a sound business option (i.e. would not be realistically capable of implementation), then it cannot be regarded as “viable”.

Alternative Solutions - the “do nothing scenario” would result in:

- Continued tidal constraints
- Continued handling/berthage constraints
- No freight rail link
- Continued SEVESO issues
- Decline of port
- Economic decline
- Loss of maritime tradition
- Unrealised maritime tourism potential

Alternative Solutions - within the Inner Galway Bay

- Improvements to the Inner Harbour. Similar to the do-nothing scenario as the existing harbour can't be brought up to the required size and standard.



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- The “Mutton Island” scenario (west side of River Corrib estuary) would result in:
 - Port vehicular access constraints
 - Increased city traffic congestion
 - Expensive pipelines to landside storage facilities
 - No potential rail link

Alternative Locations - beyond Inner Bay qualifying criteria:

- Available land
- Draft capacity
- Quay length
- Commodities
- Access to region
- SEVESO

Alternative Locations Abroad

The objectives for NPG require the development of a port capable of handling a range of commodities, both import and export. As an island, alternatives such as road and rail transport are not an option as they merely serve the movement of goods within the country. Alternative ports, outside of Ireland, therefore do not meet the project objectives.

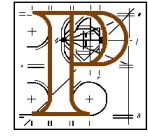
Alternative locations on the island - established commercial ports:

Dublin	Belfast
Cork	Warrenpoint
Shannon/Foynes	Greenore
Waterford	Drogheda
Rosslare	Larne
Arklow	Londonderry
Killybegs	Sligo

Sample Table (which refers to Waterford). This summary table is available for each location.

Brief Requirements	Qualifying
Available land	40.4ha
Vessel draught capacity	5.6-13.5m
Total available quay length	2,237m
Capable of handling a range of commodities	Lo-Lo, Ro-Ro, liquid, dry bulk, break bulk
Link to established transport/distribution network	N25/N25
Hazardous Materials Storage	Yes
SEVESO	Yes

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Alternative locations on the island - evaluation of candidate ports:

- Using qualifying criteria
- Proximity principle per the proposed Regional Ports Policy
- Shortlisted ports being finalised
- Evaluation of shortlisted ports being finalized on ecological grounds
- Conclusion of assessment of alternatives being finalized.

Aquafact Presentation

The prospective applicant's presentation included drawings showing the Enterprise Park for which compensatory measures are also proposed.

Consultations with NPWS

The prospective applicant indicated that it has had several meetings / emails / phone calls over a 1 year period with NPWS. Issues discussed included:

- Galway Harbour Enterprise Park (Legacy)
- NIS (submitted to the NPWS for comment)
- Loss of habitats, as a result of the proposed development
- Compensation plans
- Lough Atalia, a priority habitat due to its designation as a lagoon in December 2012.
- Evolution of cSAC

Phone calls / email also with Mícheál Ó Briain, DGXII, Brussels

NPWS Compensation

SAC

- Salt marsh. 7.69 ha lost. 10.252 ha of undesignated salt marsh found to date.
- Intertidal. 14.97 ha lost. Ca 50 ha of undesignated intertidal habitat found to date.
- Subtidal. 26.93 ha lost. Ca 360 ha of undesignated subtidal habitat identified

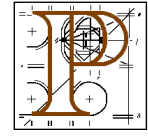
SPA

- 26.93 ha lost. Ca 360 ha of undesignated subtidal habitat identified

Habitat Areas Requiring Compensation

A table of information was submitted. The amount of area disturbed includes the dredged area. Dredging near the mouth of the lagoon will only take place on an ebbing tide. There will be local scouring.

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Resume of Habitats Lost cSAC

A table of information was submitted.

Special Protection Area

- Species considered:
Great Northern Diver, Cormorant, Grey Heron, Light-bellied Brent Goose, Shelduck, Wigeon, Teal, Shoveler, Red-breasted Merganser, Ringed Plover, Golden Plover, Golden Plover, Lapwing, Dunlin, Bar-tailed Godwit, Curlew, Turnstone, Blackheaded Gull, Common Gull, Sandwich Tern, Common Tern.
- Impacts
Loss of terrestrial, intertidal and open water habitats for feeding and roosting.
- Compensation
Designation of additional terrestrial, intertidal and open water habitats for feeding and roosting.

The prospective applicant stated that plants and animals have evolved to live in lagoons where salinity can vary significantly. The flow from the River Corrib will be restricted but this will not affect Lough Attalia and it is predicted that there will be no change to the tidal reach in Lough Attalia.

Drawings:

New Port Habitats

SPA Legacy Habitats

cSAC Legacy Habitats

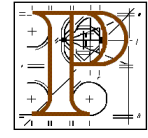
There are different boundaries for the SPA and cSAC. The area east of the red dotted line is unaffected.

The prospective applicant stated that the Enterprise Park was constructed pre-SAC and post-SPA designations. Therefore, there is a compensatory legacy on the SPA but not the SAC. Discussions are on-going with the NPWS with regard to compensatory sites.

Board's Comments

The Board advised that there is a proposed development for a trans-shipment facility in Shannon which is at early pre-application consultation stage and the prospective applicant may wish to factor this into their project assessment of alternatives along with its environmental implications. With regard to the alternative ports covered in the presentation, the Board requested that railway linkage be included in the evaluation of the proposed development and alternatives.

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The Board stressed the importance of the methodology for the assessment of alternatives. It would not be appropriate to make an economic assessment first and make ecology considerations secondary. Only ecology issues should be considered. The term “viable” may need to be reconsidered, as it could imply economic criteria. The Board queried whether the Mutton Island option would have less of an ecological impact on Lough Attalia.

The Board queried whether the proposed development could prejudice any national port designation as could emerge in any new National Ports Policy. The prospective applicant stated that this would be unlikely and that it was proposed to have a 12 metre berthing depth in Galway while a national port could be expected to provide a greater berthing depth for ships.

The Board asked whether the NPWS had communicated the cSAC status to the European Commission and queried its boundary line.

IROPI Procedures

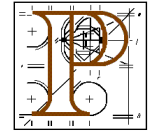
The Board’s procedure for IROPI cases is attached. The procedure is the Board’s representatives’ understanding of the legislation. The Board’s representatives stressed that, notwithstanding the advice on IROPI being provided, the Board could refuse permission for the proposed development, in which case IROPI and associated administrative procedures would not arise.

The Board referred to the Statement of IROPI Case section on page 44 of Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities, published by the Department of the Environment, Heritage and Local Government. It is not envisaged that public views will be sought on the statement of case. It is a matter for the Board to decide whether there will be an adverse impact on a European site.

The prospective applicant queried to what stage the issue of compensatory measures should be taken before the lodgement of the planning application. The prospective applicant is discussing this with the planning authority.

The prospective applicant queried whether any comment it might wish to suggest in relation to a statement of case should be a stand-alone document. The Board stated that the IROPI documentation should be separate to the application documents, but should be provided with the application. Compensatory measures or statement of

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case suggestions should not be in the NIS but any suggested compensatory measures should be subject to appropriate assessment.

Private lands proposed for compensation should have the written consent of the relevant landowners that it is acceptable for their lands to be designated as a compensatory measure as a European site. State lands on the foreshore proposed for compensation will need confirmation from the Department of the Environment, Community and Local Government (Foreshore Section). Confirmation from the NPWS that these lands are acceptable as compensatory measures should be obtained, if possible.

The prospective applicant queried whether further public consultation should be carried out. The Board stated that such consultation, prior to the lodgement of the application, is not a legal requirement, and therefore was at the choice of the prospective applicant. The Board advised the prospective applicant to contact Galway City Council regarding traffic issues, in particular those that might arise during construction work. A detailed traffic impact assessment would be required. Any measures, including traffic management measures, to accommodate/mitigate traffic resulting from the proposed development at construction and operational stages must be realistic, practicable and achievable. The National Transport Authority could also be consulted. The prospective applicant commented that traffic congestion in Galway was improving and that 90% of fill will be from dredged material.

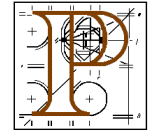
Conclusion

The record of the meeting will issue in due course including the IROPI procedures and the Board will proceed to have meetings with the other bodies referred to. Following this a further meeting will be held with the prospective applicant at which point the application procedures can be covered.

The prospective applicant requested that the meetings take place as soon as possible as it intends to make a planning application at the end of March 2013.

Philip Green
Assistant Director of Planning

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IROPI PROCEDURES

Irish Legislation

- P&D (Amendment) Act 2010
- Environment (Miscellaneous Provisions) Act 2011
- EU (EIA and Habitats) Regulations 2011 [S.I. No. 473 of 2011]

IROPI Arises

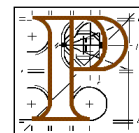
- Competent Authority (An Bord Pleanála) determines proposed development will adversely affect integrity of European site.
- Absence of alternative solutions.
- An Bord Pleanála considers that consent should be given.
- IROPI arises.

IROPI / An Bord Pleanála

- Sets out IROPI.
- Proposes compensatory measures to ensure overall coherence of Natura 2000 Network.
- Prepares a statement of case that IROPI exists and compensatory measures required.
- Forwards statement of case to Minister for Environment, Community and Local Government (ECLG) with copy of application and NIS.

Statement of Case contains

- Considerations involved in assessment that adverse effect arises.
- Reasons why no alternative solutions; including not giving consent.
- Why IROPI applies to proposed development.
- Compensatory measures proposed to ensure overall coherence of Natura 2000
 - compensatory habitat,
 - conditions requiring compensatory measures.



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Statement of Case given to

- Applicant
- Available for public / internet

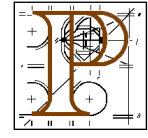
Compensatory Measures

- Proposed, in first instance, by applicant and then by An Bord Pleanála or Minister for ECLG.
- Purpose – to ensure overall coherence of Natura 2000 is protected.
- May include provision of a compensatory habitat.
- An Bord Pleanála may attach a condition to consent relating to compensatory measures.
- An Bord Pleanála may attach a condition to consent requiring contributions to finance compensatory measures.

European Site/No Priority Habitat or Species

- IROPI may include social or economic reasons.
- Minister for ECLG **shall** request views of Minister for Arts, Heritage and Gaeltacht (AHG).
- Minister for ECLG may then enter into consultations with An Bord Pleanála.
- An Bord Pleanála, having consulted applicant, may submit;
 - modified proposal for development,
 - modified proposed conditions,
 - modified or alternative compensatory measures.
- Minister for ECLG may enter into consultations with Minister for AHG and [further] consultations with An Bord Pleanála re:
 - proposed development,
 - modified proposal,
 - proposed conditions,
 - modified proposed conditions,
 - compensatory measures,
 - alternative compensatory measures.
- Minister for AHG furnishes opinion to Minister for ECLG after request for views or completion of consultation with Minister for ECLG.

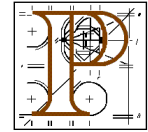
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- Opinion (AHG) compensatory measures (or modified or alternative) are sufficient:
 - Minister ECLG issues notice to An Bord Pleanála,
 - An Bord Pleanála may grant consent,
 - Minister ECLG informs EU Commission.
- Opinion (AHG) compensatory measures (or revised or modified) not sufficient:
 - Minister ECLG issues notice to An Bord Pleanála,
 - An Bord Pleanála shall not grant consent.
- An Bord Pleanála makes available/internet notice from Minister ECLG.

European Site that Hosts Priority Habitat or Species

- IROPI may only include:
 - human health,
 - public safety,
 - beneficial consequences of primary importance to the environment, **or**
 - other IROPI, where An Bord Pleanála advises Minister for ECLG to request Commission opinion and opinion obtained.
- Minister for ECLG receives statement of case.
- Minister for ECLG requests views of Minister for AHG on compensatory measures.
- Following receipt of views from AHG, Minister for ECLG enters into consultations with An Bord Pleanála.
- An Bord Pleanála having consulted applicant may submit:
 - modified proposal,
 - modified proposed conditions,
 - modified/alternative proposed compensatory measures,
- Minister for ECLG may enter into consultations with the Minister for AHG and [further] consultations with An Bord Pleanála on:
 - proposed development,
 - modified proposal,
 - proposed conditions,
 - modified proposed conditions,
 - compensatory measures,
 - modified/alternative proposed compensatory measures.
- Where Minister for ECLG considers that IROPI comprises or includes other than
 - human health,
 - public safety,
 - beneficial consequences of primary importance to the environment,



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- he/she shall consider whether opinion of Commission should be sought.
- Where opinion of Commission **not** proposed to be sought, he/she shall consult with other Minister as he/she considers appropriate and request view.
 - Minister (ECLG) shall consider any views from other Minister consulted before he/she decides whether to seek opinion of Commission.
 - Minister (AHG) shall furnish an opinion to Minister (ECLG) as to whether the compensatory measures/modified/alternative compensatory measures are sufficient to ensure the overall coherence of the Natura 2000 is protected.
 - IROPI comprises only:
 - human health,
 - public safety,
 - beneficial consequences of primary importance to the environment,and Minister's (AHG) opinion that compensatory measures are sufficient, Minister (ECLG) issues notice to An Bord Pleanála and An Bord Pleanála may grant consent to development.
 - Minister's (ECLG) opinion is that IROPI includes other reasons:
 - has obtained opinion of Commission,
 - has obtained opinion of Minister (AHG) measures are sufficient,
 - An Bord Pleanála may grant consent.
 - Minister's (ECLG) opinion is that IROPI includes other reasons:
 - has not obtained opinion of Commission,
 - has obtained opinion of Minister (AHG) measures are not sufficient,
 - An Bord Pleanála shall not grant consent,
 - An Bord Pleanála makes available notice from Minister (ECLG).