Inspector's Report
PL16.246982

Development	Construction of a floating pontoon/landing stage at Inishgowla South, Clew Bay, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	16/165
Applicant(s)	Noel Devery
Type of Application	Permission
Planning Authority Decision	Grant
Appellant(s)	Liam Ryder
Observer(s)	None
Date of Site Inspection	20th October 2016
Inspector	L. Dockery

1.0 **Site Location and Description**

1.1. The subject site is located on the northern coastline of Inishgowla South, Clew Bay, Co. Mayo. Inishgowla is an island located within the Clew Bay island complex, stated to be approximately 5 linear kilometres west-northwest of Westport harbour.

2.0 **Proposed Development**

2.1. The proposed development as per the submitted public notices comprises permission to construct a pontoon/landing stage at Inishgowla South, Westport, Co. Mayo.

2.2. The proposed development is to be located on the north-east shore of the island, adjacent to an existing dwelling. It has stated dimensions of approximately 28 metres in length x 2.4 metres wide and comprises a surface layer of wooden planks overlaying rectangular buoyant pontoons which will be tethered by small ship's chain to 6 mooring blocks, each of which are 1.2 metres wide x 0.6 metres deep.

2.3. A Screening Statement for Appropriate Assessment was submitted with the application. It is the conclusion of this Statement that the proposed project is compatible with the Conservation Objectives for the qualifying interests of the Clew Bay Complex SAC and it is recommended that further phases of the Habitats Directive Assessment process will not be required for the proposed development.

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission GRANTED subject to 2 no. conditions

Condition No. 2 states that the developer shall obtain a lease/license/permission from the relevant consenting authority prior to the commencement of any works on the foreshore

Further Information was requested by the planning authority in relation to the submission of a Natura Impact Statement as the potential for some qualifying interests is uncertain; justification as to why this is the most suitable location for the proposed pontoon and confirmation that the proposed development would not interfere with any existing access routes used by 3rd parties to/from the island by boat.

3.2. **Planning Authority Reports**

The report of the area planner reflects the decision of the planning authority

3.3. **Other Technical Reports**

3.4. Forward Planning Section (report dated 30/03/2016):

Determined that the location of the proposed development within the Clew Bay Complex cSAC and the site's qualifying interests, particularly [1160] large shallow inlets and bays and its corresponding communities including reef, and the Annex II species *Phoca vitulina* which use this island as a moulting site, the potential for significant effects on some qualifying interests is uncertain. Consequently, a NIS should be submitted

The main concerns include the maintenance of the community structure of large shallow inlets and bays and considering that six mooring blocks are described as part of the development (potential for loss of 4.32m² to communities including reef) and there may be changes to water circulation in the vicinity of the proposed development which may also impact on sediment communities during use of the pontoon. Additionally, *Phoca vitulina* have been recorded as using the island as a moulting site. One target to maintain the favourable conservation condition of common seal is to maintain the moulting site in a natural condition. Otter are ubiquitous in Clew Bay and to restore their favourable conservation condition, there should be no significant increase in barriers to connectivity. It should be clearly

demonstrated that the proposed development will not obstruct otters' commuting routes, if this is the case.

Details to be contained in the NIS are also outlined.

Department of Housing, Planning, Community and Local Govt.

No comment

4.0 Planning History

None

It is noted that the planning authority have granted permission for a number of similar type structures within Clew Bay.

5.0 Development Plan

The Mayo County Development Plan 2014-2020 is the operative County Development Plan for the area.

Area J- Clew Bay Glacial Drumlins

The site is located within the Clew Bay SAC (Site Code 00001482)

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- Queries if the planning authority have jurisdiction where the proposed development is located entirely below the high water mark
- Appellant's lands used for grazing for both cattle and sheep all year round- cattle removed from the island to winter housing on the mainland and then

returned to island in April- sheep graze all year round on island, only leaving for lambing- appellant visits the island at least every third day

- Sheep movements from the island are such that they are held in open before boarding a specially designed landing craft through a temporary sheep race- main form of transportation since appellant started farming there circa 37 years ago- all maintenance materials are ferried to the island using this landing craft
- Appellant and his family use a wooden boat to gain access to island and a second craft for ferrying livestock- this ferry craft is of lightweight construction and will float in 250mm of water- 6m long with 1.2 m high sides- having such high side makes it difficult to manoeuvre in restricted waters
- Loading and transporting of stock is a difficult task with the only area on the island suitable is the cove located on the north approach
- Effect of pontoon being constructed on this site will greatly reduce space for which to safely manoeuvre attending craft
- Pilot has currently to negotiate a narrow channel to gain access and with the introduction of the proposed pontoon will present further challenges with risk of damage to craft and personnel- proposed location of pontoon, blocks the traditional route of passage taken by the appellant's family for the past 35 years
- Additional hazards of anchor chains pose danger at lower tides- risk of craft getting blown onto pontoon
- Channel width to north of pontoon is greatly reduced and should a boat be moored alongside, the channel width will be down to a few metres in middle tide- not a safe navigable space, especially in windy conditions

- Supports the idea of having pontoon access to all residential islands- however ability to make a safe transit along the original channel will be greatly compromised if the development were to go ahead
- Unnecessary obstacle to provide for the safe mooring of boats and evacuation/landing of livestock
- Blocks the only safe route to the island for farming purposes- removable sheep race has always been located at this sheltered cove
- Understands desire to make landing on the island safer for occupiers of the house but this should not come at a cost to appellant and his family
- Proposed development is alien to traditional practices at this site
- Concerns regarding visual impact on an area designated as an SAC

6.2. **Planning Authority Response**

No further comment

6.3. **Other Party Responses**

6.4. A first party response was received which may be summarised as follows:

- Applicant wishes to retain ownership of his house on the island but require a substantial boat so as to provide all weather accessibility to his island home- unlike appellant, the applicant requires 24hr hour, all weather access in so far as tide permits- appellant can chose to access the island when weather permits-applicant does not have this option as this is his home when he is Ireland- requires reasonable and safe access to his house
- Mayo County Council has installed floating pontoon access at Newport Quay, Island More, Inishlyre and Rosmoney- new floating pontoon planned for Westport Quay- private pontoons have been provided by the owners of

Inishraher and Inishturk Beg- installed to provide safe access to island and shore facilities

- Unreasonable to expect residents to continue using small unstable and potentially dangerous craft when suitable craft is available- these craft require suitable landing facilities
- By the time the tide has risen sufficiently for appellant to reach his sheep loading facility, there will be at least 700mm of water over the anchor chains at the end of the proposed pontoon- appellant requires 250mm to operate his landing craft
- Sufficient room for applicant to tie up his boat at the end of the pontoon and for appellant to pass in either of his two craft
- Deepest point of channel lies outside all moorings associated with the proposed pontoon- in other words all of the pontoon and its moorings lie to the SE of the deepest part of the approach channel to the sheep landing facility
- Photographs submitted in support of response

6.5. **Observations**

6.6. None

7.0 **Assessment**

7.1. I consider the key issues in determining this appeal are as follows:

- Principle of proposed development/interaction with other users
- Impacts on amenity
- Appropriate Assessment

7.2. **Principle of proposed development/interaction with other users**

7.3. The proposed development provides for the installation of a floating pontoon/landing area to provide access to a residential property on Inishgowla South, an island within Clew Bay. It is noted that similar type developments have been provided to other islands within the complex including Inishlyre, Islandmore and Inishraher. It may therefore be argued that a precedent has been set for such developments in the bay. It is noted that in general, the land above the line of the ordinary high water mark is within the administrative area of the appropriate planning authority while any works to the foreshore are within the administrative area of the Department of the Marine. Therefore, in the event of permission being granted for the proposed works I recommend a condition be attached advising the developer of the need to obtain the necessary permits from the relevant consenting authority prior to the commencement of any works on the foreshore.

7.4. The subject pontoon measures approximately 28 metres in length. At the present time, in the absence of such a pontoon, access to the island is difficult, with embarking/disembarking from boats problematic in particular in bad weather, at night and for those who may have any degree of mobility issues including young children or the elderly. I witnessed this at the time of my site visit. Issues of health and safety have been raised in the documentation and I would concur with the submissions made that such a development would greatly improve the lives of those using it. The submission received from the applicant states that the sole purpose of the application is to create a safer means of access to their property during high tide periods. Access to this part of the island is restricted during low tide because of the shallow, drying approach channels. The proposed position of the pontoon is the nearest and only waterside option to get to their property. This information appears reasonable. In a time when island populations are declining, I consider that such a development should be welcomed, subject to compliance with other criteria below.

7.5. I note the concerns raised by the appellant in his submission. He wishes to continue accessing his lands and livestock on the island, as he has done for in excess of 30 years. He lives on the mainland and travels over to the island approximately 3 times

a week. This is also considered reasonable. I note the location of the proposed pontoon. I also note the point made by the applicant that his property has a slip access immediately adjacent to the appellant's shed/pen area and they have no intention of making this access more restricted as they use it for transporting heavy loads of turf/coal using their landing raft boat. It is stated that the pontoon would improve access to this area for both parties as it would allow for mooring during high tide and manual manoeuvring of small boats to/from the shoreline. It is explicitly stated that the appellant is welcome to make full use of the pontoon. Having regard to all of the above, I am satisfied that rather than impede access to the island for the appellant, the proposed development would improve access and safety for him and other users. I have no information to believe that the proposed development would conflict with other users of the area to such an extent as to warrant a refusal of permission nor would it interfere unduly with other established uses on the water. Having regard to all of the above, I consider that the principle of the proposed development is acceptable in this instance.

7.6. **IMPACTS ON AMENITY**

7.7. The subject site is located within the Clew Bay complex and is designated as a Special Area of Conservation within the operative County Development Plan. It is recognised within this Plan as being an area of high scenic value with uninterrupted vistas across the water of bays and channels to opposing shorelines from the public realm, all culminating in a distinct coastal character. Having regard to the nature, scale and extent of the proposed development, I consider that it would not impact on the visual amenity or character of the area to such an extent as to warrant a refusal of permission. I saw a number of other such developments during my visit of the site and its environs and I considered that they were acceptable in terms of their impacts on amenity and character and consistent with the proper planning and sustainable development of the area.

7.8. **APPROPRIATE ASSESSMENT**

The subject site is located within the southern section of the Clew Bay complex SAC (Site Code 001482). The Site is designated for three Annex II species and eight Annex I habitats, which include for the Common Seal *Phoca vitulina* and large shallow inlets and bays. The Conservation Objectives for the Clew Bay Complex SAC can be summarised 'to maintain or restore the favourable conservation condition of the Annex I habitats and Annex II species for which the SAC has been selected'. Site specific conservation objectives have been prepared for the site. There are four other Natura 2000 sites within a 15km radius of the site, with the nearest being Brackloon Wood SAC (Site Code 000471), located approximately 6km from the application site. A Screening Statement for Appropriate Assessment was submitted with the original application. This Statement considered that owing to the confined size and scale of the proposed development, it is considered that pathways for impacts to accrue on these nearby Natura 2000 sites do not exist and therefore potential impacts on these sites can be readily discounted. The Statement concluded that the proposed development is compatible with the Conservation Objectives for the qualifying interests of the Clew Bay SAC. Notwithstanding this, a Further Information request issued from the planning authority, details of which have been cited above. This request raised concerns in relation to large shallow inlets and bays and corresponding communities including reef, and the Annex II species *Phoca vitulina* which use the island as a moulting site. The planning authority considered that the potential for significant effects was uncertain and therefore it was requested that a Natura Impact Statement be submitted. The main concerns raised in the report of the Forward Planning Section of the planning authority include the maintenance of the community structure of large shallow inlets and bays considering that six mooring blocks are described as part of the development (potential for loss of 4.32m² to communities including reef) and there may be changes to water circulation in the vicinity of the proposed development which may also impact on sediment communities during use of the pontoon. Additionally, *Phoca vitulina* have been recorded as using the island as a moulting site. One target to maintain the favourable conservation condition of common seal is to maintain the moulting site in

a natural condition. Otter are ubiquitous in Clew Bay and to restore their favourable conservation condition, there should be no significant increase in barriers to connectivity. It should be clearly demonstrated that the proposed development will not obstruct otters' commuting routes, if this is the case. Details to be contained in the NIS are also outlined.

7.9. Following discussions with the planning authority, a Natura Impact Statement was not submitted but a clarifying statement was prepared which addressed the issues raised within the Further Information request. The response stated that reef habitat does not occur within the vicinity of the of the proposed jetty footprint with 'Mixed sediment shores LS5' being the most appropriate fossit category for the habitat occurring at this location. The shore has moderate slope profile with seaweed growth much reduced in comparison with the majority of the surrounding shoreline and comprises small quantities of fucoid species and abundant filamentous brown algae. This habitat grades into a muddy sand sediment along the lower littoral margins. The form of the habitat which occurs at the application site is not considered to be of significant conservation value as it has diminished cover of epifauna and flora and low numbers of infauna. The proposed installation of the jetty on the shore is not considered to significantly impact the underlying shore. It states that the Clew Bay SAC conservation objectives backing document is misleading and does not reflect the different shore habitat composition occurring at the application site. It erroneously shows the application site to be the same make-up as the boulder shoreline (classified as Reef in the conservation objectives backing document) which fringes the reminder of the island. The proposed jetty location has been the longstanding boat landing location on the island as the shore surface here is smooth. If a boulder shore did in fact occur here, boat landing would not be possible at this location. This section of the report concludes that the proposed development will not cause any damage to boulder shores/reefs occurring near the application site or other habitats of interests within the Clew Bay SAC complex. I noted at the time of my site visit that indeed the seabed was smooth at this location,

comprising of mixed sediment. I have also noted the generalisation of the information contained within the backing document of the Clew Bay Conservation Objectives document.

7.10. The second point addressed in the supporting document submitted as part of the Further Information response acknowledges that Inishgowla is a moulting site for the species *Phoca vitulina* (Common Seals). The report states that while the SAC Conservation documents do show a point location on the SE section of the island, approximately 300 linear metres from the application site, to be a moulting site for the species, the number of seals that haul out from this location during moulting season is very low. They are often entirely absent from this location during the moulting seasons and if present, generally occur only in numbers of one to several individuals. The primary locations of importance for hauled out harbour seals occur to the east at Skerries and islands in the vicinity of Green Island which are well beyond the potential zone of influence of the proposed development. The distance of the application site from the marked location and the fact that the location is not directly visible from the site is noted. The report refers to a review of international literature on seal disturbance conducted by the Seal Conservation Society, unspecified date which found that the flushing distances for hauled out seals which are unacclimatised to boat traffic was in the range of 150-200 metres. Therefore, acclimatised seal remain in situ at distances of greater than 200 metres. The report contends that Harbour Seals occurring in Westport Bay are undoubtedly acclimatised to a certain level of boat traffic. The report also notes that the primary direction of boat movement to/from the island is in the direction of Rosmoney and Carrowholly, both of which lie to the north and northeast of the island in a different direction from the marked haul-out. The report concludes that that given that the haul-out location is not directly visible from the application site and at a distance well in excess of 200 metres from the application site, it is his opinion that no significant impacts on seal species should arise from this development.

7.11. I did not see any seals at the time of my visit in the vicinity of the site. I would concur with the above report that seals in the bay would be accliimatised to a degree of boat traffic, considering the location. Westport Sailing Club has its base at Rosmoney Pier and a number of boats of various sizes and descriptions were evident in the general area around Rosmoney Pier at the time of my visit. Rosmoney Pier is one of the main departure points for boats in the immediate area. I acknowledge that the proposed jetty location has historically been the main landing point for boat traffic accessing the house. I note that it is stated that the installation of the jetty will also reduce and confine any potential impacts of boat hulls compacting the underlying beach substrate, although it is acknowledged that the impacts of boat hulls on shore substrate are currently likely to be minor. I note the nature and scale of the proposed development and the fact that others in the vicinity appear to be operating successfully. On the basis of all the information provided with the application and appeal I am satisfied that the proposed development individually, and in combination with other plans and projects would not be likely to have a significant effect on the European Site No.s 001482 in view of the site's conservation objectives.

8.0 **Recommendation**

8.1. I recommend that planning permission should be GRANTED for the reasons and considerations as set out below.

9.0 **Reasons and Considerations**

Having regard to the nature, scale and stated need for the proposed development, the Bord considers that the proposed development would not detract from the visual amenities of the area; would not impinge on existing traffic using the island and would not be likely to have significant effects on the European Site Clew Bay Complex (Site Code 001482) in view of its conservation objectives. The proposal is therefore considered to be consistent with the proper planning and sustainable development of the area.

10.0 **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

   REASON: In the interest of clarity.

2. The developer shall obtain the necessary permits from the relevant consenting authority prior to the commencement of any works on the foreshore

   REASON: In the interests of clarity

Lorraine Dockery
Planning Inspector

27th October 2016