

Murphy, CiaraM

From: [REDACTED]
Sent: Tuesday 7 March 2023 10:58
To: Alab, Info
Cc: [REDACTED]
Subject: Appeal T05 / 640 A

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Attachments available until 6 Apr 2023
For the Attention of Margaret Carton.

Dear Margaret ,

Here are my comments on the new information disclosed by the Minister.

As you have requested I have concentrated only on the points raised by this new information and simply referred back to the relevant passages of the original Appeal submission only when appropriate.

I add as attachments

1. Correspondence confirming the Community Council decision to object to the application.
2. The policy and text of EE10-1 and EE11-1 from the 2014 Cork County Development Plan

Please acknowledge receipt,

Yours sincerely,

[REDACTED]

Friends of Dooneen Pier

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ALAB Appeal Dooneen-Comments on Submission AGR 01359-22.docx
33 KB

[Click to Download](#)

Email Bob Miller 12.10.2022.pdf
10 MB

To: The Aquaculture Licences Appeals Board (ALAB)
Kilminchy Court
Dublin Road
Portlaoise
Co. Laois
R32 DTW5
("The Board")

Appellants: Friends of Dooneen Pier

Email for Communication: [REDACTED]

Address for Communication: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

**COMMENTS ON
"SUBMISSION AGR 01359-22
RECOMMENDATION TO GRANT AN
AQUACULTURE LICENCE FOR 1 SITE (T05 / 640 A) TABS A-E**

Determination Reference: T05 / 640 A

Licence Applicant: Bantry Marine Research Station Limited,
Gearhies, Bantry, Co. Cork, P75 AX07

Date of Publication of Notice of Determination: 26 November 2022

Place of Publication: Southern Star

Deadline for Appeal: Wednesday 28th December 2022

1. These submissions are directed to the new material included in the above named document (“the Document”) which were hitherto unknown to this Appellant. For ease of reference comments will be directed to material in certain of the Tabs. For the avoidance of doubt and to avoid duplication, the Appellants stand by all points already made in the Original Appeal document (“The Appeal”).

TAB B

2. The Report by the Marine Engineering Division is dated 13 April 2022. Section 61 of the Fisheries (Amendment) Act 1997 includes a directory requirement on the Minister when considering grant of an Aquaculture licence that he ..”*shall take account*”.. of factors set out in Section 61 (a) to (g). Section 61(c) specifically requires the Minister to take into account the relevant provisions of the Development Plan. At the time of the Minister’s determination in November 2022 the relevant Development Plan was the Cork County Development Plan 2022-2028 which came into effect 6th June 2022.
3. The Development Plan referred to in the Marine Engineering Division’s Report is Section 6.11 of the Cork County Development Plan 2014. This brief Section is supportive of Fishing and Aquaculture as is Policy EE 121, unlike the wide range of new policies in the replacement Development Plan reviewed in the original appeal document which represent a sea change towards protection of the natural environment. However, on 25 April 2022 the new Development Plan 2022-2028 was adopted which came into effect 10 June 2022. This new Development Plan had been issued as a consultation draft in 2021 as any simple internet search would have revealed. The Minister’s determination was approved on 17 November 2022 and published on 21 November 2022. The Minister therefore completely failed to consider the provision of the relevant Development Plan 2022-2028 in breach of the mandatory requirements of Section 61 (c) of the Fisheries (Amendment) Act 1997.
4. In these circumstances the licence was issued in error and should be revoked.

5. The relevant sections to the Development Plan that the Minister should have referred to are set out in paragraphs 43-65 of the original Appeal document dated 21 December 2022. When considered against these criteria it would clearly be inappropriate to grant an aquaculture licence at this location. The “in principle” support under the 2014 Plan no longer exists. (The old policy EE10-1 and Objective EE11-1 referred to in the Marine Engineering Report are attached for reference.)

TAB D

6. BMRS notes that no submission of objection was made by the Community Council. In fact, as confirmed in an email dated 12/10/22 from the Chair of the Community Council, a vote was taken to object to the proposal (Email attached).

Item: 1:

“Traffic impact and safety concerns”

7. BMRS proposes an entirely new method of operation to address this issue (and it is suggested that this new system would also address issues identified in items 3 and 6 of Tab D). The suggested new operation involves

“... harvesting could be carried out at sea”

“... Biomass harvested could be landed at alternative working piers such as the quay west of the church in Durrus in Dunmanus Bay”.

8. This new method is different from the methods described in the application in the following respects:

- (i) Page 10 para (xiii) of the application states *“A boat operated crane will be used to remove the longlines from the bay”* before being hand cut into bins which was intended to take place on the pier and thereafter removed from there via a route through the SPA. It is now said that harvesting can take place at sea and the seaweed landed at a Pier somewhere else. That is a different operation with different environmental effects.

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- (ii) The Marine Institute Report of June 2022 only refers to access to the site via Dooneen Pier.
 - (iii) The Marine Engineering Division Report of 13/4/22 identifies the Site Access as “*Dooneen Pier*” without reference to any other location. The Report under the heading “*Land Based Facilities / Site Access*” refers only to Dooneen Pier.
 - (iv) The Draft Licence Schedule 4 permits Site access from Dooneen Pier and nowhere else.
 - (v) The Draft Licence Schedule 1 identifies “*Site Access Map*” which shows only access via Dooneen Pier.
 - (vi) There is no condition in the draft licence which (i) requires seaweed to be cut off lines at sea or (ii) to require seaweed to be landed at a pier in Durrus and not at Dooneen.
 - (vii) There has been no environmental assessment whatsoever of the proposed landing of seaweed anywhere other than at Dooneen. (As set out in the original Appeal document, this environmental assessment is itself defective.)
9. If the Minister had regard to the new system proposed by BMRS then he should not have done so because the Marine Institute Reports of June 2022 (Tab E) and 17 July 2022 (Tab C) do not assess this new system at all. Nor do the draft conditions require BMRS to operate in accordance with the new (untested) system. The Report to the Minister simply adopts BMRS’s proposed new system in a cut and paste manner even using the same numbering system as in Tab D despite the fact that only the system specified in the original application had been considered by the Marine Engineering Division in Tab B and the Statutory Consultees in Tab C. The new system has not been assessed by the Marine Engineering Division/Statutory Consultees at all and more important it fundamentally diverges from the application as submitted and the Marine Institute’s assessment of it submitted on behalf of the Applicants.

Item 3:

“Impact on tourism, the impact upon the pier at Dooneen and Green Coast award”

10. Without a requirement by condition in the licence (i) to strip the lines at sea and not on the pier and (ii) to use another harbour to land seaweed there will be conflict between recreational and commercial users which the applicants appear to accept – hence the adoption of a different system.

Item 4:

“Lack of Consultation”

11. At the public meeting referred to, the system of work described was expressly on the basis of access / egress of people, seaweed and other materials to be via Dooneen Pier. There has been no consultation at all on the new system of work.

Item 6:

“Impact on SPA”

12. Points made at paras 8-10 above apply equally here. If the system of work is as per the original application then there will be inevitable disruption within the SPA because seaweed will have to be moved across the SPA - which has not been properly assessed for all the reasons given in the original Appeal document.

Item 7:

“Defective Screening Document”

13. BMRS’ response does not address the points made in the original Appeal document at paras 19-29 which do not need be repeated here and which the Appellant stands by.
14. Irrespective of these points the Marine Institute have not assessed the new method and its effects at all, so the assessment is doubly defective. The very fact that the system of work has been altered to avoid movement of seaweed through the SPA proves the validity of these original objections ; why else change the system?

15. It is not acceptable that one limb of the Marine Institute is effectively marking another limb's homework. The Appeals Board is respectfully requested to seek independent expert assessment of the adequacy of the Marine Institute's Reports of June and July 2022 and to undertake its own Screening exercise, especially as ALAB would need this information if the Board is to consider the matter afresh as it is empowered to do.

SUMMARY

16. The additional material disclosed shows that the application was not properly considered by the Minister who did not consider relevant extracts of the current 2022/2028 development plan at all. He also allowed the BMRS to effectively amend its application in a fundamental way. The new system has not been properly identified in terms of infrastructure /access in the Application nor assessed in its operation by the Applicants via the Marine Institute Report of June 2022. The new system has not been assessed on behalf of the Minister by the Marine Engineering Division or the Statutory Consultees. The new system of operation contradicts the terms of the original application in terms of providing for an additional access and there is no plan showing a second access in the draft licence as is required by law. The conditions of the draft licence do not require the applicants to operate the alternative/additional access that is now being suggested. Nor has the Minister required an amendment to the application pursuant to Regulation 16 of the Aquaculture Licence Applications Regulations 236/1998.

17. The Pier west of Durrus church is about 10 km away from the application site. It would be more sustainable to locate the seaweed farm far closer to an existing commercially active pier rather than in clear sight of a recreational pier located on a sensitive Green Coast beach on the popular Sheep's Head Way walkway some 10 km away.

Friends of Dooneen Pier

6 March 2023

From: [REDACTED]
Subject: Re: Application TO5 / 640A
Date: 12 October 2022 at 16:07
To: APC@agriculture.gov.ie
Cc: [REDACTED]



Dear Sir/Madam,

As chair of the Muintir Bhaire Community Council, I am confirming Jeremy Cahill's communication that there was an accidental miscount of the council vote and the vote should have resulted in favor of lodging an objection on behalf of the Council. If the application has not been determined, please inform the appropriate bodies that the Community Council for the area in which this development will be located voted to object to this application. Thank you for your consideration.

Robert Miller
Chairperson
Muintir Bhaire Community Council

Sent from my iPhone

On Oct 12, 2022, at 3:40 PM, [REDACTED] wrote:

Dear Sir/Madam,

I am writing in connection with the above named application as a former member of the Muintir Bhaire Community Council.

The application was subject to a vote by Council members which it was initially believed resulted in a resolution 7 votes to 6 not to object to the application.

There was, therefore no objection lodged by the Community Council to the application.

It has recently transpired that the vote was miscounted and the correct result was 7-6 in favour of lodging an objection on behalf of the Council.

I have copied in the Chairman of the Community Council who can confirm what I have said.

If the application has not been determined I believe the appropriate authority should be informed before a decision is taken on it that the Community Council for the area in which this development will be located voted to object to this application.

Doubtless I will be told if anyone takes a contrary view.

Yours sincerely,

[REDACTED]

Developments in excess of this threshold will be subject to a more rigorous demonstration of need for the particular project.

sustainable growth of forestry as an economic activity whilst affording maximum protection to the rural environment and landscape.

**County Development Plan Objective
EE 9-1: Business Development in Rural Areas**

The development of appropriate new businesses in rural areas will normally be encouraged where:

- The scale and nature of the proposed new business are appropriate to the rural area, and are in areas of low environmental sensitivity.
- The development will enhance the strength and diversity of the local rural economy,
- The proposal will not adversely affect the character and appearance of the landscape,
- The existing or planned local road network and other essential infrastructure can accommodate extra demand generated by the proposal,
- The proposal has a mobility plan for employees home to work transportation,
- Where possible the proposal involves the re-use of redundant or underused buildings that are of value to the rural scene;
- The provision of adequate water services infrastructure; and
- Provision of a safe access to the public road network (See Objective TM 3-1: National Road Network (c) and (d)).

6.10 Forestry

6.10.1 County Cork contains approximately 79,188 hectares of forest and woodland area or 10.5% of Corks land area which is higher than the national average of 9%.

6.10.2 The Forestry sector will continue to be an important economic activity in rural areas supporting many small and medium businesses as well as being an alternative enterprise for farmers diversifying from more traditional agriculture. Sustainably managed forestry can also become an important tourism asset. The forestry industry will also play an important role in the future development of the Bio-energy sector. See Chapter 9 Energy and Digital Economy.

6.10.3 The aim of this plan is to support the continued

**County Development Plan Objective
EE 10-1: Forestry**

Generally, to support sustainable forestry development throughout the County, it is important to protect sensitive areas, water supplies and fisheries and to ensure that the development is compatible with the protection of the environment and nature conservation areas.

6.11 Fishing and Aquaculture

6.11.1 Commercial fishing and aquaculture represent an important economic activity in rural coastal areas. This plan supports the provision of appropriate harbour infrastructure that facilitates a modern and innovative fishing industry.

6.11.2 The Council recognises and will continue to support the sustainable development of the aquaculture industry in order to maximise its contribution to employment and the economic well being of rural coastal communities and the economic well being of the county. This plan also recognises the important role aquaculture can play in the diversification of rural areas.

**County Development Plan Objective
EE 11-1: Fishing and Aquaculture**

- a) Support the use of existing port facilities for the catching and processing of fish as an economic activity that contributes to the food industry in the County.
- b) Support and protect designated shell fish areas as an important economic and employment sector.

6.12 Mineral Extraction

6.12.1 Mineral extraction and the aggregate industry are important to the economy of the county in terms of employment generation and providing raw materials to the construction industry. The county has significant but finite mineral resources and it is the aim of this plan to safeguard areas of significant resources from incompatible developments to ensure the continued viability of the extractive industry whilst ensuring that