

An Bord Achomhairc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board



AP 1-4/2017 and AP6/2017
Braade Strand Co Donegal

Section 47 reply from NPWS
dated 22 October 2018



OHara, Mary

From: Manager Dau <Manager.Dau@chg.gov.ie>
Sent: 22 October 2018 11:52
To: Ohara, Mary (Alab)
Subject: RE: Section 47 request to NPWS - Braade Strand Co Donegal

Dear Mary,

Please find the nature conservation recommendations of the Department of Culture, Heritage, and the Gaeltacht for the above mentioned aquaculture licence appeal.

With regard to your letter of 3 September 2018 (your reference AP1-4/2017 and AP6/2017) and specifically with regard to your request for the Department to address four specific points the Department is happy to provide you with the following response.

The development and operation of oyster trestles reduces the quality of the intertidal as a foraging resource for a range of Ireland's bird species. In some cases this can result in a total displacement of particular species where the development is sited.

The recently granted aquaculture licences in Gweedore Bay are sited outside of the SPA Network. Nevertheless plans and projects sited outside of an SPA can cause direct negative impacts to the special conservation interest (SCI) bird species that are listed for that SPA.

Generic foraging radii for relevant species based on tracking and other studies provides a very useful starting point when one is considering the likely risk of a particular development causing a significant negative impact on species that are listed for SPAs in the hinterland (immediate or otherwise) of the particular development.

When applying these radii (which can be relatively very large e.g. some seabird species have mean-max feeding ranges of several hundred kms) it is important that other factors are taken into account before one establishes whether particular bird populations may or may not be negatively impacted should the development proceed.

Such factors include: the feeding ecology of the species; the availability of alternative feeding areas; the likely response of an individual of a species to the proposed development; as well as the estimated size of the breeding population. With regard to the latter, if a breeding population is relatively small then, all things being equal, this could indicate that all the potentially suitable feeding resources within the generic foraging disc may not be fully utilised. Therefore areas further away from the breeding colony may not be as important as those potential feeding areas closer to the colony.

Thus, assigning a risk of negative impact (or even excluding the likelihood of significant negative impact) along such a multifactorial continuum can be extremely challenging. Specifically with regard to the appropriate assessment of aquaculture in Gweedore Bay, the screening process would have been more robust if the SCI species (including the Common Gull breeding population) for at least West Donegal Islands SPA were included.

Case law rules that mitigation measures cannot be taken into account at the screening stage of appropriate assessment. The ruling of Case C-323/17 states "*Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that, in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.*"

Mise le meas,

Connor Rooney
Clerical Officer

An Roinn Cultúir, Oidhreachta agus Gaeltachta
Department of Culture, Heritage and the Gaeltacht

Aonad na nIarratas ar Fhorbairt
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From: Ohara, Mary (Alab) [mailto:Mary.Ohara@alab.ie]
Sent: 02 October 2018 14:12
To: Manager Dau
Subject: Section 47 request to NPWS - Braade Strand Co Donegal

To whom it concerns

Please see attached letter which issued on 3 September 2018 for your attention. I seem to have had the incorrect email address.

If you have any queries please contact me.

Regards

Mary

From: Ohara, Mary (Alab)
Sent: 03 September 2018 12:06
To: 'manager.dau@ahg.gov.ie'
Subject: Section 47 request to NPWS - Braade Strand Co Donegal

To whom it concerns

Please see attached letter for your attention.

If you have any queries please contact me.

Regards

Mary

Mary O'Hara
Secretary

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An Bord Achomharc Um Cheadúnais Dobharshaothraith
Aquaculture Licences Appeals Board