



An Roinn
Ealaíon, Oidhreachta agus Gaeltachta
Department of
Arts, Heritage and the Gaeltacht

Dumping at Sea Licence Ref: S0013-02

(Please quote this reference in all related correspondence)

04 March 2014

Anne Kehoe
Programme Officer
EPA
Johnstown Castle
Wexford

Re: Notification to the Minister for Arts, Heritage and the Gaeltacht under Article 28 of the Planning and Development Regulations, 2001.

Proposed Development: Dumping at sea licence application by Port of Cork Company at Port of Cork.

A Chara

On behalf of the Department of Arts, Heritage and the Gaeltacht, I refer to your authority's notification in relation to the above.

Outlined below are the observations and recommendations of the Department in relation to nature conservation and underwater archaeology.

Nature Conservation

It is noted that the proposed dumping-at-sea operations have included a detailed examination of a number of elements of the interaction with the marine environment. However, it is not clear that the potential for interaction with marine mammals with the actions of dumping spoil material has been evaluated. In order to ensure the conservation of these species it is recommended that an assessment of risk should be completed. This assessment is required due to the likely presence of marine mammals in the vicinity and the potential for negative interaction with the proposed operations through potential collision and disturbance events. The protection afforded to these species stems from a number of legislative instruments:

- All cetaceans are listed under Annex IV (including those in Annex II) of Council Directive 92/43/EEC (the Habitats Directive). Accordingly, under Article 12 of that Directive, it is an offence to deliberately capture, disturb or kill a cetacean or take actions that result in deterioration or destruction of their breeding sites or resting places. This has been transposed into Irish Law by Regulation 51 of the European Communities (Birds and Natural Habitats) Regulations (SI477 of 2011).

- All marine mammals are protected wild animals under the Fifth Schedule, which includes all cetacean and seal species, of the Wildlife Act (39 of 1976) and Amendments. Under Section 23 (as amended in 2000), it is an offence to kill, injure or wilfully interfere with or destroy the breeding place or resting place of any protected wild animal.
- In addition it should be noted that consent can not be given by the Consenting Authority under Regulation 63 (7) of the European Communities (Birds and Natural Habitats) Regulations 2011 without consideration of the potential interaction with these species.

A baseline description of the presence of marine mammals should be included as part of the submission to the EPA. The applicant may find useful resources on <http://www.npws.ie/marine/marinereports/> specifically in relation to seals and cetaceans using the surrounding waters. Useful information is also available from the website of the Irish Whale and Dolphin Group (<http://www.iwdg.ie>). The presentation of data related to marine mammal species must be of sufficient resolution to predict the likely interaction with those species over both a spatial and temporal scale. Such an assessment should include scientifically supported consideration of potential impacts from the operation of associated vessels/plant, incorporating as appropriate the identification of measures required to mitigate such impacts or a supported conclusion that the risk to these species is negligible and no mitigation is required. It is recommended that a suitably qualified marine ecologist should be involved in undertaking relevant assessments.

Some useful information related to noise producing activity and evaluations of interactions with marine mammals with similar activities (specifically drilling) in Appendix 5 of “Guidance to Manage the Risk to Marine Mammals from Man-made Sound Sources in Irish Waters” published by the Department of Arts, Heritage and the Gaeltacht available to download from: <http://www.npws.ie/marine/bestpracticeguidelines/>

Underwater Archaeology

The Department could not access any information on the EPA’s website through the link provided, so therefore request the following as further information in relation to Underwater Archaeology.

Further Information:

1. Details of the location of the areas to be dredged as part of their proposed Maintenance Dredging Programme should be forward to this Department as further information.
2. Details of the location of the dumpsite as part of their proposed Maintenance Dredging Programme forward to this Department as further information to confirm that it remains the traditional dumpsite previously used.
3. As agreed between this Department and Port of Cork in the past, should any areas previously not archaeologically assessed be proposed to be dredged or areas included that constitute Capital dredging, it would be the recommendations of this Department that they be subject to a full underwater archaeological assessment in advance of any dredging taking place.

Reason: To ensure the continued preservation (either *in situ* or by record) of places, caves, sites, features or other objects of archaeological interest.

The acknowledgement to this letter, any further information and the planning authority’s decision should ideally be sent to manager.dau@ahg.gov.ie; if this is not possible, correspondence may alternatively be sent to:

The Manager

Development Applications Unit
Department of Arts, Heritage and the Gaeltacht
Newtown Road
Wexford

Is mise, le meas



Simon Dolan
Development Applications Unit
Tel: 053-911 7377

For inspection purposes only.
Consent of copyright owner required for any other use.