



Appeal Ref No. AP 7-11/2017

Aquaculture Licences Appeals Board

Technical Advisor's Report

Description:

**LANDSCAPE AND VISUAL ASSESSMENT,
TRAWBREGA BAY, Co. DONEGAL**

Licence Application

Department Ref No:

Applicant:

Minister's Decision: Refuse

Appeal

Type of Appeal:

Appellant(s): Barr Oysters, Site Ref: T12/434
Michael & Eunan McLaughlin, Site Ref: T12/475
Marjorie Doherty, Site Ref: T12/471
Michael McLaughlin, Site Ref: T12/470
James Ball, Site Ref: T12/426

Observers:

Technical Advisor Richard Butler MILI MIPI, Model Works Ltd

**Date of site
Inspection** 21-22 September 2018

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1.0 General Matters / Appeal Details

1.1 Appeal Details & Observer Comments / Submissions

Date Appeal Received:

- 29 November 2017: Barr Oysters (Site Ref: T12/434), Michael & Eunan McLaughlin (Site Ref: T12/475), Marjorie Doherty (Site Ref: T12/471), Michael McLaughlin (Site Ref: T12/470)
30 November 2017: James Ball (Site Ref: T12/426)

Location of Site Appealed: **Trawbreaga Bay, Co. Donegal**

1.2 Name of Appellant (s):

Barr Oysters (Site Ref: T12/434)
Michael & Eunan McLaughlin (Site Ref: T12/475)
Marjorie Doherty (Site Ref: T12/471)
Michael McLaughlin (Site Ref: T12/470)
James Ball (Site Ref: T12/426)

1.3 Name of Observer (s) n/a

1.4 Grounds for Appeal

The subject matter of the appeals of all five appellants is the same:

Substantive Issues

1. **Landscape and Visual:** The appellant/s disagree/s with decision not to grant the licences on grounds of landscape and visual impact. The appellants state that the landscape has no high amenity rating and is not designated in any local development plan, and that the licence areas and adjacent roadways are low lying, remote from designated viewpoints and covered by seawater for most of the time.

Non-Substantive Issues

1. **No precedent:** The appellant states that this (the refusal of licence on landscape and visual impact grounds) has not happened in any other Aquaculture bay in the country.

1.5 Minister's submission

As far as I am aware the Minister made no submission on the appeals.

However, I was provided with a report entitled “Landscape and visual impact assessment of oyster farm development proposals in Trawbreaga Bay, Co. Donegal”, signed by Paul O’Sullivan, dated 17/10/17 and addressed to Mr Campbell, Divisional Engineer and Ms Karen Gill, AFMD. This report appears to have informed the decisions to refuse the five licences.

The report assessed the potential landscape and visual impacts of 11 licence applications for Trawbreaga Bay. It recommended that six of the 11 applications not be licensed (including the five the subject of the appeals, and another site nearby, all along the Goorey shore) on the basis that they would ‘give rise individually and cumulatively to substantial negative visual impacts’.

The report states that the assessment was carried out in accordance with the “Guidelines for Landscape and Visual Impact Assessment of Marine Aquaculture” published by the Department of the Marine and Natural Resources, 2001.

The AFMD report discusses the **landscape character** of the receiving environment:

- It notes that at the time of writing the foreshore area where the sites are located was not designated as an Area of Especially High Amenity (EHSA) in the County Development Plan (CDP) 2012-2018, although it bordered on such an area.
- It notes that the draft CDP 2018-2024 (draft at the time of the AFMD report’s preparation) *did* categorise the coastline around Trawbreaga Bay as an EHSA area. (Note, the CDP 2018-2014 has since been adopted by Donegal County Council and it does indeed designate a narrow strip around the shoreline as EHSA.)
- The report notes that there is one view and prospect designated in the CDP 2012-2018 in the vicinity of the sites, namely the view from Soldiers Hill some 3km north west of the sites.
- It notes that the Wild Atlantic Way passes by Trawbreaga Bay close to the application sites (stretches of the R238 and particularly the R242). The report ultimately places a lot of emphasis on this aspect of the receiving environment, i.e. the visibility of the sites from a stretch of the Wild Atlantic Way.

The AFMD report discusses the **visual character** of the area:

- It notes the area is thinly populated and mainly in agricultural use, with some forestry.
- It notes that foreshore activity in Trawbreaga Bay includes crab potting, seaweed harvesting and suspended oyster culture, the latter mainly along the low water line on the north shore, i.e. near the subject sites (with other concentrations in other parts of the bay).
- It notes that much of the existing oyster aquaculture in the northern part of the bay is partly screened from public roads by landform and intervening fields, although some oyster trestles are visible from stretches of the R242.

The AFMD report discusses the **visibility of the proposed oyster farm sites**:

- The author estimated (and mapped) the Zone of Visual Influence of each site (i.e. the area from which it could be seen), noting that there is a large degree of overlap between the ZVI of the sites (the five subject sites are located side by side).
- The report notes that there are sections of public road within the ZVIs (i.e. with views of the sites). In particular, an approximately 1.1km stretch of the R242 (part of the Wild Atlantic Way) affords ‘prolonged viewing’ of the relevant foreshore area, from a short distance.
- It notes that there are approximately 20 houses north east of the bay with views over the foreshore (where the sites the subject of the appeals are located). It notes that there are approximately 15 houses to the south west at Doaghmore and Fegart, with views across the bay towards the subject foreshore area.
- The report notes that visual sensitivity is mixed, from low-moderate (foreshore users and local road users) to higher sensitivity (non-local visitors/tourists). It states that tourists following the Wild Atlantic Way require particular consideration.
- The report includes (Appendix 3) a number of ‘visualisations’ of the proposed oyster farms (individually and cumulatively) from two viewpoints.
- The report assesses the significance of the visual impact of the eight sites (including the five subject sites) along the northern foreshore (the Goorey shore) as substantial to very substantial. This assessment is based on: (a) classification of viewer sensitivity as high (specifically due to Wild Atlantic Way tourists using the R242), and (b) classification of the magnitude of change experienced from the 1.1km stretch of the R242 as moderate and high in places.

The AFMD report discusses the potential for **mitigation**:

- The report notes that the views of the Goorey foreshore sites from the R242 are from close up and unimpeded (no significant vegetation or buildings between the road and the shore), i.e. there is a direct view, over a low roadside wall. There is no possibility of screening works.

The AFMD report discusses the **landscape impact**:

- The report states that ‘landscape impact may be considered in terms of what level of damage could occur to the scenic quality of the overall landscape as viewed from various viewpoints. The magnitude of impact is roughly proportional to the areal extent of new site development in short distance view from the viewpoints’. (Note, I disagree with this interpretation of ‘landscape impact’.)
- The report notes that ‘the existing scenic quality is not especially high but the Bay’s proximity to neighbouring areas of scenic importance and its location alongside a locally important tourist road would tend to suggest a moderate level of sensitivity to landscape change’.

- The report states that individual sites will not give rise to significant ‘landscape scale impacts’ but the cumulative impacts of the Goorey shore sites would give rise to ‘impact of substantial significance’.

The AFMD report includes an **observation from Donegal County Council** in its appendices:

- The report states that its finding, i.e. the recommendation to refuse six licences, is in agreement with the DCC observation, which states: “Having regard to... the negative visual amenity impacts that these new licence sites will have on views from the local road network and from designated views and prospects in the area, the proposals are considered to represent a material contravention of the policies of the County Development Plan 2012-2018 (as varied) and, if permitted, would be contrary to the proper planning and sustainable development of the area”.
- The report does note however that the author found that no designated views would be significantly impacted (contrary to the DCC observation statement).

1.6 Applicant response

In response to the refusals of licences, four of the applicants (Barr Oysters, Site Ref: 12/434; Michael & Eunan McLaughlin, Site Ref: T12/475; Marjorie Doherty, Site Ref: T12/471; James Ball, Site Ref: T12/426) jointly appointed a consultant, Aquafact, to prepare a Landscape and Visual Impact Assessment of their proposed oyster site developments.

The report states that the assessment was carried out in line with the “Guidelines for Landscape and Visual Impact Assessment of Marine Aquaculture” published by the Department of the Marine and Natural Resources, 2001.

The findings of the Aquafact report are at variance with those of the AFMD report. The report states that ‘the four additional oyster farms will have little additional impact on the landscape, the seascape and the people who live there or visit the location’.

The Aquafact report discusses the **baseline environment (landscape character)**:

- It notes that the site falls into Donegal County Council’s Seascape Unit 5, and identifies a wide range of coastline types in the area. It also notes that 13 landscape character types occur within 4km of the sites.
- It notes that the key coastal uses include farming, fishing, tourism, residential and recreational, with the sheltered part of Trawbreaga Bay used for aquaculture.
- The report notes that the DCDP 2018-2024 has designated a strip of land around the Trawbreaga Bay shoreline as an Area of Especially High Scenic Amenity (EHSA), and the hinterland around this is variously designated high and moderate scenic amenity.

To inform the impact assessment, the Aquafact report defined the Visual Envelope (same concept as the AMFD's ZVI), identified the **landscape and visual receptors** within 4km of the sites, and discussed the **impact on the identified landscape and visual receptors**:

- Residential properties: The report notes there are 34 properties within 1km of the site and a further 12 within 1-2km. It notes that properties further than 2km from the site are unlikely to be affected due to the size of the development and screening of the intervening landscape. The report classifies these receptors' sensitivity as medium 'owing to the presence of existing oyster farms and intermittent viewing opportunities because the trestles are virtually invisible as they can only be seen at low Spring tides during daylight hours'. Therefore the magnitude of change is classified medium. This results in an impact classification of moderate significance for the residential properties, 'but only at low Spring tides'.
- National monuments: The report identifies all national monuments within 4km of the sites and states that visibility of the oyster farms from these would be low due to the screening effect of hedgerows, trees and buildings. The report classifies the sensitivity as medium for the same reasons as above. It classifies the magnitude of change as medium, resulting in a significance classification of moderate.
- Key tourist viewpoint: The report identifies the designated view at Knockamanny over Five Finger Strand (the viewpoint is identified in the AFMD report as Soldiers Hill). It calculates and maps the visible area from the viewpoint (Figure 5.4) and notes that the sites would be 'partially visible' but at 3.1km the development would have 'minimal impact' on this view. The report classifies the sensitivity of the location as medium. It classifies the magnitude of change as low (due to the 3.1km distance from the sites), resulting in a significance classification of low.
- Wild Atlantic Way: The report notes that stretches of the R238 and R242 pass by the bay. It notes that the main impacts will occur on the stretch of the R242 which passes within 150m of the sites. It notes that the visual impact will be 'minimised as the site would only be visible at low Spring tides during daylight hours. It notes further that the main features of the views along this stretch of the R242 are of the surrounding hills and mountains, and that the development would cause no obstruction to these views due to its positioning on the lower shore. The report classifies the sensitivity as medium. It classifies the magnitude of change as medium, resulting in a significance classification of moderate. (Note, this is one of the main points of contention between the two assessments.) Regarding the R238, due to the greater distance the magnitude of change is classified low, and the significance of effects slight.
- The report scopes out (i.e. excludes from further consideration due to low likelihood of significant impact) any golf courses, beaches and walking trails. It also scopes out sailing vessels as the inner part of Trawbreaga Bay is effectively inaccessible to these.
- The report includes 'photographic overlays' (similar to the 'visualisations' in the AFMD report) for four locations/views, showing the visual effects of the proposed oyster farms.

The Aquafact report discusses the **differences between its assessment and the AFMD assessment**:

- It notes that the ‘levels of determinations’ (classifications of sensitivity, magnitude of change and significance of impacts) are ‘considerably different’. It attributes these differences at least partly to the quality of the photographs used for the visualisations in the AFMD report, noting colour inaccuracies in particular. It states that the Aquafact report photographs show the typical brown, grey and black colour of intertidal fucoid – the covered muddy sands and stones into which the trestles blend, lessening the visual impact.
- The Aquafact report also notes that the AFMD report does not take into account that the trestles would only be visible at low water Spring tides, when these occur in daylight hours. The report notes other possible reasons for the different classifications also.

The Aquafact report discusses the **cumulative impacts**:

- It notes that the total extent of Trawbreaga Bay is 10.03sqkm. The area of the bay that is currently licensed and for which licenses are being sought represents 7.5% of the total bay area, with the four sites the subject of the Aquafact report (four of the five addressed in this appeal) representing 0.58% of the total bay area.
- The report notes that existing foreshore access routes would be used for the sites, therefore no construction or operational impacts would arise.

Aquafact report **conclusions**:

- The overall conclusion of the report is that ‘the four additional oyster farms will have little additional impact on the landscape, the seascape and the people who live there or visit the location.
- This conclusion is based on six key points:
 1. “There are already fairly extensive areas of oyster trestles in the bay;
 2. The exposed lower shore is comprised of mud and stones with dark brown algae that mask the trestles;
 3. The trestles are only visible at low water Spring tides and during periods of clear sunshine;
 4. The access route and buildings are already in existence;
 5. Many of the aquaculture sites are occluded by natural vegetation and
 6. The fact that the trestles are aligned parallel to the coast and to each other thereby reducing their visibility”.

2.0 Consideration of Non-Substantive Issues

The appellants state that the refusal of licences on landscape and visual impact grounds has not happened in any other Aquaculture bay in the country.

Section 61 of the Fisheries (Amendment) Act, 1997 identifies the matters which the licensing authority may take into account in determining applications for (and appeals of decisions on) an aquaculture licence. Among these matters is S.61(f): “the effect or likely effect on the environment generally in the vicinity of the place or water on or in which that aquaculture is or is proposed to be carried on”.

‘The landscape’ (of which views/visual amenity is a sub-topic) is one of the environmental factors/topics identified in European and Irish legislation as requiring assessment (or scoping out) when the environmental impacts of a project are being assessed.

Therefore, while it may be true that the refusal of licences on landscape and visual impact grounds has not happened in any other aquaculture bay in the country, that does not mean that landscape and visual grounds cannot or should not be considered (and should not be a key consideration) in determining aquaculture licence applications.

It is my opinion that the applicant’s/appellants statement/contention is a non-substantive issue and the fact that the refusal of licences on landscape and visual impact grounds has not happened elsewhere need not be considered further.

3.0 Oral Hearing Assessment

In my opinion an oral hearing is not required. Two professionals (Mr Paul O’Sullivan for AFMD, and Aquafact for the applicants/appellants) have given contrasting opinions, both of them arrived at by following the relevant guidelines, well formulated and reasonable.

It is a fact that perception (and significance classification) of landscape and particularly visual impacts is inherently subjective - more so than any other factor/topic of environmental impact assessment (EIA). It is probable that an oral hearing would simply illustrate this further, with two arguments - both credible but conflicting - being put forward.

I believe that my opinion, as a third landscape professional with substantial experience in Landscape and Visual Impact Assessment but no involvement in the aquaculture industry, should provide ALAB with sufficient information to make its determination.

4.0 Minister's file

I was provided with the following documents:

1. *Guidelines for Landscape and Visual Impact Assessment of Marine Aquaculture*, Department of the Marine and Natural Resources, 2010.
2. *Landscape and visual impact assessment of oyster farm development proposals in Trawbreaga Bay, Co. Donegal*, signed by Paul O'Sullivan, dated 17/10/17 and addressed to Mr Campbell, Divisional Engineer and Ms Karen Gill, AFMD.
3. *Landscape and Visual Impact Assessment for Proposed Oyster Trestles in Trawbreaga Bay, Co. Donegal*, Aquafact International Services Ltd, July 17th, 2018.
4. *AP11/2017 Barr Oysters Site Ref: T12/434 Appeal*, including Notice of Appeal (stamp dated 29 November 2017) and accompanying letter from Michael Barr, Barr Oysters.
5. *AP9/2017 Marjorie Doherty Site Ref: T12/471 Appeal*, including Notice of Appeal (stamp dated 29 November 2017) and accompanying letter from Marjorie Doherty.
6. *AP7/2017 Michael McLaughlin Site Ref: T12/470 Appeal*, including Notice of Appeal (stamp dated 29 November 2017) and accompanying letter from Michael McLaughlin.
7. *AP10/2017 Michael & Eunan McLaughlin Site Ref: T12/475 Appeal*, including Notice of Appeal (stamp dated 29 November 2017) and accompanying letter from Michael & Eunan McLaughlin.
8. *AP8/2017 James Ball Site Ref: T12/426 Appeal*, including Notice of Appeal (stamp dated 30 November 2017) and accompanying letter from James Ball.
9. *Technical Advisor Report Template*, ALAB.

5.0 Context of the Area

5.1 Physical descriptions

Landscape Character of the Inishowen Peninsula

The five sites are in Trawbreaga Bay, a large tidal estuary on the Inishowen peninsula in north Donegal. They are located off the northern shoreline of the inner part of Trawbreaga Bay, approximately 2km north of the village of Malin.

Figure 1 Trawbreaga Bay in the Context of the Inishowen Peninsula – Aerial Photo



Figure 2 Sites Location in the Context of Trawbreaga Bay – Aerial Photo



Figure 3 Sites Location in the Context of Trawbreaga Bay – OS 1:50k map



The *Landscape Character Assessment of County Donegal*¹ (DCC, 2016) identifies that the Inishowen peninsula is characterised by a wide variety of landscape types, including Intertidal Flats, Agricultural Estuarine, Agricultural Foothills, Forest/ Woodland, Agricultural Coastal, Dunes and Beach, Upland Heath and Moorland and Atlantic Blanket Bog. The area has a dispersed rural settlement pattern.

The landscape is thus complex and it is also characterised by intensive land and resource use. The area can be described as marginal (i.e. of limited productivity), but it is noticeable that every resource is exploited to its maximum potential – with agriculture, forestry, wind energy generation, aquaculture, tourism and residential use sharing the land and seascape resources. This affects views and visual amenity in the area. Although not a typically ‘highly scenic’ landscape, as a ‘working landscape’ the area is nonetheless attractive.

In addition to its variability, the landscape of the peninsula is strongly characterised by the presence of the sea, and an also diverse and complex coast which is the main attraction for tourists.

The following photographs illustrate the variable character of the Inishowen peninsula landscape and coast.

¹

<http://www.donegalcoco.ie/media/donegalcountyc/planning/pdfs/viewdevelopmentplans/landscapecharacterassessmentofcountydonegal/landscapecharacterassessmentofcountydonegal/Landscape%20Character%20Assessment%20Part%201.pdf>

Photo 1 Varied coastline of sand beach and sea cliffs, and a mix of agriculture, forestry, rural housing and wind energy generation inland.



Photo 2 Estuarine mudflats and holiday accommodation at Culdaff.



Photo 3 *A view over the mixed marginal landscape surrounding Trawbreaga Bay towards the uplands on the western side of the Inishowen peninsula.*



Photo 4 *Carrickabraghy on Doagh Island west of Trawbreaga Bay.*



Photo 5 *The dramatic northern coastline of the Inishowen peninsula.*



Landscape and Seascape Character of Trawbreaga Bay

The *Seascape Character Assessment of County Donegal*² (DCC, 2016) identifies Trawbreaga Bay as a distinct seascape character area (Unit 5). The following extracts from the document's description of the Trawbreaga Bay Unit are most relevant:

Trawbreaga Bay SCA extends from Malin in the north east to Dunaff Head and the north west coast of Inishowen, at the mouth Lough Swilly. This unit has a varied, indented and undulating coastline that includes the sheltered, silty, Trawbreaga Bay and the Isle of Doagh, and the coastal settlements of Camdonagh, Malin Town, Clonmany and Ballyliffen.

This dramatic coastline includes sea cliffs, rocky edges at Malin and Dunaff, silty and sandy estuary at Trawbeaga Bay, the large sand dune complex at Isle of Doagh and along the coast at Ballyliffen, Tullagh Bay and Five Finger Strand, the largest of its kind in Europe.

A number of elements of this landscape and seascape combine to attract tourists in high numbers, there are a number of hotels at Ballyliffen, two golf courses and walking trails.

The WAW follows the local network and this scenic historic coast, passing two golf courses at Ballyliffen, and a number of tourist facilities.

2

<http://www.donegalcoco.ie/media/donegalcountyc/planning/pdfs/viewdevelopmentplans/landscapecharacterassessmentofcountydonegal/seascapecharacterassessmentofcountydonegal/Seascape%20Character%20Assessment.pdf>

Key Characteristics

- **Coastal Landcover-** The varied coastal land cover consists of elevated bog at Malin Head, agricultural land with areas of heath, forest and pockets of bog around Trawbreaga Bay, and agricultural land with pockets of heath on the headlands. The four settlements of Malin, Ballyliffen, Clonmany and Camdonagh are among a landscape with a dispersed rural settlement pattern. The large sand dune systems at five fingers strand and on the Isle of Doagh are a formative feature in this area.
- **Intertidal area-** The intertidal area consists of rocks, slabs and rocky outcrops together with long stretches of shingle, stony and sandy beaches, high vegetated sea cliffs and silty mudflats, sand beds and areas of marsh around Trawbreaga Bay. At the headlands the ocean meets the hard rock and cliff edges whilst the bays are generally sandy and soft.

Key Uses

- **Coast-** Key coastal uses include farming, fishing, tourism, residential and recreational usage of beaches. The recreational focus is around the coast, beaches and golf courses at Ballyliffen. Other main uses include forestry.
- **Sea-** The sea within this seascape unit is used for recreation and tourism and mainly on the beaches as well as the piers from where fishing vessels operate. Whilst the more sheltered Trawbreaga Bay is used for aquaculture.
- **Land-** Coastal agriculture is the primary land use with areas of scattered forestry. a number of caravan parks are also located on the coast outside Clonmany at Tullagh Bay, and holiday home developments for the most part is dispersed and are of a scale and design that it sits well along side residential properties. There is an element of Plantation estate landscape of Malin Hall, Malin Town Timaleague Demesne and Dresden Demesne spread along the coast. There are also quarries dotted throughout this seascape unit and areas of worked bog.

The Seascape Character Assessment recognises that Trawbreaga Bay does not serve any significant recreation or tourism functions (other than visual amenity); its primary use is identified as aquaculture. In the inner bay there are no bathing places, no sand beaches, and the bay is inaccessible to sailing/leisure boats.

The shallow bay has a broad intertidal area which has a particular visual character. Grass and rushes on the shoreline give way to wide areas of rocky, algae covered mudflats which extend well into the bay from the shoreline except at high tide. These mudflats characterise the views from the surrounding landscape and public roads including the R242 (the Wild Atlantic Way).

Photo 6 *A view across the mudflats off the Goorey shoreline from beside the R242 (Wild Atlantic Way). This is the area of the proposed oyster farms.*



Photo 7 *A view further east along the Goorey shoreline where some aquaculture structures can be seen in the middle distance.*



Photo 8 *A view from an elevated position at Balleelaghan where aquaculture farms are legible in the seascape. In the context of the shallow bay with extensive mudflats, surrounded by a complex landscape, their presence does not detract from the view.*



Photo 9 *A view from the R242 south of Malin towards the mouth of the bay. The bay is characterised by variations in surface (mud, algae covered rocks, water of different depth).*



Photo 10 A view from the R238 (Wild Atlantic Way) north across Trawbreaga Bay towards Malin. The mudflats and algae-covered rocks combine to absorb any sign of aquaculture structures.



Photo 11 A view from Doaghmore on Doagh Isle directly towards the sites of the proposed oyster farms off the far shoreline.



Photo 12a and b When the tide is out the mudflats and aquaculture are exposed. When the tide is in the mudflats are covered and all sign of aquaculture in the bay disappears.



Photo 13 Aquaculture access point and processing infrastructure near the appeal sites on the northern shore of Trawbreaga Bay.



In summary, Trawbreaga Bay is characterised by its wide mudflats and to an extent by the exploitation of the intertidal area for aquaculture. While aquaculture structures, infrastructure and activity are visible in places, they do not dominate views, nor detract significantly from visual amenity. The use ‘belongs’ in this seascape, and takes its place in much the same way that field patterns do in agricultural areas, plantations in forest areas, and patterns of wind turbines in upland areas.

5.2 Resource Users

The affected area of Trawbreaga Bay (the northern shore near Goorey) has limited, if any, usage for angling, inshore fishing, bathing, sailing or other leisure activities. The bay is generally too shallow and inaccessible for these uses.

The area is used for aquaculture and - according to the applicants - the infrastructure (access and processing facilities) are in place to support expansion of this use.

The AFMD report emphasises the presence of the Wild Atlantic Way in the sites’ receiving environment, particularly the 1.1km stretch of the R242 along the Goorey shoreline. Tourism is thus an important industry in the area. This industry is dependant on the quality of the landscape/seascape and the environment generally.

While the Inishowen peninsula is a popular tourist destination and is traversed by the Wild Atlantic Way, the inner part of Trawbreaga Bay is not a key attraction – it is a part of the

seascape that is briefly experienced on route to more dramatic, scenic and accessible areas of coastline and seascape. This is an important consideration in my assessment, and one which is backed up by the Donegal Seascape Character Assessment (quoted above).

It should be borne in mind that even travelling slowly, at 60km/h (the speed limit is 80km/h), the 1.1km stretch of the R242 along the Goorey shoreline affords views over the shoreline and bay for approximately 1 minute.

Within another few minutes from Goorey, the road brings users to vantage points such as Soldiers Hill and the dramatic Inishowen coastline in one direction, or into the village of Malin in the other.

In my opinion, changes to the seascape in the affected/appeal area – even significant changes (if the expansion of the existing aquaculture infrastructure and activities were considered a significant change) – would not substantially affect the experience of visitors to the Wild Atlantic Way.

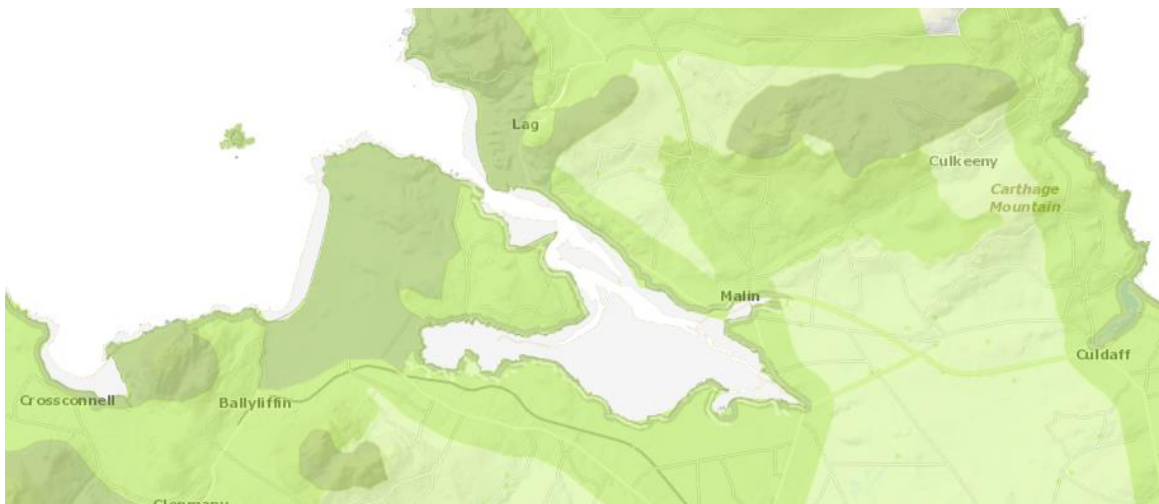
5.3 Environmental Data

n/a

5.4 Statutory Status

Trawbreaga Bay is a SPA but since this report focusses on the potential landscape and visual impacts of the proposed developments, the nature conservation status of the bay is not discussed further.

In the Donegal County Development Plan 2018-2024 a narrow strip of land around the Trawbreaga Bay shoreline is identified as an area of Especially High Scenic Amenity (EHSA – the darker shade of green on the map below).



EHSA areas are defined as follows in the DCDP 2018:

Areas of Especially High Scenic Amenity (EHSA)

Areas of Especially High Scenic Amenity are sublime natural landscapes of the highest quality that are synonymous with the identity of County Donegal. These areas have extremely limited capacity to assimilate additional development.

Within each of the landscape classifications detailed above (EHSA, HSA and MSA) and along the interface between the designations there may be areas that do not fully meet the definition of the designation. Such anomalies in landscape designation shall be considered individually and in the context of all other objectives and policies contained within this Plan, should an application for development be submitted in these areas (excluding wind energy proposals or ancillary works). The onus shall be on the applicant to demonstrate that the site within which it is situated does not meet the characteristics of the landscape within which it is situated and that any development applied for shall not adversely affect the classification and value of the wider landscape.

- NH-P-6:** It is a policy of the Council to protect areas identified as Especially High Scenic Amenity on Map 7.1.1: 'Scenic Amenity'. Within these areas, only developments assessed to be of strategic importance or developments that are provided for by policy elsewhere in this Plan shall be considered.
- NH-P-7:** Within areas of 'High Scenic Amenity' (HSC) and 'Moderate Scenic Amenity' (MSC) as identified on Map 7.1.1: 'Scenic Amenity', and subject to the other objectives and policies of this Plan, it is the policy of the Council to facilitate development of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape.
- NH-P-8:** It is the policy of the Council to safeguard the scenic context, cultural landscape significance, and recreational and environmental amenities of the County's coastline from inappropriate development.
- NH-P-9:** It is the policy of the Council to manage the local landscape and natural environment, including the seascape, by ensuring any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of the area.

It should be noted that the proposed oyster farms are not within an EHSA area. They are offshore in the bay, although they would be visible from the EHSA area.

The Goorey shoreline is scenic, but it is questionable whether it can be identified a 'sublime natural landscape'. The mudflats are not an attractive feature of the land/seascape, and additionally, human activity – including aquaculture, rural housing, forestry and quarrying - is visible in the area. In my view aquaculture as a use is characteristic of Trawbreaga Bay, and the expansion of aquaculture is not inappropriate in the area as long as this does not significantly detract from the scenic value of an area.

The DCDP 2018 recognises that at national and regional level aquaculture is identified as a growth industry, and commits to supporting the growth of the industry subject to adequate environmental assessment and avoidance of 'overbearing visual impact':

- MRCM-O-1:** To maximise the social and economic potential of Donegal's marine sector by:
- Supporting the fishing and seafood sector by maintaining and improving harbour infrastructure (in accordance with the Councils Marine Services Capital Investment Programme) and facilitating seafood processing industries and ancillary service developments.
 - Consolidating and strengthening our Marine Leisure sector by, protecting the recreational and environmental quality of our coastal areas, maintaining and upgrading existing and providing new marine access infrastructure (in accordance with the Councils Marine Services Capital Investment Programme), facilitating ancillary onshore marine leisure developments, and marketing our marine tourism product.
 - Facilitating developments which enable the sustainable harnessing of the offshore energy resource.
 - Supporting the offshore primary production sector of the aquaculture industry, subject to adequate environmental assessments and safeguards being provided to the satisfaction of the Council and to the avoidance of the development giving rise to an overbearing visual impact on the locality in which it is proposed.

The following economic development policies in the DCDP 2018 are relevant:

- ED-P-8:** It is a policy of the Council to consider proposals for economic development uses in the countryside including An Gaeltacht which comply with the following provisions, subject to compliance with Policy ED-P-14 and the protection of areas designated as being of Especially High Scenic Amenity (EHSA):-
- Farm Diversification schemes – provisions set out in Policy ED-P-9.
 - Expansion or redevelopment of an existing economic development use – provisions set out in Policy ED-P-10.
 - Major industrial Development – provisions set out in Policy ED-P-11.
 - Businesses in rural areas that could benefit the local economy/tourism offering and Home Based Working – provisions set out in Policy ED-P-13.
- ED-P-10:** It is a policy of the Council to consider proposals for the expansion or re-development of an existing economic development in the countryside provided the scale and nature of the resultant development will contribute positively to the long-term sustainability of the existing enterprise, subject to compliance with all relevant provisions of Policy ED-P-14. A proposal which would not meet these criteria will only be permitted in exceptional circumstances where it can be demonstrated that:
- The proposal would provide for consolidation and/or remediation of the existing facilities;
- Where relocation of the enterprise would not be possible;
 - The proposal would make a significant contribution to the local economy;
 - The development would maintain the existing rural character of the area; and
 - Where infrastructural improvements are required that a developer-led solution can be identified and delivered.
- ED-P-14:** It is a policy of the Council that any proposal for economic development use, in addition to other policy provisions of this Plan, will be required to meet all the following criteria;
- (a) It is compatible with surrounding land uses existing or approved;
 - (b) It would not be detrimental to the character of any area designated as being of especially high scenic amenity (ehsa);

These policies are in principle supportive of the expansion of existing economic development in the countryside, including aquaculture. The policy is restrictive of such expansion where it does not 'protect' or would be 'detrimental to' the character of EHSA areas.

In my opinion, the designation of a strip of EHSA around the Trawbreaga Bay shoreline is indicative of a policy principle of Donegal County Council rather than consideration of the area specifically. The entire Inishowen peninsula has a strip of EHSA designated above the shoreline, as does the vast majority of the County Donegal shoreline (see interactive map here: <http://donegal.maps.arcgis.com/apps/View/index.html?appid=fac6dc872a2144eae3bb7cd12619c6c&extent=-9.0800,54.4693,-6.4433,55.3104>). I believe the EHSA designation to be a general recognition of the value of views of the seascape, but it does not recognise the other non-scenic, non-tourism-related values in the seascape including its potential as an aquaculture resource.

6.0 Section 61 Assessment

The proposed oyster farms would be visible from an approximately 1.1km stretch of the R242, which is part of the Wild Atlantic Way. They would also be visible from a small number of houses along/above the Goorey shoreline. It is worth considering what a view from the R242 is typically composed of (see Photo 14 below):

- Alongside the road there is a strip of rough grassland and scrub;
- Beyond that there is a broad belt of algae-covered stoney mudflats;
- Beyond that is the open water of the bay, which expands and contracts with the tide, exposing more or less of the mudflats;
- Beyond the bay is the distant shoreline and rising above it the marginal agricultural landscape with a scattering of houses;
- In the distance are the uplands of the west of the Inishowen peninsula.

Photo 14 A view from the R242 near the proposed oyster farm sites.



The above photograph was taken at 11.36 am on 21 September 2018. This was 1 ½ hours after low tide. There are oyster farms directly in front of the camera spanning the width of the view. Only patches of the trestles can still be seen at this time 1 ½ hours after low tide. They are not recognisable as man-made structures. For the remainder of the day on 21 September 2018 the oyster farms were under water.

For comparison, the Google Earth photograph from the same position shows the view at low tide, with the oyster farms fully exposed.

Photo 15 Google Earth image showing a view from the R242, from the same position as Photo 13, at low tide.



Even when exposed (as in Photo 15) the oyster trestles do not dominate or detract significantly from the quality of the view. They are beyond the foreground and removed from the horizon line (where changes are typically most noticeable). They do not obstruct the view as they are lower than eye level. Although they reduce the visible area of open water, the surface of the bay remains a key component of the view. The trestles – when exposed – assume colours similar to those of the adjacent mudflats. And although linear in their arrangement, this is not visually jarring as the view itself is characterised by horizontal divisions.

The above photograph illustrates the worst case scenario (in terms of visual exposure) of the proposed oyster farms, which would be located to the north along the shoreline from the view position.

Importantly, the trestles would be covered by water or only partially exposed (and therefore not legible as man-made structures) for a large part of the day.

Photos 14 and 15 also show that the land/seascape and views along the R242 in the area of the proposed oyster farms are already characterised by aquaculture development and activities.

Landscape/Seascape Impact

In summary, it is my opinion that the character of the landscape and seascape would not be significantly altered by the proposed developments.

The oyster farms would expand an existing use in the seascape, but the expansion would not result in an unsustainable accumulation of seascape change. Aquaculture would remain *an* element of the land/seascape but would not be the defining element.

Visual Impact

In my opinion the magnitude of visual change can be classified as moderate at worst. The visual envelope is relatively small, with a small number of houses and the users of the R242, over a stretch of 1.1km, affected. The fact that aquaculture is already visible in the area is significant. It is also significant that the trestles – even when fully exposed – would not dominate views, nor change the composition or character of views dramatically.

While according to the DMRN *Landscape and Visual Impact Assessment Guidelines for Marine Aquaculture* it is appropriate to classify the visual sensitivity as high (due to the Wild Atlantic Way - see box 4.8, page 35 of the Guidelines), in my opinion this results in an unnecessarily high classification of visual impact significance.

If the entire Wild Atlantic Way (WAW), a coastal route, is to be classified as highly sensitive to aquaculture development, and if magnitude of change will be classified as medium/moderate whenever there is an unobstructed view of new development from a stretch of the WAW, then visual impacts will always be classified as Substantial or Very Substantial. According to the DMNR Guidelines, this ‘may’ offer grounds for refusal of a licence. This is the conclusion that was arrived at in the AFMD report. I disagree with that conclusion.

In my view, the classification of the WAW as always highly sensitive is not appropriate. The WAW is 2,500km in length and gives access to a vast range of land/seascapes, from working landscapes – some characterised by historic and existing aquaculture development - to pristine protected landscapes. The fact that the R242 passes by an existing aquaculture area adjacent to the appeal sites reduces the sensitivity locally. The WAW gives access to numerous far more scenic locations and views along the Inishowen coastline in close proximity to the sites. The overall WAW experience of the Inishowen peninsula would not be adversely affected.

While strict application of the guidelines does result in a classification of visual impacts as substantial, I believe that the refusal of the subject applications on this basis is inappropriate. It is my opinion that the landscape and visual impacts of the proposed developments would not be unacceptably high.

6.1 Site Suitability

In my opinion the sites are suitable for the proposed developments for the following reasons:

- The landscape and coastline of the Inishowen peninsula are complex and characterised by intensive use. Agriculture, forestry, wind energy generation, aquaculture, tourism and residential use share the land and seascape resources. This affects views and visual amenity in the area. It is not a typically ‘highly scenic’ landscape, but rather a ‘working landscape’; it is visually interesting and attractive, but not for any appearance/perception of naturalness.
- The shallow inner part of Trawbreaga Bay has a broad intertidal area which has a particular visual character. Grass and rushes on the shoreline give way to wide areas of rocky, algae covered mudflats which extend well into the bay from the shoreline except at high tide. These mudflats characterise the views from the surrounding landscape and public roads, including the R242 (the Wild Atlantic Way).
- The inner part of Trawbreaga Bay is characterised by use for aquaculture and this principal use is recognised in the Donegal Seascape Character Assessment. According to the applicants - the infrastructure (access and processing facilities) are in place to support expansion of the use.
- While extensive aquaculture structures are visible in the seascape they do not dominate views of the bay; they are often perceived as part of the surrounding mudflats and are recognisable as man-made structures only when seen from very elevated positions and/or when the tide is very low, exposing the trestles fully.
- Public access to the shoreline is relatively limited. There is only a short stretch of road – the R242 for less than 2km – that runs along the shoreline, and there are no places to stop along this stretch.

6.2 Other Uses

In my opinion no other uses of the affected area would be adversely impacted to the extent that the developments should not be allowed to take place.

6.3 Statutory Status

The site areas, being off-shore, are not themselves designated; they are only visible from designated areas, including the EHSA strip that runs around the entire Inishowen coastline (and the vast majority of the Co. Donegal coastline).

In my opinion, for the reasons set out in Section 6.0 above, the proposed development would not affect any landscape or seascape designation, nor any protected view or prospect, to the extent that it could be considered a material contravention of the DCDP 2018.

6.4 Economic effects

This assessment is not focused on the economic effects of the proposed developments. However, it is standard practice in Landscape and Visual Impact Assessment to consider the relevant policy for both the affected area and the development type in question when seeking to understand the potential impacts of a development. If it is stated policy to encourage/achieve a particular development or economic objective, this indicates that there is an accepted capacity to accommodate that change in the landscape.

With this understanding, the National Planning Framework (NPF, 2018) is relevant. This document sets out the high level spatial development objectives for Ireland to 2040. Regarding aquaculture, the NPF states:

“Harnessing Our Ocean Wealth (HOOW, 2012) sets out the Government’s vision, high-level goals and integrated actions to realise our marine potential... In line with HOOW goals, such as doubling GDP from the marine sector by 2030, it is necessary to consider where opportunities exist for growth...”

“Global and national demand for seafood is forecast to continue to grow over the coming decades. Yet with capture fisheries already managed for maximum sustainable yield under the Common Fisheries Policy, satisfying growing demand is projected to come almost entirely from aquaculture...”

“Ireland’s existing aquaculture industry already derives market benefit from the broad recognition around the globe of our relatively pristine waters and the organic and sustainable practices employed by many growers, but the industry remains small relative to its potential...”

“Spatial planning can enable increased production of aquaculture sustainably such that habitat, water quality, and other marine resources are not compromised.”

National Policy Objective 39

“Support the sustainable growth and development of the maritime economy and continue to invest in the seafood sector and our Fishery Harbour Centres, particularly in remote rural coastal communities and islands.”

The consideration of economic and related spatial development policy does have some relevance to Landscape and Visual Impact Assessment as an indicator of accepted capacity to accommodate change. The above policy suggests that substantial expansion of aquaculture is foreseen and indeed expected nationally. This would most sustainably be managed in the national Designated Shellfish Waters including Trawbreaga Bay.

6.5 Ecological Effects

Trawbreaga Bay is a designated Special Protection Area (SPA, no. 004034). It is my understanding that ecological effects are being addressed separately through the Appropriate Assessment process.

6.6 General Environmental Effects

It is my understanding that the proposed developments have been deemed sub-threshold for Environmental Impact Assessment (EIA). This assessment is concerned principally with the Landscape and Visual topic of EIA and does not address the other topics of EIA.

6.7 Effect on man-made heritage

This assessment is concerned principally with Landscape and Visual impacts and does not specifically address the topic of man-made heritage. I am not aware of any potential for direct or indirect impacts on any designated cultural heritage site or its setting.

6.8 Section 61 Assessment Conclusions

Site Suitability

The site under appeal is suitable for the intended purpose for the following reasons:

- The landscape and coastline of the Inishowen peninsula are complex and characterised by intensive use. Agriculture, forestry, wind energy generation, aquaculture, tourism and residential use share the land and seascape resources. This affects views and visual amenity in the area. It is not a typically 'highly scenic' landscape, but rather a 'working landscape'; it is visually interesting and attractive, but not for any appearance/perception of naturalness.*
- The shallow inner part of Trawbreaga Bay has a broad intertidal area which has a particular visual character. Grass and rushes on the shoreline give way to wide areas of rocky, algae covered mudflats which extend well into the bay from the shoreline except at high tide. These mudflats characterise the views from the surrounding landscape and public roads, including the R242 (the Wild Atlantic Way).*
- The inner part of Trawbreaga Bay is characterised by use for aquaculture and this principal use is recognised in the Donegal Seascape Character Assessment. According to the applicants - the infrastructure (access and processing facilities) are in place to support expansion of the use.*
- While extensive aquaculture structures are visible in the seascape they do not dominate views of the bay; they are often perceived as part of the surrounding mudflats and are recognisable as man-made structures only when seen from very elevated positions and/or when the tide is very low, exposing the trestles fully.*

- *Public access to the shoreline is relatively limited. There is only a short stretch of road – the R242 for less than 2km – that runs along the shoreline, and there are no places to stop along this stretch.*

Other Uses

The proposed development would have non-significant impact on the possible other uses or users of the area. The affected part of Trawbreaga Bay (the northern shore near Goorey) has limited, if any, usage for angling, inshore fishing, bathing, sailing or other leisure activities. The bay is generally too shallow and inaccessible for these uses.

Statutory Status

The proposed development has a non-significant negative impact on the statutory status of the area for the following reasons. The site areas, being off-shore, are not themselves designated; they are only visible from designated areas, including the EHSA strip that runs around the entire Inishowen coastline (and the vast majority of the Co. Donegal coastline). In my opinion the character of the landscape and seascape would not be significantly altered by the proposed developments. Nor would the composition, character or quality of views from the EHSA area, or any protected views and prospects, be significantly altered.

Economic effects

This assessment is not concerned with the economic effects of the proposed developments.

Ecological Effects

This assessment is not concerned with the ecological effects of the proposed developments.

General Environmental Effects

This assessment is concerned principally with the Landscape and Visual topic of EIA and does not address the other topics of EIA.

Man-made Heritage

The assessment did not identify any significant direct or indirect effects any designated cultural heritage site or its setting.

6.9 Confirmation re Section 50 Notices

I have not identified any matters other than those raised in the appeal documents which the Board ought to take into account in determining the appeals.

7.0 Screening for Environmental Impact Assessment

I have not considered whether the pre-screening assessment for the environmental impact of the proposed activity carried out by DAFM was adequate. My assessment has focussed exclusively on landscape and visual issues.

8.0 Screening for Appropriate Assessment.

I have not considered whether the pre-screening assessment for Appropriate Assessment of the proposed activity carried out by DAFM was adequate. It is my understanding that Appropriate Assessment is being addressed separately.

9.0 Technical Advisor's Evaluation of the Substantive Issues in Respect of Appeal and Submissions/Observations Received

In my opinion the AFMD assessment of the landscape and visual impacts over-estimates the significance of the impacts due primarily to over-statement of the sensitivity of the receiving environment and also over-estimation of the magnitude of landscape and visual change that would result from the developments.

In my view the conclusions of the Aquafact report commissioned by the appellants are more measured. The Aquafact assessment takes account of the complexity of the existing 'working landscape/seascape' in which aquaculture already exists, which reduces the sensitivity to change. The assessment also estimates the magnitude of visual change more accurately, taking account of the limited presence of the trestles in views due to (a) the complex composition of existing views, (b) the small scale – particularly vertical proportions – of the trestles, (c) the colours of the installed trestles matching those of the adjacent mudflats, and (d) the fact that for the most part of every day the trestles would be partially covered or submerged beneath the sea.

10.0 Recommendation of Technical Advisor with Reasons and Considerations.

It is my recommendation that the licences be granted. The reasons for this recommendation are as follows:

- It is my opinion that the character of the landscape and seascape would not be significantly altered by the proposed developments. The oyster farms would expand an existing use in the seascape, in an environment characterised by diversity in landscape and seascape, and the expansion would not result in an unsustainable accumulation of seascape change. Aquaculture would remain *an* element of the seascape locally but would not be the defining element.
- In my opinion the magnitude of visual change can be classified as moderate at worst. The visual envelope is relatively small, with only a small number of houses and the users of the R242 affected. The fact that aquaculture is already visible in the area is significant. It is also significant that the trestles (a) would not change the composition or

character of views substantially even when fully exposed at low tide, and (b) would be covered by the sea for the greater part of every day.

- The Wild Atlantic Way (along the R242) passes by the site providing views of the sites over a stretch of some 1.1km. This stretch of the road, and the surrounding landscape/seascape, are not significant features or attractions of the Way. This stretch is encountered briefly (for less than 1 minute) on route to numerous more scenic and accessible sections of the Inishowen coastline. Furthermore, the R242 north of Malin (including the 1.1km stretch in question) is already characterised by views of aquaculture in Trawbreaga Bay. In my opinion it is unsustainable to assign equally high sensitivity to the entire Wild Atlantic Way, which is 2,500km in length and gives access to a vast range of environments, from working landscapes and seascapes - some characterised by aquaculture development, e.g. Trawbreaga Bay - to pristine protected landscapes. The overall experience of the Inishowen peninsula afforded by the Wild Atlantic Way would not be significantly adversely affected by the development.

11.0 Draft Determination Refusal /or Grant

The Board has decided to grant the licences for the reasons set out in Section 10.0 above.

Technical Advisor: *Richard Butler MILI MIPI, Model Works Ltd*

Date: *10 October 2018*

Appendices *None*

References

1. *Donegal County Development Plan 2018-2014*, Donegal County Council, 2018.
2. *Guidelines for Landscape and Visual Impact Assessment of Marine Aquaculture*, Department of the Marine and Natural Resources, 2010.
3. *Guidelines for Landscape and Visual Impact Assessment*, 3rd edition, Landscape Institute and Institute of Environmental Management and Assessment, 2013.
4. *Landscape and visual impact assessment of oyster farm development proposals in Trawbreaga Bay, Co. Donegal*, signed by Paul O'Sullivan, dated 17/10/17 and addressed to Mr Campbell, Divisional Engineer and Ms Karen Gill, AFMD.
5. *Landscape and Visual Impact Assessment for Proposed Oyster Trestles in Trawbreaga Bay, Co. Donegal*, Aquafact International Services Ltd, July 17th, 2018.
6. *Landscape Character Assessment of County Donegal*, Donegal County Council, 2016.
7. *Project Ireland 2040 – National Planning Framework*, Government of Ireland, 2018.
8. *Seascape Character Assessment of County Donegal*, Donegal County Council, 2016.