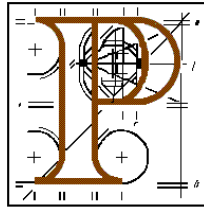


An Bord Pleanála



Inspector's Report

Development: Erect a 1.1m high agricultural fence and all associated works.

Location: Glenummera, Kilgeever, Co Mayo.

Planning Application

Planning Authority: Mayo County Council
Planning Authority Reg. Ref.: 14/77
Applicant: Michael Wade
Type of Application: Permission
Planning Authority Decision: Refuse Permission

Planning Appeal

Appellants: Michael Wade
Type of Appeals: 1st v Refusal
Observer: Keep Ireland Open and Peter Sweetman
Date of Site Inspection: 11th May 2015
Inspector: Dolores McCague

1 SITE LOCATION AND DESCRIPTION

- 1.1 The site is located on the southern and the south western slopes of the Sheefrey Hills, where to the south they are bounded by the Glenummera River which flows westwards in a valley between the Sheefrey Hills and Ben Gorm and to the west they are bounded by Doo Lough. Local road L1824 is to the south of the site; it runs in an east west direction in the Glenummera River valley and then north eastwards following a very scenic route, through a mountain pass to Drummin and onwards to Westport. Regional road R 335 is to the west of the site; it runs generally northwards from Killary Harbour, following an equally scenic route, skirting the eastern shore of Doo Lough and onwards to Louisburgh.
- 1.2 The Glenummera River flows along the bottom of a U shaped valley. The local road is to the south and a trackway, referred to in the archaeological report on file, which is shown on historic mapping for the area, and which pre-dates the current road, is identifiable as a linear feature to the north of the river. This trackway crosses the river via a weir. Two streams join the Glenummera River from the north and east, after cutting channels southwards down the mountainside. These are crossed by the site.
- 1.3 The site as outlined is a narrow linear shape extending from close to local road L 1824 north westwards across the southern slope of the hill, then westwards to regional road R 335 and south eastwards along the regional road for some distance, as far as a wooded area at Doolough House.
- 1.4 Given the level of detail in the mapping provided with the application it is difficult to state with certainty, but it appears that the site ends at the northern bank of the Glenummera River, crosses flat ground between the Glenummera River and other streams, crosses these watercourses, and then extends steeply up slope in a north western direction, in a straight line, which is currently undefined in the landscape. When the site changes direction at the northernmost point and extends westwards, it appears to follow the line of a river/stream which appeared on the historic Ordnance Survey mapping, surveyed between 1829 and 1841. This stream/river no longer runs along this line and as can be seen in the Ordnance Survey Orthophotographs for 2005 nowadays it flows in a channel which is to either side of the proposed fence (i.e. site). Therefore the site crosses the current line of the stream/river a number of times and is largely undefined in the landscape; although it may be possible to discern its location from the former stream/river channel bed on the ground. The highest point of the site is approx. 300m (1,000 ft) and is c 0.8km due south of the highest peak in the area which is approx. 750m (2474ft).

- 1.5 The site is approximately 1.5km northeast of Delphi Lodge and 6km northwest of Leenaun, on the eastern side of the R335. The site encloses land in the ownership of the applicant. This land is steeply sloping mountainside with slopes as steep as 1 in 1, although more often 1 in 2. The southern slope is less steep than the western slope. At the southern end there is a small area of relatively gentle slope near the river. The southern boundary of the holding may be formed by the Glenummera River. The grounds of Doolough House closes off part of the south western boundary. Along the regional road there is no boundary fence. Part of this boundary is a rock face. Outcropping rock can also be seen on the hillside, which is part of the Mweelrea/Sheeffry/Erriff Complex SAC site code 001932.

2 PROPOSED DEVELOPMENT

- 2.1 The proposed development is the erection of a 1.1m high agricultural fence and all associated works.
- 2.2 The purpose (per accompanying report) is to prevent the entry of sheep stocks into lands within the Sheefrey hills owned by Delphi Lodge. Recently the entry of sheep in this area has steadily increased as a result of a local section of land to the south of the proposed site being recently utilised for broadleaf forestry, a project undertaken with Coillte on private lands owned by Delphi Lodge.

3 PLANNING AUTHORITY DECISION

- 3.1 Planning application made 20 Feb 2014.
- 3.2 A document titled 'screening for appropriate assessment', prepared by Enviro View accompanied the planning application.
- This includes:
- The increased numbers of sheep overgrazing on extensive areas of hillside vegetation will inevitably give rise to ground destabilisation and peat erosion. This, in turn, over time, will pose a detrimental impact on the footprint of the area and the qualifying features for which the SAC is designated. Silt laden runoff via hill stream networks will result in the degradation of quality of the receiving waters namely Doo Lough, designated within the SAC for the occurrence of Arctic Charr (threatened in Ireland). Slender Naiad, a species of plant protected under the Flora Protection Order and listed in Annex I of the EU Habitats Directive, has also been recorded within Doo Lough.
- Much of the site was inaccessible on the day due to dangerous conditions and bad weather. It was evident from the foothills, that much of the

vegetation was composed of heath and acid grassland. Various minor stream watercourse networks were observed along the proposed hill face running from the northeast towards the northwest section towards Doo Lough.

Evaluation of impacts

No runoff/excavated material disposed on site. Any excessive peat material will be removed away from installation areas. Habitats for which the SAC is designated do not occur within the proposed site. The most likely qualifying species features that occur are vertigo geyeri – geyer's whorl snail & vertigo angustior – narrow mouthed whorl snail. The small localised sections assigned for fencing are minimal compared to the breadth of habitat within the site that these species can occupy. Slight peat erosion entering stream network leading to Doo Lough but this impact can be considered negligible.

In-combination impacts – other plans or projects will be subject to separate assessment.

Conclusion of screening stage.

Proposed plans are not significant enough to reduce the integrity of qualifying features of SAC area.

The localised and very temporary activity is slight relative to the vast size and complexity of the designated SAC habitats

No drilling, excavation, pouring of concrete, sealing of joints will occur on site.

Noise associated with the proposed plans will be temporary and slight.

No removal of vegetative structures or ground flora.

Fencing the area will serve as a measure to protect the existing species and habitats of the SAC site whilst retaining the integrity of the site.

The proposed activity serves to protect existing habitats and species.

In any case NPWS personnel have already authorised this proposed activity having regard for the method by which this activity will safeguard against hazardous impacts on the SAC: letter enclosed.

A document is attached to the application, referenced '*Decision on application for consent to fence lands within Mweelrea/Sheefrey/Errif Complex Special Area of Conservation to which the European Communities (Natural Habitats) Regulations 2011 apply, in accordance with Regulation 30 of these regulations.*' It states:

Dear Michael, I refer to the application for your request to fence lands within Mweelrea/Sheefrey/Errif Complex Special Area of Conservation (SAC-Site Code 001932). Please be advised that the Minister has granted consent for this activity as outlined above subject to the following conditions:

1 no machinery to be used

2 it is the responsibility of the applicant to ensure that any other necessary permits, licences or permissions from the appropriate authorities are in

place before undertaking the works.' Signed by the District Conservation Officer.

Recommendations are made in the report:

All works associated with the development should be confined to the proposed development site. All site development works should adhere to best practice. All waste associated with the development should be disposed of in an environmentally friendly manner.

Limit disturbance when excavating. Preserve as much of the vegetated areas as possible. Vegetation improves the appearance of the site. By limiting land disturbance, erosion hazards are reduced.

Fence posts should not be fixed in place with concrete.

Continuous removal of disturbed material for appropriate disposal away from site.

Throughout all stages of the project, the contractor shall ensure that good housekeeping is maintained at all times.

3.3 Reports

3.4 14/3/2014 archaeologist – further information

3.5 11/4/2014 – Dr Donnelly – further information

The project details provided do not provide sufficient description to predict impacts. For example, use of a helicopter to transport fence posts and other materials is referred to. Will other machinery/plant be used at the site? If so what are these and how will the fence be erected?

Table 1, Section 4.4.4 deals with predicted impacts. It is acknowledged that the proposed project is not adjacent to any Annex I EU HD habitats for which the cSAC has been designated, but adequate attention has not been afforded to the analysis of effects, including indirect effects on some protected species as a consequence of all elements of the proposed works, and environmental protection measures (if deemed necessary) to ensure that key indicators of conservation value are not impaired as a consequence of the proposed project.

Was the NPWS consulted for the purpose of identifying habitats and species which were not evaluated due to dangerous conditions and bad weather on the day of the site visit. For example, *Lutra lutra* has been recorded on the eastern shore of Lough Doo, metres from the proposed fence location while this area is also a *Margaritifera margaritifera* sensitive area.

It is acknowledged that the long-term impacts during operation, should the proposed development proceed, will be very advantageous to the protection of the forestry plantation, the impacts during construction must be managed to ensure that adverse effects are identified and carefully managed.

3.6 Prescribed Bodies

- 3.7 1/4/2014 – An Taisce – recommends adherence with the Department of Agriculture, Food and Marine’s Minimum Specification for Farm Fencing (S148). Given the often sensitive nature of the sites designated for protection within the Natura 2000 network the local National Parks and Wildlife Service ranger should also be consulted. Of specific concern are issues of soil compaction that may occur with the use of heavy machinery for erecting fencing and the impact of the fencing on the movement of wildlife in the area.
- 3.8 14/4/2014 - Planning report – further information –
 Method of erection of fence in relation to how it is proposed to excavate 600mm post holes at the locations where natural rock is close to or on the surface of the proposed fence line.
 Revised appropriate assessment screening to be requested.
 Archaeological assessment to be requested.
- 3.9 15/4/2014 further information request issued on 3 points in accordance with the planning recommendation.
- 3.10 23/4/2014 – environment – traditionally upland mountain grazing. Topography hilly, upland with outcrop exposed, site rising steeply away from the regional road, vegetation sparse, primarily grass, a small part of boundary hedging rhododendron shrubbing - recommending grant of permission.
- 3.11 13/1/2014 – response to further information request –
 Revised screening for appropriate assessment report – fencing and construction materials to be transported to the site via helicopter; no machinery required for the proposed works therefore no drilling, deep excavations or refuelling on site; erection of fence posts will all be completed by hand using crow bars, sledge hammers etc;
 Footprint of fence post is approximately 600mm and excavations will be slight with minimal disturbance to the proposed site;
 In rock areas posts will be installed using stays. Three wire stays will be attached to the top of the post and the other end attached to the rock using 16mm anchor fixings drilled into the rock.
- Measures to protect Natura 2000 sites**
 No fuels, oils, greases or fluids to be used on site;
 Limit disturbance when excavating. Preserve as much of the vegetated areas as possible. Vegetation improves the appearance of the site. By limiting land disturbance, erosion hazards are reduced.
 No vehicular access routes to be constructed within the SAC area.
 Excavated material should be dispersed over the ground surface with no retention heaps particularly during rainfall.

The contractor shall ensure that good housekeeping is maintained at all times.

Revised list of habitats and species for which the SAC has been selected

3.12 Cultural Heritage Assessment for a Proposed Agricultural fence at Glenummera, Kilgeever, Co Mayo

This includes:

A proposed 1.1m high agricultural fence will be erected manually and will consist of 100mm diameter wooden posts (1.8m long) with strainer posts at 100m intervals. The strainer posts will have a 175mm diameter and measure 2.1m long. The fence will be strung with 0.9m high sheep wire with a single strand of barbed wire on top (height 1.1m). The fence will measure 1.9km in length.

The only artificial feature is a weir and trackway. The weir will not be impacted and the trackway may be crossed with a limited degree of impact. The larger strainer posts may on occasion necessitate the excavation of slot holes.

The land that is to be enclosed is made up of steep, upland heath with frequent stone outcrop, cut by mountain streams. There is no evidence for cultivation ridges or ruins. From walking the site the only feature was a trackway that runs alongside the Glenummera River to the north. This trackway was part of the original route that passed through the valley and appears on the pre-famine, first edition Map (1829-1841). The track is the route associated with the famine tragedy of 1849 and skirts Doolough Lake along its eastern shore crossing the Glenummera River near a small weir to the south. It is unclear from historical sources where the victims of the Doolough tragedy were buried. This track was superceded by the formal construction of Doolough Road and Bridge by the Congested District Board in 1896.

3.13 Reports

3.14 30/1/2014 – Environment - the appropriate assessment screening document is adequate and affords adequate attention to protect the proposed site.

3.15 6/2/2014 Planning report

Main issues are environmental and visual impact:

In relation to the environmental impact, most specifically the location of the proposed works within the Mweelrea/Sheefrey/Errif Complex SAC; the AA Screening Report, the amended AA Screening Report submitted concluded that the works are unlikely to have any significant detrimental environmental impacts on the SAC. The Environment Section concurs with this assessment in their report received on 30/01/15.

In relation to the visual impact, the setting of the proposed works is one of the most visually dramatic and sensitive locations within the entire county and the beauty and uniqueness of the location is in no small part down to

the rugged, open and un-spoilt nature of the landscape. While there is some existing fencing in the general vicinity of the proposed works, this is mainly at lower levels parallel to the public road or enclosing less marginal lands at lower levels.

It is felt that the most significant visual impact of the proposed works would emanate from the 580m or so of fencing running from the R335 to the 300m contour line on Glenummera Mountain. This section of fence, it is considered, would significantly and detrimentally impact on open character of the landscape at this location and would therefore contravene policy objective VP-01 of the County Development Plan which seeks to preserve and protect views and prospects worthy of preservation within the county.

It is considered that the proposed works would interfere with a view or prospect deemed worthy of preservation in the Mayo County Development Plan 2014-2020. The proposed development is therefore considered contrary to the proper planning and sustainable development of the area.

3.16 6/2/2014 decision to refuse planning permission for one reason –

1 The proposed development due to its location on a designated Scenic Route and at a location which forms part of a Highly Scenic View, as indicated on Map 4 (Views and Prospects) of the Mayo County Development Plan 2014-2020; would contravene policy objective VP-01 of the Mayo County Development Plan 2014-2020 which seeks to ensure that development does not adversely interfere with views and prospects worthy of preservation and protection as outlined on Map 4, or on the views to and from places and features of natural beauty or interest (e.g. coastline, lakeshores, protected structures, important historic sites) when viewed from the public realm. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

3.17 The decision was in accordance with the planning recommendation.

3.18 An observation on the file has been read and noted.

4 PLANNING HISTORY

None stated in the planning report or application form.

5 GROUNDS OF APPEAL

5.1 An appeal against the decision of the planning authority to refuse permission has been lodged by Lally Chartered Engineers on behalf of the first party.

5.2 The grounds includes:

First party feels that he has complied with all requirements of Mayo County Council and National Parks and that this land is farm land and fencing will not impact on any aspects covered by the various studies he has undertaken and in particular with SAC interests of National Parks and Wildlife. He is prevented from carrying out farming as without fencing this land, farm animals will wander onto the road and surrounding lands. This portion of land on the hill is the only relatively small holding remaining unfenced that is not in commonage. All other farmers in the area have their privately owned lands fenced.

First party feels that it is the interests of the SAC that he is allowed to fence this area as at present it is severely overgrazed as it is unfenced to a large area of commonage.

The type of fencing proposed is the lowest impact available and is standard sheep wire and weathers down very quickly to become unobtrusive. The view of drivers looking upwards as they drive up or down the valley is not restricted in any way.

First party is very aware of the importance of SACs and always puts the environment first while carrying out a farming enterprise. He feels that by fencing and correctly grazing the land, this land will achieve the sustainability required by Mayo County Council and discontinue the present severe overgrazing, which can be seen on a site visit.

6 RESPONSES

6.1 The Planning Authority

6.2 The Planning Authority has not responded to the grounds the appeal.

6.3 Third Party Response

6.4 A third party response to the grounds of appeal has been submitted by Peter Sweetman & Associates on his own behalf and on behalf of Keep Ireland Open.

6.5 The response challenges the applicant's conclusion of the screening that *'the proposed plans are not significant enough to reduce the integrity of qualifying features of SAC area as a whole'*; and the planner's conclusion:

'The proposed fence is located within the Mweelrea/Sheefrey/Errif Complex SAC (001932) and the application submitted, included a Screening for Appropriate Assessment Report. The report concludes that, not only is the proposed activity slight relative to the vast size and complexity of the designated SAC habitats, but the fencing will provide further protection to existing habitats and species. The report therefore concludes that it is unnecessary to prepare a Stage 2 assessment with respect to the Natura

2000 sites.’

This is not the test. The correct test is defined by Finlay Geoghegan J. in Kelly – v- An Bord Pleanála 2013 802 JR:

‘26 There is a dispute between the parties as to the precise obligations imposed on the Board in relation to the stage 1 screening by s.1777U but its resolution is not strictly necessary in these proceedings. There is agreement on the nature and purpose of the screening process which is well explained by Advocate General Sharpston in Case C-258/11 Sweetman at paras 47-49:

47 It follows that the possibility of there being a significant effect on the site will generate the need for an appropriate assessment for the purposes of Article 6(3). The requirement at this stage that the plan or project be likely to have a significant effect is thus a trigger for the obligation to carry out an appropriate assessment. There is no need to establish such an effect; it is, as Ireland observes, merely necessary to determine that there may be such an effect.

48 The requirement that the effect in question be ‘significant’ exists in order to lay down a de minimis threshold. Plans or projects that have no appreciable effect on the site are thereby excluded. If all plans or projects capable of having any effect whatsoever on the site were to be caught by Article 6(3), activities on or near the site would risk being impossible by reason of legislative overkill.

49 The threshold at the first stage of Article 6(3) is thus a very low one. It operates merely as a trigger, in order to determine whether an appropriate assessment must be undertaken on the implications of the plan or project for the conservation objectives of the site [...]

It is not legally possible for An Bord Pleanála to grant permission for this development without the submission of a Natura Impact Statement and an assessment as required under the decision in CJEU in Case C-258/11.

‘44 So far as concerns the assessment carried out under Article 6(3) of the Habitats Directive, it should be pointed out that it cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned (see, to this effect, Case C-404/09 Commission v Spain, paragraph 100 and the case-law cited). It is for the national court to establish whether the assessment of the implications for the site meets these requirements.’

7 PLANS AND POLICIES

1.1 The **Mayo County Development Plan 2014 – 2020** is the relevant policy document.

1.2 In Volume 1 'Written Statement', relevant provisions include:

Objectives to protect water quality and natural heritage

LP-01 It is an objective of the Council, through the *Landscape Appraisal of County Mayo*, to recognise and facilitate appropriate development in a manner that has regard to the character and sensitivity of the landscape and to ensure that development will not have a disproportionate effect on the existing or future character of a landscape in terms of location, design and visual prominence.

It is an objective of the Council to protect the unique landscape of the County which is a cultural, environmental and economic asset of inestimable value.

Views and Prospects

VP-01 It is an objective of the Council to ensure that development does not adversely interfere with views and prospects worthy of preservation and protection as outlined on Map 4, or on the views to and from places and features of natural beauty or interest (e.g. coastline, lakeshores, protected structures, important historic sites) when viewed from the public realm.

Highly scenic views are shown on map 4 of the CDP.

1.3 The **Landscape Appraisal for County Mayo** is a supporting document to the County Development Plan.

1.4 The subject site is located in an area within the South West Mountain Moorlands, where steep slopes, smooth terrain, upland moor type grasses/low vegetation, limit the ability to absorb development.

1.5 Areas Designated as Scenic Routes include the R335 from Westport to Aasleagh, and local road (L 1824) from Liscarney to Doo Lough.

1.6 Areas Designated as Highly Scenic Vistas include the R335 from Cregganbaun to Delphi (looking towards the Sheeffry Hills and Doo Lough), local road (L 1824) from Owenmore Bridge to Doo Lough (looking towards the Sheeffry Hills and Owenduff Lake).

- 1.7 New development should only be considered where it can be demonstrated that it does not obstruct or designate highly scenic vistas nor alter or degrade the character of the surrounding landscape.

8 ASSESSMENT

- 8.1 The issues which arise in relation to this development are: appropriate assessment, and visual amenity and the assessment is dealt with under those headings.

8.2 Appropriate Assessment Screening

- 8.3 In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision on the proposed development. The process is known as appropriate assessment. In this regard a guidance document 'Appropriate Assessment of Plans and Projects in Ireland' was published by the DoEH&LG on the 10 December 2009.

- 8.4 The nearest Natura Site is the Mweelrea/Sheeffry/Erriff Complex SAC (site code 001932) within which the site is located.

8.5 Conservation Objectives.

- 8.6 Conservation Objectives: to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected:

Annex I habitat(s)

Coastal lagoons [1150]

Annual vegetation of drift lines [1210]

Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]

Mediterranean salt meadows (*Juncetalia maritimi*) [1410]

Embryonic shifting dunes [2110]

Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) [2120]

Atlantic decalcified fixed dunes (*Calluno-Ulicetalia*) [2150]

Dunes with *Salix repens* ssp. *argentea* (*Salicion arenariae*) [2170]

Machairs (* in Ireland) [21A0]

Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]

Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]

Natural dystrophic lakes and ponds [3160]

Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]

Northern Atlantic wet heaths with Erica tetralix [4010]

European dry heaths [4030]

Alpine and Boreal heaths [4060]

Juniperus communis formations on heaths or calcareous grasslands [5130]

Blanket bogs (* if active bog) [7130]

Transition mires and quaking bogs [7140]

Depressions on peat substrates of the Rhynchosporion [7150]

Petrifying springs with tufa formation (Cratoneurion) [7220]

Alkaline fens [7230]

Calcareous rocky slopes with chasmophytic vegetation [8210]

Siliceous rocky slopes with chasmophytic vegetation [8220]

Annex II species

Geyer's Whorl Snail

Narrow-mouthed Whorl Snail

Freshwater Pearl Mussel

Salmon

Otter

Petalwort

Slender Naiad

- 8.7 According to the Site synopsis Doo Lough is included within the site and is a Dystrophic Lake; where the species Slender Naiad probably occurs and where Arctic Char has been recorded. According to the Council's ecologist Otter has been recorded on the eastern shore of Lough Doo. The Council's ecologist also notes the fact that the site is located in a margaritifera sensitive area. The appropriate assessment screening, first version, states that the most likely qualifying species which may occur on the site are Geyer's whorl snail and Narrow mouthed snail.

8.8 Nature of Development

- 8.9 The proposed development is the erection of a timber post and wire fence extending over 2km, with (intermediate) posts at 5m (max.) intervals and straining posts at 100m (max.) intervals. The intermediate posts will be 100mm diameter and 1800mm length of which 600mm will be sunk into the ground. Straining posts will be 175mm minimum diameter and 2.1m long. The wire will comprise 900mm high sheepwire with 1 strand of barbed wire on top. Where the fence is located on exposed rock, posts will be installed using stays. Three wire stays will be attached to the top of the post and the other end attached to the rock using 16mm anchor fixings drilled into the rock.
- 8.10 The screening for Appropriate Assessment refers to an observational and walkover study near the proposed site carried out on December 12th 2013 when much of the site was inaccessible due to dangerous conditions and bad weather, and no flora species were identifiable due to time of year. The screening for Appropriate Assessment Revised January 2015, relies on the same 2013 survey.
- 8.11 Neither the initial screening for appropriate assessment or the revised screening, submitted in response to the request for further information, include a field survey of the site.
- 8.12 The details do not indicate the number of personnel needed to carry out the work, the number of trips up and down the mountain that will be involved and what risk this might pose.
- 8.13 The evidence of many landslides is visible on both the southern and western slopes of the hill.
- 8.14 The time of year when work will be carried out and the possible impacts of access by personnel has not been detailed.
- 8.15 It should be noted that the map shown in the AA screening document differs from the application drawings. It should also be noted that the site location map scale 1:10,560 (or 6" = 1 mile) indicates that the site crosses the Glenummera River (probably a mapping error).
- 8.16 As noted previously in this report the site crosses streams north of the Glenummera River and crosses back and forth across a stream on the western slope of the mountain as well as several streams which flow under the regional road.
- 8.17 Conflicting details have been provided with regard to the method of construction of the fence: it is stated that there will be drilling/no drilling; spoil will be removed/spread on site.
- 8.18 Details of the proposed transport of materials by helicopter have not been given.
- 8.19 In addition to the foregoing, should the Board consider it appropriate to seek as further information a Natura Impact Statement the following should also be sought:

- Drawing(s) showing the site and surrounding land and capable of being interpreted against the background of natural features such as streams and rivers.
- The type of timber posts intended to be used and what measures are being taken to delay their decay.
- How streams will be crossed and the closest distance from the bank that posts will be placed.
- How crossings have been designed to avoid restricting watercourses?

8.20 The documentation necessary to allow the Board to carry out appropriate assessment is not available on this file.

8.21 Likely Significant Effects

8.22 Land slippage.

8.23 Soil erosion (the application states that the contrary is the objective).

8.24 Increased sediment in runoff during the construction phase.

8.25 Increased sediment in runoff, during the operational phase, arising as a result of changes in the movement of livestock on the mountainside, and potential increase in stocking density, (the application states that the contrary is the objective).

8.26 Impact on the morphology of the streams crossed by the proposed fence, and alterations in runoff in these streams.

8.27 Potential impact on species of interest which are dependent on the streams or the lake.

8.28 In-combination Effects

8.29 In-combination effects with agriculture are likely and have been considered and included in the foregoing.

8.30 Conclusion.

8.31 There are deficiencies in the documentation presented with the application such that it cannot be concluded that the project would not adversely affect the integrity of the European site in view of the site's Conservation Objectives.

8.32 On the basis of the information provided with the application and appeal, and in the absence of a Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European site No. 001932, in view

of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

8.33 Visual Impact

- 8.34 The reason for refusal by the planning authority is visual impact.
- 8.35 The site is in a very scenic area, bounded by roads where highly scenic views are protected in the County Development Plan. These slopes and ridgelines have been identified as sensitive in the Mayo Landscape Appraisal and the smooth terrain, upland moor type grasses/low vegetation, together with the steep slopes limit the sites ability to absorb development. The planners report states that the setting is *'one of the most visually dramatic and sensitive locations within the entire county and the beauty and uniqueness of the locations is in no small part down to the rugged, open and unspoilt nature of the landscape'*. The view of the landscape experienced from these roads includes a sense of wild, untamed nature, which would be impacted adversely by the proposed development.
- 8.36 On the southern slopes of the hillside the site is set back a distance from the road and the part of the site closest to the road is not steeply sloping, in addition there are similar fences, in the vicinity, although the proposed fence extends to higher elevations. I am not convinced that the proposed development would seriously detract from the view along this road.
- 8.37 On the western slopes of the hillside the site extends from the edge of the road and for a distance along the road and includes steeply sloping ground rising dramatically from the road and a rock face along part of the road. The section along the road would be most visible. Due to the curve in the road only occasional views of the fence running uphill would be seen along sections of the road. The fence would be highly visible from the lake and its western shore, but since there is no road or formal path on the opposite shoreline, these views are largely not available to the public.
- 8.38 I would have concerns that the length of fence along the public road would restrict the view and interfere with the nature of the view. I would also have concerns that other sections of fence on the hillside would change the nature of the view.
- 8.39 The application refers to the need to provide the fence in order to manage sheep on the mountainside, so that the landowner may make use of the land and so that the use of the adjoining commonage does not extend into this holding, with consequent overgrazing, which has allegedly had a damaging impact on the land.
- 8.40 If a more convincing argument was made regarding land management and natural heritage benefits of the proposed fence I would consider that the adverse visual impact should be offset against those benefits. However I do not consider that a convincing argument has been made and therefore the adverse impact on the views has not been justified. For this reason I support the planning authorities refusal reason.

9 RECOMMENDATION

- 9.1 In light of the foregoing assessment I recommend that planning permission should be refused for the following reasons and considerations.

REASONS AND CONSIDERATIONS

- 1 On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Mweelrea/Sheeffry/Erriff Complex SAC (European site No. 001932), in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.'
- 2 Due to its location on designated scenic routes and at a location which forms part of highly scenic views, as indicated on Map 4: 'Views and Prospects' of the Mayo County Development Plan 2014 – 2020, the proposed development, which would be visible from public roads, would contravene the objectives of the plan which seek to avoid development detrimental to the preservation of such views and accordingly the proposed development would be contrary to the proper planning and development of the area.

| | | Dolores McCague | Date |
|----------|---|---|-------------|
| | | Inspectorate | |
| Appendix | 1 | Map and Photographs | |
| Appendix | 2 | Copy extracts from Mayo County Development Plan 2014 – 2020 | |
| Appendix | 3 | Copy extracts from Landscape Appraisal for County Mayo | |
| Appendix | 4 | Conservation Objectives, and Site Synopsis for Mweelrea/Sheeffry/Erriff Complex SAC site code 001932. | |
| Appendix | 5 | Map of Margaritifera margaritifera sensitive areas. | |