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Bord  
Pleanála

## Inspector's Report PL07.246706

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<b>Development</b>	Design change to previous exempted development (ED12/01) and retention for the construction of additional parking/passing spaces.
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	16/122
<b>Applicant(s)</b>	Thomas Nee
<b>Type of Application</b>	3 <sup>rd</sup> v grant
<b>Planning Authority Decision</b>	Grant permission
<b>Appellant(s)</b>	Simon & Kate Kennedy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> September 2016
<b>Inspector</b>	Karla Mc Bride

## 1.0 **Site Location and Description**

The appeal site is located in NW Connemara in County Galway and c.7km to the W of Leenane. The surrounding area is rural in character and the remote site and surrounding lands slope steeply down to Killary Harbour. Access to the site is off the R59 road between Leenane and Letterfrack and via a narrow local road (L-51022) which runs N across a bog and then NW towards the appeal site. The site is occupied by a small agricultural shed with paddocks/sheep pens to the rear and side, and a parking turning area to the N along with three small parking and passing areas along the road. The surrounding area is sparsely populated, there is a house located uphill and to the SE of the site and the surrounding lands are used for sheep grazing whilst a nearby section of Killary Harbour contains a mussel farm.

## 2.0 **Proposed Development**

Planning permission is being sought to change the design of a previously exempted development (ED12/01) and to retain the additional car parking/turning areas. The application was accompanied by an AA Screening report.

## 3.0 **Planning Authority Decision**

### 3.1. **Decision**

Following the receipt of further information in relation to revised drawings, management of the parking areas and access roads, and surface water management, planning permission was granted subject to 5 standard conditions.

This decision reflects the report and recommendation of the County Planning Officer.

### 3.2. Other Technical Reports

No interdepartmental or other reports attached.

### 3.3. Third Party Observations

One observation received from Simon & Kate Kennedy who raised concerns in relation to the shared access arrangements along the local road.

### 4.0 Planning History

**ED12/01:** The proposed construction of a shed and sheep pens with modifications to existing shed at Bunowen was deemed to constitute exempt development within the meaning of Article 6, Classes 8 & 9 of Part 3 of Schedule 2 of the Planning & Development Regulations, 2001 to 2011, and within the meaning of Section 3 of the Planning & Development Act, 2000-2010.

### 5.0 Policy Context

#### ***EU Habitats Directive (92/43/EEC)***

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

## 6.0 Development Plan

The site is located within a rural area covered by the Galway County Development Plan 2015-2021 and the following policies, objectives and standards apply.

*Landscape classification:* Site located within a Class 4 high sensitivity landscape.

*Protected views:* The site is located within a protected focal point/view.

*Flood risk:* The site is not located within a Flood Risk Area.

## 7.0 Natural Heritage Designations

Site is located adjacent to Twelve Ben/Garraun Complex SAC (002031) and NHA

## 8.0 The Appeal

### 8.1. Grounds of Appeal

One Third Party appeal received from Simon & Kate Kennedy who raised the following concerns in relation to the shared access arrangements:

- The appellants own the adjacent lands (Folio GY27769) to the appeal site which are occupied by their house and business (sheep farm & mussel farm).
- Access to the site is via the local road and a section of road that the applicant (Mr Nee) has a right-of-way over.
- There are reciprocal agreements with the applicant in relation to rights of way and some of these need to be clarified.
- The road is also used by a small number of landowners, tourists and walkers.

- The road is very narrow with a maximum weight restriction of 3 tonnes, traffic problems have arisen and a crane was recently derailed.
- The proposed use of the road for the applicant's commercial development as well as the existing commercial developments (fish farm & other uses), will require further lay-bys within the applicant's lands and along the local road.
- Although the proposal would help alleviate the problems, the overall approach is not adequate and more work is needed to alleviate the traffic problems and accommodate future developments.
- The appellants have used the access road since the 1990s, they have contributed to the cost its maintenance, and have all necessary permits, and they are engaged in ongoing discussions with applicant.
- The site is surrounded by the Twelve Bens /Garraun Complex SAC and the proposed works should take account of this designation.

## 8.2. First Party response

The applicant submitted the following response:

- The applicant's folio (GY10729F) does contain a right of way along the road but he is not aware of any reciprocal arrangements that need to be clarified.
- The single width of the L-51022 off the N59 is similar to other minor rural roads, drivers co-operate when vehicles approach each other and the proposed lay-bys will help improve matters.
- The crane derailment occurred along the L-51022 and not along the section of road that runs over the applicant's lands.
- The L-51022 is used by local residents, farmers, tourists, visitors to the applicant's sheep farm and commercial traffic to the appellant's fish farm and the county owned road is not the applicant's responsibility.

- The applicant's right of way extends for c.1km and the application relates to a c.130m stretch which includes 3 roadside parking/passing places adjacent to the already approved main parking area (ED12/01), all of which will improve facilities for vehicles.
- The applicant has not been a party to any previous correspondence relating to traffic problems although the proposal will reduce any such problems.
- The appellants have no objection to the proposal but seek clarification and formal agreements in relation to reciprocal rights of way in relation to:
  - A folio boundary error
  - Rights of way and funding of road resurfacing
  - Agreement relating to rights of way and lay-by/parking bays
- Previous resurfacing works are not relevant.
- The applicant has no plans to carry out further development.

### 8.3. **Planning Authority Response**

No response received.

### 8.4. **Observations**

No observations received.

## 9.0 **Assessment**

### 9.1. ***Identification of key issues***

I consider the key issues in determining this appeal are as follows:

- Principle of development
- Visual amenity
- Roads and access
- Appropriate Assessment

### 9.2. ***Principle of development***

The proposed development would be located within a rural area covered by the Galway County Development Plan 2015-2021 and it would form part of an existing sheep farm complex. The proposed design change to the previous exempted development (ED12/01) and retention of additional parking and passing spaces would therefore be acceptable in principle.

### 9.3. ***Visual amenity***

The existing shed and sheep pens are located along a local road that runs parallel to Killary Harbour. The site is located in a designated Class 4 landscape which is designated as “Special” with a value rating of “Outstanding” and is immediately adjacent to a Class 5 “Unique” landscape with a landscape rating of “Outstanding.”. The site is also located within the line of a protected focal point /view.

The construction of the lean-to shed and sheep pens with modifications to the existing shed was deemed to constitute exempt development ED12/01 by the planning authority in April 2012. The referral site also included a triangular shaped parking and turning area to the immediate N of the shed and the sheep pens were located to the immediate S. The existing shed was c.141sq.m and the turning area was c.180sq.m.

The development proposed for retention comprises a modified door to the existing shed, a small storage shed (c.13.5sq.m) along the front elevation and a paddock/sheep pen (c.73sq.m.) to the rear of the existing shed. The works also include an enlarged car parking and turning area (from c.180sq.m. to c.255sq.m) and three additional car parking turning areas located on either side of the access road (c.100sq.m, 132sq.m and 140sq.m.). The modifications have had no discernible impact on the visual amenities of the Class 4 Landscape or protected focal point/view area and are considered to be acceptable.

#### 9.4. **Roads and access**

Vehicular access to the site is off the R59 road between Leenane and Letterfrack and via a narrow local road (L-51022) which runs N across a bog and then NW towards the appeal site. A c.1km section of the local road runs through the lands owned by the applicant who has an established right of way to use the road, and this road is also used by other residents and rural businesses in the vicinity. The appeal site comprises a c.130m stretch of the road and the applicant is seeking permission to retain an enlarged parking area to the immediate N of the shed along with three small parking/turning/passing areas (c.100sq.m to 140sq.m.) located on either of the road within the applicant's land ownership.



The appellant raised traffic hazard concerns in relation to the narrow width of the road, the 3 tonne weight restriction and the use of the road by neighbouring residents, rural businesses and tourists, as well as ongoing maintenance of the road. It is noted that Galway County Council are responsible for enforcing the 3 tonne weigh restriction and maintaining the council owned section of the local road whilst the applicant (and some of the neighbouring residents) have carried out repairs to the section that traverses the applicant's land holding. The parking/turning/passing areas have a rough gravel surface however they make a positive contribution to traffic management as they allow for vehicles to pass each other safely along this section of the road which is located within a steeply sloping mountainside.

The concerns raised in relation to rights of way and the need for additional passing/turning areas along other sections of the local road are noted however the consideration of these concerns fall outside the Board's remit.

#### 9.5. ***Appropriate Assessment***

There are several European sites located within a 15km radius of the proposed development and the applicant submitted an Appropriate Assessment Screening Report. The report described the proposed development and its location, it identified the relevant European Site as being the Twelve Bens/Garraun Complex SAC (site code: 002031) to the immediate N, E and S of the appeal site and it listed the Qualifying Interests and Conservation Objectives. The report identified the main project elements and described any likely impacts of the project (alone or in combination with other plans or projects) on the SAC. The report concluded that the project would not have any significant negative effects on the SAC, either individually or in combination with any other projects.

The Twelve Bens/Garraun Complex SAC (site code:002031) is situated in the NW of Connemara in Co. Galway and is dominated by mountainous terrain. The SAC site is bounded to the S by the Connemara Bog Complex, to the E by the Maumturk Mountains and to the N by Killary Harbour. The site includes the Twelve Bens mountain range, the mountains to the N of Kylemore, rivers including the Ballynahinch and Owenglin systems, and an area of coastal heath and machair near Glassilaun. The site also includes some extensive tracts of lowland blanket bog which are continuous with the mountains.

The Conservation Objective seeks 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 and the long list of Qualifying Interests include a variety of terrestrial and aquatic habitats, and plants and animal species.

Having regard to the small scale of the development proposed for retention, I am satisfied that the works have not have a direct or indirect adverse effect on the integrity of the Twelve Bens/Garraun Complex SAC. There are no other proposed plans and projects in the surrounding area and therefore no in-combination effects are predicted. The development proposed for retention would be located within the confines of an existing sheep farm however given the size of the existing shed and sheep pens and the scale of the proposed works I am satisfied that any cumulative effects would not be significant, provided that the proposal is retained and operated in accordance with all relevant specifications.

I am satisfied that the proposed development would not have any adverse in-combination or cumulative effects on the integrity of the Twelve Bens/Garraun Complex SAC or its conservation objectives, or any other European sites in the wider area. A Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

#### 9.6. ***Other issues***

The drainage arrangements are acceptable subject to compliance with the requirements of Irish Water and the planning authority in relation to surface water run-off, and the development proposed for retention would not have an adverse impact on the amenities of any nearby houses.

#### 10.0 **Recommendation**

I recommend that planning permission should be granted, subject to conditions, as set out below.

#### 11.0 **Reasons and Considerations**

Having regard to the provisions of the County Galway Development Plan 2015-2021, and to the nature and scale of the development proposed for retention and to the pattern of development in the area, it is considered that subject to compliance with the following conditions, the development proposed for retention would not seriously injure the amenities of the area or of property in the vicinity. The development proposed for retention would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 Conditions

1. The development shall be completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity

2. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of Irish Water and the planning authority for such works and services including:
  - a. The development shall not impact existing land or road drainage.
  - b. The existing 300mm diameter perforated uPVC land drain pipe to take rainwater run-off from the mountain shall be maintained in good working order at all times and shall be repaired or replaced if damaged.

**Reason:** In the interest of environmental protection and public health.

3. The shed, sheep pens and car parking areas shall be solely used for agricultural related activities.

**Reason:** In the interest of the proper planning and sustainable development of the area.

4. The existing access road and parking/turning/passing bays located within the boundaries of the site shall be maintained free from external storage of materials or the permanent parking of vehicles, and shall be kept in a tidy and well maintained condition at all times. All costs of maintenance work shall be at the developer's expense.

**Reason:** In the interest of the proper planning and sustainable development of the area.

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Karla Mc Bride

Senior Planning Inspector

29<sup>th</sup> September 2016