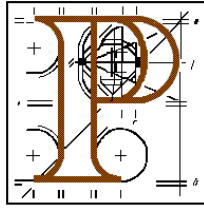


# An Bord Pleanála



## Inspector's Report

**PL05. 246747**

**DEVELOPMENT:** Post and wire fence for sheep  
**ADDRESS:** Meenacurrin, Glencolumbcille, Co. Donegal

### PLANNING APPLICATION

**Planning Authority:** Donegal County Council  
**Planning Authority Reg. No.:** 16/50401  
**Applicant:** Patrick Heenan  
**Application Type:** Permission  
**Planning Authority Decision:** Grant permission subject to condition

### APPEAL

**Appellant:** An Taisce  
**Type of Appeal:** 3<sup>rd</sup> party vs. grant  
**Observers:** None  
**DATE OF SITE INSPECTION:** 18<sup>th</sup> August 2016  
**INSPECTOR:** Stephen J. O'Sullivan

## **1.0 INTRODUCTION**

- 1.1 This report deals with a third party appeal against a decision by Donegal County Council to grant permission for a sheep fence in an SAC.

## **2.0 SITE**

- 2.1 The site is in an upland area c11km east of Glencolumbcille and c11km west of Ardara, Co. Donegal. It crosses the eastern slope of Slieve Tooey, whose peak is 472mOD, and the north-western slope of Meenacurrin, whose peak is at 511mOD, via the shore of the corrie at Lough Croaghballaghdown, which is at 192mOD. The landcover is a mosaic of bog and heath. The land slopes down the sea c2km to the north. There are no roads or houses on that side of the site. The valley c2km to the south is inhabited.

## **3.0 PROPOSAL**

- 3.1 It is proposed to erect a fence for a length of c2km. It would link with existing fences at both ends and so enclose an area of c214ha. The post and wire fence would be 0.9m high. The timber posts would be c1.8m apart.

## **4.0 POLICY**

- 4.1 The Donegal County Development Plan 2012-2018 applies. The site is within a designated Area of Especially High Scenic Amenity. Policy NH-P-10 is to protect these landscapes. Objective NH-O-8 is to protect the landscape and the amenities of places of natural beauty or interest. Objective TOU-O-8 is to recognise the importance of walking routes that give access to places of natural beauty and recreational utility, including those specified in table 34 and map 10 of the plan.
- 4.2 The site is in the SAC for Slieve Toomey/Tomore Island/Loughros Beg Bay site code 000190. The conservation objectives for that SAC refer *inter alia* to the priority habitat of active blanket bog, and to boreal and subalpine heath.

## **5.0 HISTORY**

- 5.1 Reg. Ref. 13/50764 – the planning authority granted permission on 25<sup>th</sup> July 2013 for fencing on the applicant's land, one end of which would meet the fence proposed in the current application.

## **6.0 DECISION**

6.1 The planning authority decided to grant permission subject to 4 conditions. Condition no. 2 required the use of low impact machinery and other measures to minimise erosion and damage to vegetation. Condition no. 3 required waste and surplus material to be removed following completion of development. Condition no. 4 prohibited the storage of fuel or the refuelling of vehicles in the SAC.

## **7.0 REPORTS TO THE PLANNING AUTHORITY**

7.1 An Taisce – The Department of Agriculture’s minimum specifications for farm fencing should be followed. The NPWS ranger should be consulted regarding design and construction measures to avoid soil compaction from heavy machinery and impacts on the movement of wildlife.

7.2 Department of Arts, Heritage and the Gaeltacht – mitigation measures should be required by condition.

7.3 AA Screening Report – The development will help to control overgrazing. It can be built without the use of heavy machinery and would not cause emissions. Likely significant effects on the SAC individually or in combination with other plans or projects can be excluded on the basis of objective scientific evidence, so an appropriate assessment is not required.

7.4 Planner’s report – The low fence in an expansive landscape will not have a detrimental impact on the landscape. The land is not on the Sli Cholmcille Trail and the fence would be scalable by hill walkers, so it would not have a negative impact on tourism. The submitted report entitled *Natura Impact Assessment* is reviewed, as is the advice of the NPWS. The proposed development would not contravene the provisions of the development plan and a grant of permission was recommended. .

## **8.0 GROUNDS OF APPEAL**

8.1 The grounds of appeal can be summarised as follows-

- The fence would be in an Area of Especially High Scenic Amenity designated in the development plan. A fence of the proposed scale and extent would be a visually intrusive and unsympathetic element in an elevated landscape and would contravene the provisions of the development plan, in particular policy NH-P-10.

- The traditional open character of the upland commonage would be undermined by the proposed fence which would detract from the amenities of the landscape. It would undermine and fail to give access to the mountains or other places of natural beauty or other places of natural beauty or recreational utility around the northern half of the Slieve League peninsula. The planning authority did not assess the proposal with regard to future walking routes. The development would be contrary to the objectives of the development plan including TOU-O-8 and NH-O-8.
- There is no justification for agricultural or livestock fencing at this location. Sheep have traditionally grazed unfenced commonage. The proposal will hive off part of the bog and compromise the landscape. The site is currently unable to absorb the fencing without detracting from the landscape's character. The development is not essential to the viability of the farm and does not comply with best practice.
- The development is within an SAC whose conservation objectives refer to Alpine and Subalpine Heaths and the priority habitat of Blanket Bogs (Active). The development could destabilize the ground and erode the peat as a result of overgrazing of sheep in the enclosed area. Inadequate information was submitted to allow an appropriate assessment in relation to the cumulative impact of a proliferation of fencing to conclude that the integrity of the Natura 2000 site would not be impacted upon.

## **9.0 RESPONSES**

9.1 The planning authority's response can be summarised as follows-

- The low fence of post and wire would be in an expansive upland bog landscape. It will not have a negative impact on the designated area of Especially High Scenic Amenity. It would not be contrary to policy NH-P-10 of the development plan.
- The fence would not cross any walking routes identified in the development plan and access points would be left for walkers. Such a low fence could be scaled by hill walkers. It would not be contrary to policies T-P-40 or TOU-O-8 of the development plan.

- There is a reasonable justification for the development which is to facilitate rotational grazing of lands maintained under the Department of Agriculture's GAEC scheme.
- The development would prevent overgrazing and construction would not involve the use of heavy machinery. The planning authority was therefore able to conclude that an appropriate assessment of the development was not required.

9.2 The applicant's response can be summarised as follows

- The site of the development is not commonage. It is owned and farmed by the applicant. There is already fencing in the area that was erected before the rules on Special Areas of Conservation.
- The appeal is not consistent with the appellant's submission to the planning authority, which expressed concerns about construction methods rather than a desire to have the land left as open commonage. The former was also the concern of the NPWS. The conditions of the planning authority's decision would protect the site during construction in line with the advice from the NPWS.
- The development is required to properly manage farm activities. The land is adjacent to open commonage and is subject to trespass from other stock that could lead to overgrazing. Straying of stock also gives rise to concerns regarding health and safety, breeding and transmission of disease, and could cause disputes with neighbours. The scheme for payment from the Department of Agriculture requires lands to be managed and owned by the farmer. Commonage is not eligible. Such management requires stock control and fencing. The walking routes in the area do not cross the site.

## 10.0 APPROPRIATE ASSESSMENT

10.1 The application was accompanied by a document entitled 'Natura Impact Assessment' which refers to a project for enclosure by fencing that includes the proposed development. It states that it is not envisaged that the proposed works will impact significantly on the site.

10.2 The conservation objectives for the SAC at Slieve Toomey/Tomore Island/Loughros Beg Bay site code 000190 are to maintain the favourable conservation condition of the following habitats –

1230 Vegetated sea cliffs of the Atlantic and Baltic coasts

2110 Embryonic shifting dunes

2140 Decalcified fixed dunes with *Empetrum nigrum*

2150 Atlantic decalcified fixed dunes

and to restore the favourable conservation condition of the following habitats –

2120 Shifting dunes along the shoreline with *Ammophila arenaria*

4060 Alpine and Boreal heath

7130 Blanket bogs

and to maintain the favourable conservation condition of the following species –

1014 Narrow-mouthed Whorl Snail *Vertigo angustior*

1355 Otter *lutra lutra*

1364 Grey Seal *Halichoerus grypus*

10.3 The proposed development would not be in the vicinity of any of the above habitats or species except for 4060 Alpine and Boreal heath and 7130 Blanket bogs. Given the location of the proposed development; the limited groundworks that would involve; the absence of any new landuse activity associated with it; the absence of emissions from it; and the drainage regime in the area, which consists of the very fast runoff of a high level of rainfall along the surface or via shifting channels and bog pipes to the corrie, the proposed development would not be likely to have significant downstream effects on any of the other species or habitats that are the subject to the conservation objectives of the SAC, either individually or in combination with any other plan or project.

10.4 The grazing of sheep is an established activity on this part of the SAC. Excessive or poorly managed grazing could pose a threat to the achievement of the conservation objectives of the SAC with regard to bog and heath habitats by diminishing the vegetation cover to an extent that would leave the habitats vulnerable to erosion. The proposed development would not introduce such activity into the SAC, but it would provide a means whereby it can be more closely controlled. As stated in the assessment report submitted with the application, the use of the site by the applicant to graze sheep is subject to control under the payment schemes in which he participates. The assessment report specifies a stocking rate of less than 0.15 per ha. with the applicant grazing a flock of 70 ewes on the land, as has occurred for several years. The presence of the proposed fence would facilitate the maintenance of a stable and sustainable number of sheep on the site, which would be in keeping with the conservation objectives of the SAC that refer to bog and heath habitats.

10.5 The submitted assessment report specifies that the proposed fence would be installed manually as the topography of the site precludes the use of heavy machinery. This would avoid any significant effects on the bog and heath during the carrying out of the proposed development. The installation of the fence posts would involve only minor disturbance to the ground and it would not be likely to have significant effects on the relevant habitats either directly or indirectly through any effect on drainage or pathways for water flow. It was noted at the time of inspection that erosion or preferential flow paths had not occurred at the location of existing fences in the area that are similar in form to the proposed fence and which were erected on similar ground. Therefore neither the construction nor the presence of the proposed fence would have significant effects on the habitats or species that are cited in the conservation objectives of the SAC in which it would stand.

10.6 The proposed fence would be 1.4km from the West Donegal Coast SPA sitecode 004150. Its conservation objective is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

A009 Fulmar *Fulmarus glacialis*  
A017 Cormorant *Phalacrocorax carbo*  
A018 Shag *Phalacrocorax aristotelis*  
A103 Peregrine *Falco peregrinus*  
A184 Herring Gull *Larus argentatus*  
A188 Kittiwake *Rissa tridactyla*  
A200 Razorbill *Alca torda*

The proposed development would not be likely to have any significant effect that would have implications for the achievement of that objective.

10.7 It is therefore reasonable to conclude that, on the basis of the information available on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 000190, or any other European site, in view of the site's conservation objectives, and a stage 2 appropriate assessment is not required. This conclusion is consistent with the advice on the proposed development which the Department of Arts, Heritage and the Gaeltacht gave to the planning authority.

## **11.0 ASSESSMENT OF OTHER ISSUES**

11.1 There are several existing fences in the vicinity of the site that are of the same size and type as that proposed in this application. The proposed development would not be a novel or unprecedented feature in relation to sheep farming in this area. The existing fences on the seaward slope of the mountains have a very limited visual impact in such an expansive and hilly landscape, and are barely discernible at a distance of more than a couple of hundred metres. In this context, the proposed development would not affect the character of the landscape or its scenic amenities. It would not be an unsympathetic element in an Area of Especially High Scenic Amenity and would not contravene the provisions of the development that relate to such areas, including policy NH-P-10.

11.2 A waymarked walking route, the *Slí Cholmille*, runs along the valley to the south of the site. It crosses fences similar to that proposed one using stiles. The development plan does not designate any walking routes or public rights of way that would be affected by the proposed fence. However if such routes were to be planned in the future, they could be adequately accommodated by crossing the proposed fence using the same type of stile that the existing walking routes use to cross the existing fences in the area. The proposed development would not, therefore, detract from the recreational amenities of the area or its potential for tourism. It would not contravene the provisions of the development plan in this regard, including objectives TOU-O-8 or NH-O-8.



## **12.0 CONCLUSION**

12.1 The proposed development would be in keeping with the established use of the site for sheep grazing. It would be similar to other fences in the area. It would not be likely to have a significant effect on the SAC in which it would stand, or on any other European site. The proposed development would not have a negative impact on the scenic character of the area, or upon its potential for recreational use. It would therefore be in keeping with the proper planning and sustainable development of the area.

## **13.0 RECOMMENDATION**

13.1 I recommend that the permission be granted for the reasons and considerations and subject to the conditions set out below.

## REASONS AND CONSIDERATIONS

The proposed development would be in keeping with the established use of the site for the grazing of sheep. Subject to compliance with the conditions set out below, the proposed development would not injure the scenic character of the area, its potential for recreational amenity or its natural heritage. The proposed development would therefore be in keeping with the proper planning and sustainable development of the area.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on European site No. 000190, or any other European site, in view of the site's conservation objectives.

## CONDITIONS

1. The development shall be carried out and 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 condition.

**Reason:** In the interest of clarity.

2. The development shall be carried out in accordance with the methods described in the document that was submitted with the application entitled 'Natura Impact Assessment'. In particular the authorised fence shall be erected manually. Only low impact machinery may be used and all appropriate measures shall be carried out to minimise erosion and damage to vegetation during construction. All waste and surplus material shall be removed from the site following construction, and the storage of fuel or refuelling shall not be undertaken on the site.

**Reason:** To protect the natural heritage of the area and support the conservation objectives of the Special Area of Conservation in which the site lies.

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Stephen J. O'Sullivan  
22<sup>nd</sup> August 2016