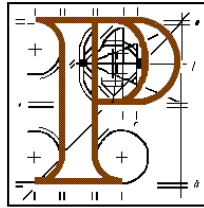


# An Bord Pleanála



## Inspector's Report

**Development:** Retention of sheds currently in use as a vegetable preparation and distribution agribusiness and permission for a new septic tank and all associated site works.

**Location:** Carrowreagh, Dromard, Co. Sligo.

### Planning Application

Planning Authority: Sligo County Council

Planning Authority Reg. Ref.: 16/151

Applicant: Joe Kelly

Type of Application: Permission

Planning Authority Decision: Grant Permission

### Planning Appeal

Appellants: An Taisce

Type of Appeals: 3<sup>rd</sup> v Grant

Date of Site Inspection: 27<sup>th</sup> August 2016

Inspector: Dolores McCague

## **1 SITE LOCATION AND DESCRIPTION**

- 1.1 The site is located on a tertiary local road at Carrowreagh, Dromard, Co. Sligo close to the Atlantic coast, approx. 1 ½ km from a primary local road and approx. 3km from the N59. Another minor road runs to the west but continues to the rear of the site as a laneway only. A clachan once existed along this roadway, shown on the historic six inch mapping for the area surveyed, 1837-1842; at the time the 25 inch survey, 1888–1913, it had largely disappeared.
- 1.2 The site is located in a rural area characterised mainly by farmhouses and small farms.
- 1.3 The site comprises a dwelling and sheds and a small area of agricultural land. Other agricultural lands in the same ownership are indicated on drawings submitted. Some of the sheds are in agricultural use, most are used for the commercial use carried out on site: preparation, storage and distribution of vegetables; and fruit distribution. These appear to be the main activities. Machines for washing, trimming and slicing vegetables and machines for packaging fruit and vegetables were in place on the date of inspection.
- 1.4 Recently constructed underground holding tanks to the south of the site and an underground holding tank to the rear of the building, are used for the storage of organic waste from the operation.
- 1.5 The site is given as 1.47ha.

## **2 PROPOSED DEVELOPMENT**

- 2.1 The proposed development is the retention of sheds of 570 sq m currently in use as a vegetable preparation and distribution agribusiness; and permission for the provision of a new septic tank, landscaping works and all associated works.

## **3 PLANNING AUTHORITY DECISION**

- 3.1 The planning application was made on the 21<sup>st</sup> April 2016.
- 3.2 The application includes a planning report from Cunnane Stratton Reynolds, Land Planning & Design. It refers to part of the Board's refusal

reason ‘thereby preserving the rural areas mainly for agriculture and selected tourism and recreation uses’: that the Inspector’s report may have unduly coloured their decision. It references the Inspector’s report which refers to Development Plan Policy ‘to manage development in the Sligo Subregion: a rural area under urban influence’. It quotes the section of the Development Plan 3.2.2 from which the extract was taken, and states that although it refers to housing it can equally be applied to other development. This is a policy for the Sligo Subregion – the immediate hinterland of the gateway. It points out that this area is in a Rural Area in Need of Regeneration. Figure 1 of the submission shows these areas on map and identifies the location of the site.

- 3.3 It refers to the inspector’s report where it states that ‘the Development Plan seeks to channel development into settlements where it will make a greater contribution to the vitality of the county and where infrastructure and services are available’, which it states is an interpretation of Scenario 3, the preferred scenario on foot of the SEA. It would be a mistake in their view to interpret the adoption of Scenario 3 as a policy per se to prohibit development such as that proposed. It is clear that appropriate developments of a suitable scale in rural areas will be considered on their merits.
- 3.4 The inspector’s reference to the business as largely distribution and importation is a fundamental misinterpretation of the nature of the business.
- 3.5 The subject shed to the rear, of more recent construction, is used for the cleaning and initial preparation of vegetables. The overall development comprises three connected sheds with pitched roofs to the north of the cattle crush and slatted shed. Each shed contains a distinct aspect of vegetable preparation and distribution process: dirty area, clean area and dispatch area. The business is largely confined to the preparation and distribution of vegetables, and fruit constitutes a very small amount of the produce received, prepared and distributed.
- 3.6 The cleaning and peeling machine in the dirty area generates grey water and vegetable peelings. This is settled and filtered with the peelings removed, compressed and used as a cattle feed. The filtered effluent is stored in underground tanks before use as a fertiliser. Storage capacity is sufficient to avoid spreading in the prohibited period.
- 3.7 The premises shares a septic tank with the family home. Since its performance can’t be certified, it is proposed to decommission the existing tank and replace it with a new septic tank.
- 3.8 The sheds are of similar height to the dwelling and will be painted ‘window grey’ to blend with the predominant background colour of the sky. Careful landscaping works are proposed.

- 3.9 National and Regional policy compliance is cited. The Sligo County Development Plan 2011-2017 is cited in relation to compliance.
- 3.10 The planning merits of the development are outlined, including: the agri-food sector is the nation's largest indigenous industry, currently employing 163,000 people, 8.4% of total employment.
- 3.11 A report from NRB Consulting Engineers titled 'Operational Traffic Management Plan' is attached to the application. It includes:
- They undertook a radar survey of the ambient speed of traffic using the local road serving the site in order to establish the sightline requirement. The survey confirmed that the 85% traffic speed along the local road is less than 50kph, as expected. In accordance with the NRAs TD41/42 Design Guidance the site access sightline is 2.4m x 70m and this can and will be provided.
- There have been no accidents associated with employees or business related vehicles. There were no reported accidents on local non-national roads.
- The business results in a total maximum of 10 vehicular trips each way per day on the local roads. There will not be any problems with the continued safe operation of the business in terms of road network safety and capacity.
- 3.12 A site characterisation report from DB Consulting Engineers in connection with the proposed septic tank system is attached to the application. Photographs of the trade effluent holding tank are included with the report.
- 3.13 A letter from David Byrne, Ballygawley Co Sligo attached to the application states that he has been supplying Joe Kelly, Fruit and Vegetable Processor with fresh vegetable produce for the past six years.

### **Technical Reports**

- 3.14 Area Engineer Enniscrone – 28<sup>th</sup> April 2016. – recommending conditions.
- 3.15 Environmental Services - 12/5/16 – Section 12 notice issued under LG Water Pollution Act 1977 on 3-10-2013, to address the collection, storage and management of trade effluent generated on site. Proposals were submitted to install two additional slatted storage tanks on site. The proposals submitted were approved by the Environment Section following discussion of the issue with Planning Enforcement and the area planner. The tanks were installed and follow up inspections carried out.

In addition the S12 notice required the company to prepare a nutrient management plan relating to the land-spreading of trade effluent generated on site. The nutrient management plan was prepared by an

agricultural consultant and submitted to the Environment Section. Compliance with the notice issued was achieved.

It is considered that the premises has adequate capacity to collect and store the volumes of trade effluent arising from vegetable washing facilities on site.

Recommending conditions.

- 3.16 Planning report 30/5/16 – includes reference to report from Irish Water – the development has an existing commercial supply charged by Veolia Ltd.

Habitats Assessment – screening- having regard to the nature and scale of the proposed development and its remove from the EU designated sites in the Natura 2000 network it is considered that the proposed development on its own or in combination with other projects will not have any impact on such sites and accordingly, that Appropriate Assessment is not required.

### **3.17 Prescribed Bodies**

- 3.18 An Taisce – 24<sup>th</sup> May 2016 – this is a repeat application. Noting previous refusal an evaluation is required that demonstrates that all issues have been resolved which determined the site unsuitable previously.

- 3.19 The planning authority decided to grant permission, 3<sup>rd</sup> June 2016 subject to 17 conditions.

- 3.20 The decision was in accordance with the planning recommendation.

## **4 PLANNING HISTORY**

PI 21.244984, PA Reg Ref 15/102 Retention of a 570sq m shed currently in use as a fruit and vegetable distribution business and provision of a new septic tank. The Board decided to refuse permission for retention for the following reason:

Having regard to the policies contained in the Sligo County Development Plan 2011-2017, specifically those relating to Economic Development (Chapter 4) and Development Management Standards (Chapter 12), wherein it is noted that while support is voiced for small-scale industrial and enterprise activities it states that, development should, in general, be channelled into appropriately zoned lands in Sligo Town – a Gateway Town - and in supporting towns and villages where it will make a greater

contribution to the vitality of the county and wherein infrastructure and services are available, thereby preserving the rural areas mainly for agriculture and selected tourism and recreation uses. It is considered that the development proposed to be retained and the proposed development would contravene these policies by reason of the nature and scale of the proposal, the potential presented for traffic congestion and hazard on narrow rural roads and due to the incongruous quasi-industrial appearance of the structures to be retained which are obtrusive in this visually sensitive and scenic coastal location. Accordingly, it is considered that the development proposed to be retained and the proposed development would interfere with the character of the landscape and would endanger public safety by reason of traffic hazard. The development proposed to be retained and the proposed development would be contrary to the proper planning and sustainable development of the area.

Per Planner's report:

PL84 -13476 permission granted for a dwelling house on the site.

Enforcement – 002081 – case closed – this enforcement file related to the dwelling house on the site.

Enforcement – 001442 – a warning letter was issued in 2010 in relation to the construction of sheds, the carrying out of commercial activity /warehousing and the installation of a mobile home on land. An Enforcement Notice was served on Mr Kelly in August 2012. The enforcement required Mr Kelly to remove a lean to shed, pallets and other debris from the site and to restore the land to its condition prior to the commencement of the development as far as is practicable. A further warning letter was issued to Mr Kelly on the 19<sup>th</sup> May 2014 in relation to the carrying out of unauthorised works to two sheds and the use of these two sheds for commercial purposes. Any further enforcement action was suspended pending the outcome of a planning application.

## **5 GROUND'S OF APPEAL**

- 5.1 An appeal against the decision of the planning authority to grant permission has been made by An Taisce.
- 5.2 The grounds includes:
- 5.3 The enforcement history and planning history is outlined and the Board's previous reason for refusal cited.
- 5.4 The current application is a direct repeat application to the previously refused.

- 5.5 An Taisce lists as concerns: site justification, traffic and access, and planning history. An Taisce supports sustainable enterprise in rural Ireland and would promote tourism and local economic development, however it is submitted that the proposed development lacks justification for the subject site in an unserviced rural area.
- 5.6 The circumstances of the site, surrounding environment and site activity remain unchanged from the previous application, which was refused and the development should not have been considered by the Council to be an appropriate development on the site.
- 5.7 An Taisce notes the preplanning meeting and the comments made by the Senior Planner that ABP has clearly concluded that the business would be more appropriately located within a village/town.
- 5.8 The site is located approx. 1 mile off the coast road L2204 on a local road L6201. The coast road, in proximity to the site is a designated scenic route.
- 5.9 The road network leading to this development is substandard in width and inadequate to cater for HGV movement required for the activities on site. Vehicle manoeuvres have the potential to create a serious traffic hazard. The width of the area where U turns are required to be carried out has been omitted. The turning area is further reduced when vehicles are parked on site; they note the photographs in the planners report in this regard. They request the Board to examine the dimensions of the site in order to determine whether or not there is sufficient room for HGV U turns, without having to exit in reverse.
- 5.10 Road safety issues would contravene section 8.3.2 of the Sligo County Development Plan.
- 5.11 A previous refusal 15/41 Carrowcardin, Enniscrone, on local road L-6303-0 is cited. The refusal by Sligo County Council on three grounds including traffic hazard, and the subsequent Board refusal included traffic hazard; which they wish the Board to consider in this case. The previous grounds for refusal still stand.
- 5.12 No action has been taken on foot of the Board's previous refusal. The Board's decision has been undermined by this decision to grant. The proposed development would set an undesirable precedent for expansion of unauthorised development.

## **6 RESPONSES**

### **6.1 The Planning Authority**

6.2 The Planning Authority has responded to the grounds the appeal, stating

that it has no observations to make.

### **6.3 First Party Response**

6.4 A response to the grounds of appeal has been submitted by Cunnane Stratton Reynolds, Land Planning & Design, consultants on behalf of the first party.

6.5 The response includes:

6.6 The business is long established. It employs 10 people. There has been significant investment in the premises. Refusal of permission would put at risk a business which has won awards. Agriculture enterprise should be supported. Activity in the countryside should not be restricted solely to agriculture and recreation/tourism, especially in this case where there is no demonstrable harm to any interest of acknowledged importance.

6.7 The only third party represented is An Taisce. The third party previously objecting raised the issue of traffic safety which has been taken up by An Taisce without evidence: no traffic accidents, one rigid bodied lorry into and out of the site at a time when there is no other traffic on the road, use of vans during the remaining parts of the day which are a frequent sight on rural roads and traffic flows and types of vehicles as would be common place for any of the larger farms throughout the country. There are narrow roads in this area but the use is inherently unsuitable for an urban location. A preliminary Operational Traffic Management Plan has been developed and the first party is happy to accept its implementation as a condition. The first party will accept a S 47 agreement ensuring that the planning permission would be personal to the immediate Kelly family and that the existing development would not expand further. The Roads Section of Sligo Co Co have no objection to the development. An urban location would be unsuitable as liquid by-product is stored before being used locally. Relocation would require additional transport of by-products back to this rural area and additional travel for employees. The effluent would be unsuitable to an urban Sewerage system: large volumes of starch, principally from potatoes can over time accumulate to clog up pipes.

6.8 The proposal is supported by policy: NSS and Regional Guidelines; which encourage diversification in the countryside and the role of food related activities. The Planning officer's report sets out compliance with Sligo County Development Plan. The objector only references S8.3.2 of the Plan, with which there will be compliance. There will be compliance with P-RDE-1, P-RDE-2, SP-ED-5.

6.9 The site is in a 'Rural area in need of Regeneration'.

6.10 It is not located within any protected views or visible from any designated scenic routes. There will be no impact on any environmentally sensitive



areas.

- 6.11 The response refers to the operation carried out: historically cleaning trimming and peeling would have been undertaken from very local produce, and whilst this is in the main no longer the case, the by-product generated does go back directly to those local farms that would traditionally have produced such produce. There can be as many as 6 local growers providing produce for Mr Kelly in any given year, although this can fluctuate.
- 6.12 This amended application takes account of concerns expressed in the previous Board decision. Rather than a temporary permission, the first party suggests a S 47 agreement restricting the planning permission to Mr Kelly and his immediate family.
- 6.13 A condition requiring the implementation of the traffic management plan submitted with the application, would be acceptable, or alternatively the inclusion of such in a S 47 agreement; a S 47 agreement that the existing business would not expand further; either would be acceptable.
- 6.14 To ensure that the visual impact would be maintained to a reasonable level the first party would accept conditions regarding colour of buildings; implementation of the landscaping scheme submitted; a S 47 agreement restricting the planning permission to Mr Kelly and his immediate family and that the business would not expand further. The mobile home referred to in condition no. 4 of the planning authority decision has been removed.
- 6.15 They ask the Board to consider that all the issues which previously determined the site unsuitable have been resolved.
- 6.16 Re site justification – this is a long established business. If permission is not granted the business will close, staff will lose jobs and have to commute to work or have to live in the town, further weakening the rural community.
- 6.17 Support to local shops and business and community infrastructure will also be lost, which would be inconsistent with the spirit and detail of rural planning policy.
- 6.18 This is a well-established rural activity and cannot be satisfactorily accommodated in an urban area. There is potential for additional trips and additional accidents. The starch released in the preparation of potatoes can form large deposits in the piping network, which is easier to remove in a rural location.
- 6.19 The correct description of the development as an agribusiness is used in the current application in order to avoid misunderstanding. The reference to preserving rural areas for agriculture and selected tourism and recreation is from section 3.2.2 of the CDP, which refers to the Sligo town

sub region, an area under urban influence. This area is a rural area in need of regeneration. The Board is referred to Figure 1 of the Planning Report submitted with the application, and attached as an appendix to the response in this regard.

- 6.20 Refusal of planning permission and closure of this business is not consistent with regenerating this rural area. It is not the intention of the CDP to preserve rural areas for agriculture and selected tourism and recreation, by denuding them of all commercial and agribusiness activity.
- 6.21 The application is compliant with policies SG-1 SP-SD-10, SP-ED-4, SP-ED-5, P-RDE-1, P-RDE-2, P-AGD-4 and P-AGD-7, which they cite, giving statements of compliance.

**SG-1**

b. Integrate business locations with the surrounding land uses and transportation network

d. Promote rural/agricultural diversification, through the sustainable use of natural resources, e.g. tourism, forestry, energy production.

**SP-SD-10** - Carefully manage development patterns in rural areas and facilitate sustainable activities or uses that help preserve the vitality of rural communities while protecting the environment and heritage of the County.

**SP-ED-4** Adopt a flexible approach to start-up businesses and resource-based, small-scale industrial/enterprise activities. Where a proposed development needs to locate near an existing natural resource, it will be necessary to demonstrate that it can be accommodated without damage to the environment, natural or built heritage, visual amenity, and that it will not have a negative impact on the character of the area.

**SP-ED-5** Encourage and facilitate small indigenous industries, in recognition of their increasing importance in providing local employment and helping to stimulate economic activity among local communities.

**P-RDE-1** Develop the potential for innovation and diversification in the rural economy, as a means of retaining population into rural areas and supporting rural services.

**P-RDE-2** Support the active involvement of rural communities in the provision of local services and the development of rural resource-based enterprise, such as organic farming, equestrian activities, bird watching etc, subject to normal planning considerations and the protection of the environment.

**P-AGD-4** Support secondary and tertiary economic activities associated with the primary activities of agriculture, forestry, mineral extraction, fishing, aquaculture and mariculture, subject to environmental considerations.

**P-AGD-7** Facilitate the development of niche activities, such as those relating to food (particularly value-added products), forestry (e.g. wood products), crafts, eco-tourism and agri-tourism – e.g. farmhouse accommodation, pet farms, farm holidays, health farms, equestrian activities, bird-watching holidays, painting/photography tuition, angling tourism, field studies and hill-walking. Other pursuits that will be facilitated are: walking, cycling, mountain and other off-road biking, nature trails, wildlife trails, maritime trails, back-packing, orienteering, paragliding and hang-gliding, canoeing and kayaking, caving, mountaineering, rock climbing, adventure sports, swimming in waterways, wild camping, pony trekking, boating and archaeological guided walks.

- 6.22 The planner's report refers to section 12.4.19 of the CDP which refers to industry, wholesale and repository warehousing. This business is not industry, nor is it wholesale.
- 6.23 The reason why the planning authority decided to grant permission following on the Board's previous refusal is that the previous concerns have been addressed.
- 6.24 Re. Traffic and Access – An Taisce's concerns are at odds with the assessment carried out by NRB and the acceptance of the traffic management plan by the Roads Section of SCC.
- 6.25 The An Taisce statement that the road network leading to this development is substandard in width and inadequate to cater for HGV movement required for the activities on site, is contradicted by NRB Consulting Engineers. No accidents have been reported on the local road network. The roads are narrow and self regulating.
- 6.26 Re. their concerns that vehicle manoeuvres have the potential to create a serious traffic hazard; the volume of traffic is low and the amount and type is similar to that generated by a large farm.
- 6.27 An Taisce's statement that the yard is of insufficient size to accommodate HGV turning, which could create a serious traffic hazard, is without foundation. There is ample space to accommodate truck manoeuvres without the need to reverse onto the road. They are happy to provide an autotrack assessment if the Board considers this necessary.
- 6.28 Re. An Taisce's statement that the turning area is further reduced when vehicles are parked on site; and reference to a photograph in the planner's report; this photograph shows delivery vehicles being loaded, long after the single HGV movement in the early hours.
- 6.29 An Taisce refers to 15/41 which was an application for the retention of a site entrance and off-street parking area, and implies that the refusal sets a precedent for this case. This current appealed application has its own distinctive merits and safeguards; the nature of the business is different;

as is the nature of the development. That application was in a different part of the county, subject to a different plan, and was subject to objections from neighbours.

- 6.30 A preliminary Operational Traffic Management Plan has been submitted which would limit the number of trips, number of vehicles stored on site, number of HGV trips, and hours of operation of the business. The development is not expected to have any negative impact in terms of traffic safety.
- 6.31 An Taisce states that the Board's decision on 244984 has been undermined by this decision to grant. Differences between this application and the previous application have been listed.
- 6.32 Re. visual impact - An Taisce states that the coast road, in proximity to the site, is a designated scenic route. This is incorrect; also the coast road is not visible from the site.
- 6.33 A major consideration of the Board previously was the appearance of the site. The current application includes significant landscaping to screen the buildings. The buildings themselves have been repainted to better integrate them into the landscape. The mobile home has been removed. The first party is committed to keeping the yard tidy and is happy to accept a condition regarding storage of plant, equipment and vehicles. The first party considers that the acid test is whether, if the subject buildings were used for large agricultural vehicles, there would be the same concern about visual impact.
- 6.34 Re. other material considerations - letters of support for the development are attached to the response from: Eamon Scanlon TD, Cecil's Foodstore Ltd Ballisodare; Sligo Chamber of Commerce; Tony McLoughhlin TD; Dara Calleary TD; Cllr Thomas Healy; Cllr Michael Clarke; Cllr Tom McSharry; Martin Baker Butchers/ Cllr Baker; Cllr Margaret Gormley; Cllr Seamus Kilgannon; Cllr Keith Henry; Cllr Sean McManus; Cllr Dara Mulvey; Cllr Declan Bree; Cllr Paul Taylor; Cllr Marie Casserly; and Cllr Hubert Keaney.
- 6.35 Attached to the response are reports submitted with the planning application.

## **7 CORRESPONDENCE**

- 7.1 The Board has received a letter of support for the development from Marc McSharry TD.

## 8 PLANS AND POLICIES

1.1 The **Sligo County Development Plan 2011 – 2017** is the relevant policy document.

1.2 Relevant provisions include:

Strategic goals of the County Development Plan

facilitate and encourage the development of Sligo as a Gateway City and economic growth driver for the North-West region.

in relation to supporting balanced economic development, (SG-1) integrate business locations with the surrounding land uses and transportation network; promote economic development and the provision of industry/enterprise in the Key Support Towns of Tobercurry, Ballymote and Enniscrone; and promote rural/agricultural diversification, through the sustainable use of natural resources, e.g. tourism, forestry, energy production.

in relation to carefully managing development patterns, (SG-2) promote a balanced settlement pattern in urban areas, while facilitating sustainable rural settlement; strengthen existing rural communities, by ensuring that the planning system facilitates the housing needs of persons with roots in, or links to rural areas, as provided for in the NSS, as well as local enterprise initiatives.

Throughout the County, people live and work outside of villages and towns in a dispersed settlement pattern. In the past, these areas have been largely dependent on farming, but with the decline of agricultural activities and the associated population, there is a need to sustain these rural communities through other means. In order to achieve this, it is necessary to accommodate rural-generated housing needs and facilitate the development of sustainable sources of income and enterprise such as rural tourism, agricultural diversification, forestry, aquaculture and new sources of energy, in the context of appropriate protection of the environment.

Agricultural diversification is encouraged and policies facilitate rural resource-based enterprise, such as organic farming, equestrian activities, bird watching and other recreational uses; and also support farm families seeking to establish alternative and/or complementary economic enterprises to supplement their income from farming, subject to appropriate scale and intensity of development, having regard to traffic, environmental, landscape and residential amenity considerations. Where the enterprise is not dependent on a rural location, and the scale and intensity grow beyond family income needs, it will be encouraged, where appropriate, to relocate to a nearby town or village.

## Economic Development (Chapter 4)

SP-ED-4 Adopt a flexible approach to start-up businesses and resource-based, small-scale industrial/enterprise activities. Where a proposed development needs to locate near an existing natural resource, it will be necessary to demonstrate that it can be accommodated without damage to the environment, natural or built heritage, visual amenity, and that it will not have a negative impact on the character of the area.

## Transport (Chapter 8)

It is the policy of the Council to manage non-national roads in an economic and efficient manner, with a particular emphasis on safety.

## Development management standards (Chapter 12)

(12.4.19) Industry, wholesale and warehousing activity will normally only be permitted on lands zoned for business/ enterprise/industry (BUS), as outlined in the development control matrix. Special consideration will be given to such developments where they would contribute to the urban renewal of an area or where they would make a significant contribution to the urban character.

# 9 ASSESSMENT

9.1 The issues which arise in relation to this development are: appropriate assessment; principle of the development, road safety; effluent disposal and visual amenity and the assessment is dealt with under those headings.

## 9.2 **Appropriate Assessment Screening**

9.3 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.

9.4 The nearest Natura Sites are Ballysadare Bay SPA (site code 4129) and Ballysadare Bay SAC (site code 622), c 1 ½ km from the subject site.

9.5 Conservation Objectives.

9.6 Conservation Objectives for Ballysadare Bay SPA have been defined; and for each species of bird which are features of interest:

Light-bellied Brent Goose

Grey Plover

Dunlin

Bar-tailed Godwit, and

Redshank

the conservation objectives include that the long term population trend is stable or increasing and that there is no significant decrease in the range, timing and intensity of use of areas by each species, other than that occurring from natural patterns of variation

For the habitat 'wetland' on which they depend the conservation objectives include that the permanent area occupied by the wetland habitat should be stable and not significantly less than the area of 2130 hectares, other than that occurring from natural patterns of variation.

9.7 Conservation Objectives for Ballysadare Bay SAC (622) have been defined; and include:

for the features of interest:

Estuaries

Mudflats and sandflats not covered by seawater at low tide

Embryonic shifting dunes

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

Fixed coastal dunes with herbaceous vegetation (grey dunes)

Humid dune slacks,

that the permanent habitat area is stable or increasing, subject to natural processes.

For the species Narrow-mouthed Whorl Snail, the conservation objectives include that there is no decline in the distribution of the species. Adult or sub-adult snails are present in all three of the habitat zones on the transect (minimum four samples). Adult or sub-adult snails are present in at least six other places at the site with a wide geographical spread (minimum of eight sites sampled).

At least 50m of habitat along the transect is classed as optimal and the remainder as at least suboptimal.

Soils, at time of sampling, are damp (optimal wetness) and covered with a layer of humid thatch for at least 50m along the transect.

At least 45ha of the site in at least optimal/suboptimal condition. Optimal habitat is defined as fixed dune, species-rich grassland dominated by red fescue (*Festuca rubra*) and marram (*Ammophila arenaria*), with sparse oxeye daisy (*Leucanthemum vulgare*), dandelion (*Taraxacum* sp.), ribwort plantain (*Plantago lanceolata*) and other low growing herbs. Vegetation height 20- 50cm. Habitat growing on damp, friable soil covered with a layer of humid, open structured thatch. Sub-optimal habitat is defined as above but either vegetation height is less than 10cm or above 50cm; or the soil is dry and sandy; or the thatch is wetter with a denser structure.

For the species Harbour seal, the conservation objectives include that: the species range within the site should not be restricted by artificial barriers to site use; conserve the breeding sites in a natural condition; conserve the moult haulout sites in a natural condition; conserve the resting haulout sites in a natural condition; and human activities should occur at levels that do not adversely affect the harbour seal population at the site.

9.8 Nature of Development

9.9 The proposed development is the retention of sheds of 570sq m currently in use as a vegetable preparation and distribution agribusiness, and permission for a new septic tank and all associated site works

9.10 Screening Conclusion

9.11 It is reasonable to conclude that on the basis of the information 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 Sites Numbers 620 and 4129, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

**9.12 Principle of the Development**

9.13 The Board's previous decision is referred to by the first party on the basis that the subject site is not within the Sligo Subregion, but rather is within a Rural Area in Need of Regeneration and that the basis for the decision is incorrect. In support of their argument they identify the site on a map extract from the Development Plan showing the various areas referred to in the Plan. The extract identifies a location on the boundary between the areas identified in the plan as the Sligo Subregion and a Rural Area in Need of Regeneration; this is the approximate location of the site.



Although these designations are useful in the placement of the site vis a vis the Sligo subregion and the adjoining rural area in need of regeneration, the impact on policies is mainly in relation to rural housing: that of managing housing development in the Sligo subregion and of facilitating certain urban-generated housing in rural areas in need of regeneration

- 9.14 Relevant provisions of the Sligo County Development Plan include those of the core strategy to channel development into the Gateway town of Sligo and supporting towns and villages, to optimise the performance of the County as a whole; to manage development in the Sligo subregion; to facilitate sustainable development in rural areas such as rural-generated housing and the development of sustainable sources of income and enterprise, with tourism, agricultural diversification, forestry, aquaculture and new sources of energy listed in this context; to manage non-national roads in an economic and efficient manner, with a particular emphasis on safety; to develop the potential for innovation and diversification in the rural economy, as a means of retaining population in rural areas and supporting rural services; to adopt a flexible approach to start-up businesses and resource-based, small-scale industrial/enterprise activities; and in relation to industry, wholesale and warehousing activity, that they will normally only be permitted on lands zoned for business/enterprise/industry.
- 9.15 The description of the proposed development: a vegetable preparation and distribution agribusiness seeks to differentiate the proposed development from the terms 'warehouse' and 'distribution' used by the first party in the previous application. The development is described in detail in the subject application/ appeal and includes vegetable preparation as well as packaging and distribution of fruit and vegetables.
- 9.16 The first party contests the grounds of appeal which states that there is no operational reason for the business to be located in this area and points out that there are three growers in the county. The first party also states that the by-product generated from vegetable trimming and peeling goes to local farms as an animal feed; and further that the starch released in the preparation of potatoes can form large deposits in the piping network, which is easier to remove in a rural location.
- 9.17 It appears to me that this site is not centred in a vegetable or fruit growing area and that the business is largely engaged in processing, packaging and distribution of produce imported from abroad or from elsewhere in the country, and therefore that there is no operational reason for its location in a rural area of County Sligo. The use of the by-product as an animal feed requires transportation to end users, whether from this rural site or from an urban site. I am not satisfied that the liquid waste cannot be adequately managed in an urban location.
- 9.18 It is stated that the business activity on this site is of long standing. This use/development is therefore neither a start-up enterprise or an enterprise which is dependent on a rural location.

9.19 In my opinion the proposed development is not in accordance with the County Development Plan and in principle the site is unsuitable for the type and scale of the development proposed for retention.

## **9.20 Road Safety**

9.21 The grounds of appeal states that the road network leading to this development is substandard in width and inadequate to cater for the HGV movements required for the activities on site, and that vehicle manoeuvres have the potential to create a serious traffic hazard.

9.22 The first party response is that no accidents have been reported on the local road network; that the roads are narrow and self-regulating; and also that the volume of traffic is low and the amount and type is similar to that generated by a large farm.

9.23 The nature of the roads accessing the site, narrow local roads, is not a matter in dispute between the parties. Such roads are used throughout the country by large vehicles, even occasionally HGVs, for infrequent delivery or collection from farms. In such circumstances the suitability of the roads for such traffic does not become an issue, since farming is the activity carried on in rural areas and there is no option to the use of inadequate roads for such transport. For other activities which may be proposed in rural areas, the suitability of the roads to cater for the traffic generated is an important consideration.

9.24 In my opinion the network of narrow rural roads which serve this site is unsuitable for the type and volume of traffic generated by the business and the proposed development should be refused permission on the basis that there is potential for traffic congestion and traffic hazard.

## **9.25 Visual Amenity**

9.26 The third party refers to the site location approx. 1 mile off the coast road L2204 which, in proximity to the site, is a designated scenic route.

9.27 The first party states that this is incorrect and also also the coast road is not visible from the site. They further state that the buildings have been painted; and, to ensure that the visual impact would be maintained to a reasonable level, the first party would accept conditions regarding colour of buildings, implementation of the landscaping scheme submitted, a S 47 agreement restricting the planning permission to Mr Kelly and his immediate family and that the business would not expand further; and they state that the mobile home, referred to in condition no. 4 of the planning authority decision, has been removed.

9.28 The subject sheds have grey roller doors and grey cladding and roofing, and although they do not have the appearance of agricultural buildings the change from dark blue has reduced the visual impact. Condition no. 2 of

the planning authority's decision requires the implementation of a landscaping scheme.

- 9.29 The public road in front of the site leads to the coast, as do many others in the area, and could therefore potentially be used by visitors to the area. The site is visible on approaches from north and south and screen planting is proposed parallel to the buildings both to the north and to the south. The main area of visibility is directly in front of the site where no screening is possible due to the wide entrance.
- 9.30 Of greater concern than the buildings, is the potential for visual impact from outdoor storage of goods. This is referred to and documented in photographs in the enforcement history. I note the Board's previous refusal and notwithstanding the improvement in the appearance of the premises arising from the repainting of the cladding, and also that on the date of inspection the front of the site was tidy with outdoor storage only occurring to the side and rear, I consider that having regard to the nature of the activity carried on, visual impact is a reason to refuse permission.

## **10 RECOMMENDATION**

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

### **REASONS AND CONSIDERATIONS**

Having regard to the policies contained in the Sligo County Development Plan 2011-2017, specifically those relating to Economic Development (Chapter 4) and Development Management Standards (Chapter 12), wherein it is noted that while support is voiced for small-scale industrial and enterprise activities it states that, development should, in general, be channelled into appropriately zoned lands in Sligo Town – a Gateway Town - and in supporting towns and villages where it will make a greater contribution to the vitality of the county and wherein infrastructure and services are available, thereby preserving the rural areas mainly for agriculture and selected tourism and recreation uses. It is considered that the development proposed to be retained and the proposed development would contravene these policies by reason of the nature and scale of the proposal, the potential presented for traffic congestion and hazard on narrow rural roads and due to the incongruous quasi-industrial appearance of the structures to be retained which are obtrusive in this visually sensitive and scenic coastal location. Accordingly, it is considered that the development proposed to be retained and the

proposed development would interfere with the character of the landscape and would endanger public safety by reason of traffic hazard. The development proposed to be retained and the proposed development would be contrary to the proper planning and sustainable development of the area.

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**Dolores McCague**

**Inspectorate**

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**Date**

- Appendix 1 Map and Photographs
- Appendix 2 Copy extracts from Sligo County Development Plan 2011 – 2017