



An
Bord
Pleanála

Inspector's Report ABP 302796-18

Development	Motorhome Park and ancillary facilities
Location	Reengappul, Kenmare, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	17/1050
Applicant	Martin Arthur
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellant	Colm Murphy
Observer	Florence O'Sullivan
Date of Site Inspection	22/01/19
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 0.7416 hectares, is located to the south-west of Kenmare town centre and is accessed via Market Street, also referred to as Pound Lane. The street is relatively narrow and comprises a mix of commercial and residential uses with on-street parking prevalent.

Market Street terminates at a gated roadway which allows access to the Stone Circle which is a National Monument and the Kenmare Waste Water Treatment Plant c.100 metres to the south of the site. The said access roadway also provides access to a dwelling with a gravel path provided both sides. A further dwelling and a number of cottages are to the south of the roadway served by an entrance immediately adjacent to the gated roadway.

The site is irregular in shape. Part of the site appears to have been filled in with a steep drop to the Finnihy River which bounds the site to the west. The said access roadway bounds the site to the east/south-east with a stone wall delineating the boundary. The site is roughly surfaced with the shell of a building noted in the centre in addition to a limekiln. There is an existing site entrance from the public road in the eastern most corner.

2.0 Proposed Development

The application was lodged with the planning authority on the 23/10/17 with unsolicited information submitted 22/11/17. Further information was received on 09/08/18 following a request for same dated 13/12/17 (time extension granted) with revised public notices submitted 30/08/18.

The proposal is for a motorhome park comprising of:

- 10 motorhome pitches
- 78 sq.m. reception/facilities building containing a reception area, toilets, showers and laundry room.
- Motorhome services point with outlet gully for wastewater disposal, freshwater and washing.

The application is accompanied by:

- a supporting statement including the stated need for motorhome parking in Kenmare.
- DVD of virtual tour of proposed development
- Report on proposed treatment of Japanese Knotweed on site (unsolicited FI) supplemented by further detail by way of FI
- Copy of Ministerial Consent for the proposed development in proximity to a National Monument.
- Ecological Impact Assessment
- AA Screening Report
- Correspondence from Irish Water

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 12 conditions including:

Condition 2: the development to be connected to the public water supply and the public sewerage system to the satisfaction of Irish Water.

Condition 10: Archaeological monitoring as specified in the Ministerial Consent conditions with report to be submitted on completion.

Condition 11: Pre-construction bat survey to be undertaken and report to be submitted on completion.

Condition 12: Treatment and management of knotweed.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Planner's report dated 13/12/17 recommends further information on archaeology and application for Ministerial Consent due to proximity to National

Monuments, treatment of Japanese Knotweed, Ecological Impact Assessment and AA Screening, treatment of waste from motorhomes including chemical toilet waste, location of reception/facilities building and entrance/exit point. The 2nd report dated 20/09/18 following further information notes that when taken in conjunction with existing development in the surrounding area the proposal would not result in an negative visual impact. A positive roads report was received. The applicant has liaised with Irish Water and has received, subject to a valid connection agreement, a letter of consent confirming that connection to the network can be facilitated. Following the relocation of the proposed facilities building amenities of adjoining property would not be negatively impacted upon. The report includes EIA and AA Screening. A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

County Archaeologist in a report dated 06/11/17 notes that the site is partially within the zone of archaeological potential of recorded monument Ke093 032001-002 (Stone circle and boulder burial). These are National Monuments subject to a preservation order. Ministerial Consent (Section 14 National Monuments (Amendment) Act 2004) will be required for the development. The 2nd report dated 24/08/18 notes the Ministerial Consent and states that the consent conditions should be carried and a report submitted on completion.

Biodiversity Officer in a report dated 06/11/17 notes the site's proximity to the Finnihy River designated as part of the Kenmare River SAC. Due to the semi-natural habitats occurring on the site and its location the applicant should be requested to carry out an Ecological Impact Assessment to be used to inform an AA Screening Report. Depending on the findings of the screening report and need for mitigation measures an Appropriate Assessment may be required. Information on management and treatment of invasive species on the site also required. A 2nd report dated 30/11/17 following the unsolicited further information on treatment of Japanese Knotweed requires further detail on same. The 2nd report dated 29/08/18 following further information considers that sufficient information has been provided and recommends conditions requiring a preconstruction bat survey and treatment and management of Japanese Knotweed. An AA Screening is attached which concludes that an appropriate assessment is not required.

Fire Authority in a report dated 07/11/17 has no objection subject to conditions.

Operations Department in a report dated 21/11/17 states that surface water runoff to be attenuated on site and discharge to the River Finnihy at a rate of no more than 2 litres per second. EPA and IFI must be consulted regarding this discharge.

Requirements in terms of roads and construction phase also detailed.

Environmental Services in a report dated 24/11/17 recommends further information on waste disposal on the site.

Note: The report from Roads Section referenced in the Planner's report is not on file.

3.3. Prescribed Bodies

Irish Water in a report dated 21/11/17 recommends refusal of permission on the grounds that the waste water treatment plant is operating well above capacity and cannot accommodate such an increased load. An email dated 24/11/17 from Southern Region – Connection and Developer Services Design Engineer recommends that the 1st report be replaced with an amended report. The said amended report dated 24/11/17 recommends further information stating that the applicant should engage with Irish Water through the pre-connection enquiry process and obtain a confirmation of feasibility from Irish Water in respect of the potential connection to water and wastewater. The applicant to be advised that there may be capacity constraints in the wastewater network and waste water treatment plant. There may be an existing Irish Water sewer running through the site and the applicant needs to engage with Irish Water to agree the most feasible method of dealing with same. Its diversion may be required.

An Taisce in a letter dated 15/11/17 notes that the proposal is located in a sensitive area very close to the Finnihy River which has been known to flood in periods of high rainfall. It also borders an important archaeological site – the stone circle -which would have been built in an open area for ritual purposes. It would be most inappropriate to have a large, modern development in such proximity.

Inland Fisheries Ireland in a report dated 17/11/17 notes that the Finnihy River is an important salmonid and eel fishery. To safeguard water quality and aquatic habitat the river bank and riparian area should be retained as is, or if to be modified full details of treatment to be submitted. Drainage system should be designed on a

gravity flow basis. SuDs should be introduced to limit the requirements for direct discharge to water. Requirements during construction phase detailed.

3.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the 3rd party appeal and the observation received, which are summarised in section 6 below.

Representation on applicant's behalf.

4.0 Planning History

I am not aware of any previous planning applications on the site.

5.0 Policy and Context

5.1. Development Plan

Kerry County Development Plan 2015-2021

The site is outside the development boundary of Kenmare and within an area zoned Rural General.

These areas are the least sensitive landscapes throughout the County and, from a visual impact point of view, have the ability to absorb a moderate amount of development without significantly altering their character.

Section 13.11 Camping/Glamping and Caravan Parks

The provision of tourist caravan parks to facilitate the expanding tourist industry is encouraged by the Planning Authority. Planning applications for new caravan parks will be required to submit a masterplan for the entire site to which the application relates indicating compliance with the provisions of this plan and adherence to Failte Ireland's publication entitled "Model Standards for Caravan and Camping Parks' updated in 2008. Proposals will also be assessed with regard to the following matters:-

- Caravan parks will not generally be permitted in proximity to the coastline.
- Location of the development relative to existing services including retail and social facilities.
- Availability of services to cater for the development
- Impact on existing residential amenities - overlooking, increased traffic and general disturbance will be taken into account.
- Capacity of road to cater for the development - direct access onto national primary or national secondary roads will not be permitted.
- Every application for a caravan park will be accompanied by a comprehensive landscaping plan both proposed and existing which, in addition to creating an attractive residential environment, effectively screens the development.
- An appropriate assessment under Article 6 of the Habitats Directive, where applicable, shall be carried out in consultation with the National Parks and Wildlife Service.

5.2. **Natural Heritage Designations**

The Finnihy River bounding the site forms part of the Kenmare River SAC.

5.3. **Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The 3rd Party appeal against the planning authority's notification of decision to grant permission, which is accompanied by photographs, can be summarised as follows:

- Traffic is already an issue on Market Street which is narrow. The average size of a motorhome is 2.3 metres wide and 5 metres long. Larger vehicles can be over 3 metres wide and 13 metres long. The street cannot accommodate such sized vehicles. There is significant pedestrian traffic accessing the Stone Circle with no footpaths along the street. Such vehicular movements would constitute a traffic hazard. Access by emergency services would be compromised.
- The site is unsuitable in such proximity to the town centre.
- The site is not zoned for development.
- The site was previously used as a lime kiln and is of historical interest.
- The proposal would detract from the Stone Circle.
- Part of the site was an old quarry which has infilled with lower sections of the site raised.
- There is no indication of the jobs to be created by the development.
- The proposed development would be adversely affected by its proximity to the sewerage treatment plant. The existing system is overloaded especially in the summer months. Permission should not be granted until the scheme has been upgraded. The proposal is premature pending the upgrade.
- Previous flooding in the vicinity.

6.2. Applicant Response

The submission by Cunnane Stratton Reynolds on behalf of the applicant can be summarised as follows:

- It would be unreasonable for the Council to zone land for motorhomes within the defined town centre. The location, 200 metres from the boundary of the town centre, is considered the most sustainable and accessible location to the town's amenities and attractions. The County Development Plan encourages the provision of tourist caravan parks. The site is not located in a scenic area or in a landscape where the use would be considered unsuitable. It supports the Kerry Tourism Strategy.

- Motorhomes are lower and smaller than dwellings thus visual impact would be less. A landscape plan accompanies the application.
- The proposal is unlikely to affect any industrial heritage where superficial excavation and shallow foundations are required for the proposal. Condition 10 is accepted by the applicant.
- The former use of the site has no impact on the proposal.
- The planting of trees around the Stone Circle is not relevant to the assessment of the proposal.
- Some employment will be generated in the summer months. There is a wider benefit to the economy.
- There does not appear to be any specific guidance with respect to separation distances between a municipal waste water treatment plant and residential/holiday home/motorhomes. The distance is over 100 metres. Its proximity will not have an adverse impact on their amenities.
- Upgrade works to the waste water treatment plant have been carried out in recent years and odour is not an issue anymore.
- The proposal was presented to Irish Water as part of a pre-connection enquiry. It includes information with regard to the discharging of chemical waste. It did not express any reservations. Irish Water has issued a letter of feasibility.
- Sludge is transported from the waste water treatment plant once a week during summer months and bi-weekly during the winter period. The sludge operation will not have a negative impact nor will there be any conflict between the operation of motorhomes and vehicles carrying dried sludge.
- The site is not within a flood zone area. There is no record of any flooding. The flooding regime in the wider area will not be affected by the minor ground works proposed nor from the proposed development. The area of land around the treatment plant flooded but this did not extend into the applicant's site.

- Motorhomes would generate less load on the sewerage system than dwellings.
- The overall traffic generation would not be significant. The site can accommodate 10 no. motorhomes at any one time and the impact on the local road network would be negligible. Vehicles would arrive at different times throughout the day. They are not excessively sized and would be considerably smaller than the likely HGV lorries accessing the site under its former use as a quarry or limekiln. It will not exacerbate congestion in the area.
- The Council has undertaken traffic measures in Kenmare town centre to address traffic and congestion issues. Proposed seasonal or occasional residents from 10 vehicles will not add appreciably to traffic generation and therefore flow in the town,
- Pitches will be offered on a per day basis but it is expected that tourists would stay for a number of nights at a time reducing the movements to and from the site.
- Cars will give way to one another as appropriate.
- The proposal does not pose a risk to pedestrian safety where travel speeds are likely to be low.
- The proposal will not worsen the existing access arrangements for emergency vehicles.
- Occupation of the site is periodic/seasonal.
- The proposed layout and access is in compliance with DMURS.
- The scheme has been designed in accordance with Fáilte Ireland guidelines.

6.3. Planning Authority Response

None

6.4. Observations

The observation from Florence O'Sullivan who resides on Market Street can be summarised as follows:

- Market Street does not have footpaths save for a small section and has on-street parking. It forms part of the town's Heritage Trail with a significant number of pedestrians. Two way vehicular movements are restricted. It is unrealistic to expect motorhome to navigate the street without causing significant additional congestion issues.
- The junction of Market Street and The Square in addition to Parnell Place are very busy and suffer from congestion. Adding motorhomes into the existing mix of busy commercial, tourist and private traffic would create a traffic hazard. Congestion will reach crisis point during the summer months.
- Access for emergency vehicles could be compromised.
- Motorhomes would adversely impact pedestrian safety.
- The proposal with access along key heritage streets and parking of motorhomes in close proximity to the Stone Circle which is a National Monument would diminish the heritage trail and materially interfere with local heritage.
- This section of Kenmare is an Architectural Conservation Area. The proposal would negate the County Development Plan's commitment to architectural conservation.
- The town centre location is inappropriate and would be contrary to the provisions of the Kenmare Functional Area LAP. It will not improve the vitality or viability of the town centre. Such facilities are appropriately located on the outskirts. Such provision could encourage anti social behaviour and the disturbance of nearby residents.
- Motorhome parks are not significant employment generators.
- The town's wastewater treatment plan is overloaded. There is evidence of raw sewage being released into the Finnihy River from the pumping station

when the system is overloaded. The pumping station is located along the stretch of river where the development is proposed.

- There is a major issue with Japanese Knotweed along the Finnihy River and should be resolved before any development is considered at this location.

6.5. **Section 131 Notice**

Certain prescribed bodies were invited to make a submission on the appeal due to the site's proximity to a Recorded Monument. No response received.

7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings.

- Compatibility with Policy Provisions
- Access and Traffic
- Effluent Disposal
- Other Issues
- Appropriate Assessment

7.1. **Compatibility with Policy Provisions**

The site is located c. 200 to the west of Kenmare Town Centre but outside the town boundary as delineated in the Kenmare Municipal LAP and is therefore is not subject to the zoning provisions therein. The current Kerry County Development Plan which would be the appropriate policy document zones the site 'Rural General' which is considered as being the least sensitive landscape in the County and which, from a visual impact point of view, has the ability to absorb a moderate amount of development without significantly altering its character.

The proposal provides for 10 no. motorhome pitches in addition to a reception building and toilet block including showers and laundry facilities. A services point with outlet gully for wastewater disposal, freshwater and washing is also proposed. The site is to be landscaped in accordance with a plan submitted with the application. The facility would be seasonal. It is anticipated that it will operate

between March and October and would be at full capacity for the months of June, July and August. It is assumed that the facility will operate at half of full capacity for the remaining operating months.

In view of its proximity to the town centre, its relatively modest size and the pattern of development in the immediate vicinity, I submit that the proposal in principle would accord with the current County Development Plan provisions as set out in section 13.11 seeking to facilitate the expanding tourist industry at locations relative to existing services including retail and social facilities, and would assist in advancing the tourist product in the town of Kenmare. It is noted that the proposal complies with the Failte Ireland's requirements for such motorhome parks.

However, this acceptability in principle is subject to other planning considerations being met which I will address below.

7.2. Access and Traffic

Access to the site is via Market Street (also referred to as Pound Lane) off The Square. Market Street is relatively narrow serving residential and commercial properties, many of which avail of on-street parking with no footpaths save at its northern end. The prevailing conditions largely inhibit unrestricted two way vehicular movements with vehicular speeds low. The Square at its northern end provides for grouped parking serving both commercial businesses and visitor parking.

Motorhomes, in the main, would be smaller in size than HGVs. As noted above the proposal is modest in scale providing for 10 no. pitches and would be seasonal with full capacity anticipated during the summer months only. I would concur with the agent for the applicant's view that the additional vehicular movements arising from the proposal which would likely be staggered throughout the day would not be material as to adversely impact the prevailing traffic conditions. The location in such proximity to the town centre would encourage visitors to the site to access existing social and recreational facilities by foot. In view of the existing low vehicular speeds I would not have material concerns in terms of conflict with pedestrian traffic along the lane.

7.3. Effluent Disposal

The issue of the adequacy of the Kenmare waste water treatment plant dates back to 2010 with the acknowledgement in the Kenmare Functional Area LAP that the plant was at capacity with objective WW-1 seeking to facilitate the provision and upgrading of the wastewater infrastructure to ensure the sustainable development and future growth of the town. The said waste water treatment plant is located approx. 100 metres to the south of the site with its discharge point to the Finniyh River adjoining. The watercourse forms part of the Kenmare River SAC.

I submit that there is a conflict in information as to ability of the existing waste water treatment plant to accommodate the proposal.

At the outset and as per the 1st report from Irish Water dated 21/11/17 a refusal of permission is recommended on the basis that the plant is operating well above capacity and cannot accommodate such an increased load. A further email dated 24/11/17 recommends that the said report be replaced by another report. The said report stated that the applicant should engage with Irish Water through the pre-connection enquiry process and obtain a confirmation of feasibility from same in respect of the potential connection. The applicant was to be advised that there may be capacity constraints.

From the details submitted in the said pre-connection enquiry form prepared by the applicant the demand of the facility at full capacity (during the summer months) would be 3000 litres per day equating to 0.0347 litres/second with a peak flow of 0.2082 litres/second. Chemical toilet waste from the motorhome will be discharged to the public sewer through an Elsan point within the facilities building. Subsequent to same the applicant has provided correspondence from Irish Water which states that based on the details provided and subject to a valid connection agreement being put in place, the proposed connection to the Irish Water network can be facilitated.

However as per the details available on epa.ie and the Site Visit Report dated 24/07/18(copy attached) it was noted that the plant is significantly overloaded with the plant operating under significant pressure on the day of the site visit. The report notes that an upgrade of the plant is urgently needed and that Irish Water should ensure that the upgrade is given greater urgency and priority. It goes on to acknowledge that an upgrade of the treatment plant is on the current Capital

Investment Programme (as part of a bundled project) and that a feasibility study is underway which Irish Water is hoping will be completed by the end of 2018.

Reference is made in the report to two recorded incidences at the plant.

I would also bring to the Board's attention a current appeal before it for 50 houses to the south of the town under ref. ABP 302604-18. As per the details from Irish Water on same an upgrade of the system is anticipated to be operational by early 2023 although it is noted that this may be subject to change.

Whilst I acknowledge the agent for the applicant's view that the effluent disposal arising from the proposal would be significantly less than from houses and would be seasonal, on balance I submit that the evidence available to the Board clearly indicates that the existing wastewater treatment plant, which experiences seasonal pressures associated with the tourist season, is overloaded and does not have the capacity to accommodate the proposal. To allow for the proposed connection to the system would exacerbate an already unsatisfactory situation and would be prejudicial to public health. In view of the time period anticipated for a resolution I consider that the proposal is premature. I therefore recommend refusal on this basis.

7.4. Other Issues

The Stone Circle which is a National Monument is to the south of the site. The relevant Ministerial Consent has been secured to carry out the development. Subject to suitable site landscaping and boundary treatment I do not consider that the proposed development would have an adverse impact on its setting relative to the site's current condition and its previous use as either a quarry or limekiln.

As noted above the additional vehicular movements arising from the development would not be material and I do not consider that it would have an adverse impact on the heritage status of the town or the Architectural Conservation Area taken in the context of the existing traffic levels and patterns.

There are no records of flooding events on the site.

The site's previous use is not a consideration in terms of the assessment of the current proposal.

The planting of trees in the vicinity of the Stone Circle is not a relevant consideration in the assessment of the proposal.

7.5. **Appropriate Assessment**

An Appropriate Assessment Screening report, accompanied by an Ecological Impact Assessment report, were submitted by way of further information.

Project Description and Site Characteristics

The site location and proposed development are as described in sections 1 and 2 above.

Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives

Mucksna Wood SAC (site code 001371) c. 1km to the south of the appeal site. The qualifying interest for same is Old Sessile Oak Woodlands. Generic conservation objectives apply, the overall aim being to maintain or restore the favourable conservation status of the said habitats and species.

Kenmare River SAC (site code 002158). The River Finnihy which bounds the site to west forms part of the SAC. The qualifying interests include coastal habitats, otter, narrow mouthed Whorl Snail, and Lesser horseshoe bat.

Detailed conservation objectives have been prepared for the site the overall aim being to maintain or restore the favourable conservation status of the said habitats and species.

Assessment of Likely Effects

As the site is not within a designated site no direct impacts will arise.

In view of the qualifying interest of Mucksna Wood SAC and the distance to the appeal site the designated site will not be impacted indirectly by emissions or drainage effects of the proposed development. Therefore, effects on the European Site resulting from the proposed development can be excluded.

The site is immediately adjoining the River Finnihy which forms part of the Kenmare River SAC. As a consequence there is potential for indirect effects from emissions during the construction and operational phases.

There is the potential for discharge to the adjoining river during the construction stage. The Ecological Impact Assessment report details the measures to be taken

which I consider would form an integral part of a development and represent best practice in terms of protecting against spillages etc.

As noted above effluent from the site is to discharge into the Kenmare waste water treatment plant to the south. The said plant, which is noted to be overloaded, discharges to the River Finnihy adjoining. As per the Environmental Report prepared by Irish Water in 2017 (copy attached) emissions at point of discharge comply with its licence however a number of incidences were recorded under reference nos. INCI012040 and INCI013931 as per the EPA Site Visit Report 2018 as referred to above. On the basis of this information the potential indirect effects of the proposed development on water quality arising from connection into such an overloaded system cannot be ruled out. A number of the qualifying interests in the designated site are reliant on good water quality.

I also note that the SAC has been selected for lesser horseshoe bat because of the presence of an internationally important winter roost at Dunkerron souterrain and an internationally important summer roost at Foley's cottage, Killaha. As per Map No.9 of the conservation objectives the site is inside the 2.5km buffer delineated for the winter roost.

As noted in the screening report the limekiln building on the site provides for suitable bat roost habitat. Whilst this feature is to be retained no bat survey has been undertaken nor any assessment of the potential impact of the construction and operational phases of the development. I note that the Council's Biodiversity Officer recommends a pre-construction bat survey be attached by way of condition. Such an approach is contrary to best practice in the absence of an appropriate assessment where potential significant effects must be ruled out without mitigation prior to a grant of permission. On this basis the potential for significant effects on a qualifying interest of the SAC cannot be ruled out.

Japanese Knotweed is noted throughout the site. Detailed measures are provided for its treatment in accordance with best practice.

Thus, on the basis of the information provided I am not satisfied that the proposed development would not be likely to have a significant effect on Kenmare River SAC having regard to its qualifying interests and should, therefore, be subject to an

Appropriate Assessment. I recommend refusal on this basis. As this constitutes a new issue the Board may wish to circulate same to the relevant parties for comment.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations.

1. It is considered that the proposed development would be premature by reference to the existing deficiencies in the Kenmare wastewater treatment plant to which connection is proposed and the period within which this constraint may reasonably be expected to cease. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
2. On the basis of the information provided with the application and appeal and in 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 European Site 002158 or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

Pauline Fitzpatrick
Senior Planning Inspector

February, 2019