



An
Bord
Pleanála

Inspector's Report ABP-304915-19

Question	Whether the temporary use of lands for camping is or is not development or is or is not exempted development
Location	Bunowen, Louisburgh, County Mayo
Declaration	
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	P19/402
Applicant for Declaration	Padraic O'Donnell
Planning Authority Decision	Is development and is not exempted development
Referral	
Referred by	Padraic O'Donnell
Owner/Occupier	Padraic O'Donnell
Observer(s)	None
Date of Site Inspection	1 st November 2019
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1.** The referral site is located approximately 750m to the northwest of Louisburgh village centre in west County Mayo, overlooking Clew Bay. It is situated on a single-lane local road (L-5883-9) that leads northwards from the village, before terminating at Turlin strand. It comprises an open agricultural field in use for sheep grazing, with centrally-positioned agricultural shed structures. The 220m-long roadside boundary is formed by a low hedge on the southern end and a low stonewall on the northern end. Open drains traverse the lands, draining westwards into a tributary of the Bunowen river, with approximately a 7m drop from the roadside boundary to the southwestern corner of the site.
- 1.2.** Access to the subject lands is available through a gate along the local road. The surrounding area is primarily characterised by open agricultural lands sweeping down from the village to the strand, with a very low density of development, primarily comprising one-off housing.

2.0 The Question

- 2.1.** The following is questioned by the referrer:
 - ‘whether the utilisation of lands for the purposes of camping is or is not development or is or is not exempted development’;
- 2.2.** Following a review of the submitted information, in the interest of clarity and to comprehensively address matters raised by the referrer, it is considered appropriate that the question referred to the Board be reworded and addressed by the following question:
 - whether the temporary use of lands for camping, comprising tents, campervans and caravans, is or is not development or is or is not exempted development.
- 2.3.** I intend to proceed with my assessment on the basis of the reworded question.

3.0 Planning Authority Declaration

3.1. Declaration

- 3.1.1. Pursuant to Section 5(2)(a) of the Planning & Development Act 2000, as amended (hereinafter referred to as 'the Act'), the planning authority declared that the placing of tents, campervans and caravans on the referral lands is development and is not exempted development by virtue of the restrictions to exempted development under Article 9(1)(vi) of the Planning & Development Regulations 2001-2019 (hereinafter referred to as 'the Regulations').

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (June 2019) reflects the declaration issued by the planning authority and can be summarised as follows:

- the development would not be likely to have a significant effect on European sites;
- the Regulations include exemptions to allow the temporary utilisation of lands for the purposes of camping;
- two previous planning applications for development on the referral site, Mayo County Council (MCC) Refs. P98/2857 and P11/375, were refused planning permission as they would interfere with the character of the landscape, the preservation of which is an objective of the Development Plan;
- having regard to the planning history of the site and the restrictions applied under Article 9(1)(vi) of the Regulations, the use of the site for camping would not constitute exempted development.

3.2.2. Other Technical Reports

- None received.

4.0 Planning History

4.1. Referral Site

4.1.1. The planning history associated with the referral site, includes the following planning applications:

- MCC Ref. P11/375 – permission was refused in October 2011 for a house and a wastewater treatment system on the northern side of the referral site, as the development would interfere with the character of the landscape, which would be contrary to objective P/EH-LC1 of the Mayo County Development Plan 2008-2014;
- MCC Ref. P01/527 – an application was submitted in March 2001 for 13 houses on the referral lands. Further information was requested by the planning authority and a final decision was never issued;
- MCC Ref. P98/1972 – outline permission was refused in April 2000 for 18 holiday homes on the referral lands.

4.2. Relevant Referrals

4.2.1. The following referrals decided by the Board are considered relevant:

- ABP Ref. 305080-19 – in August 2019 a declaration was submitted to the Board querying whether a caravan park / mobile home park to the rear of Alverno House, Laytown in County Meath is or is not development or is or is not exempted development. A declaration is due on this in December 2019;
- ABP Ref. 06S.RL.3122 – in December 2013 the Board decided that the relocation of a building at Killakee Road, Rathfarnham, Dublin, is development and is not exempted development, as the proposal would interfere with the character of the landscape and there is an objective in the Development Plan to preserve that landscape;
- ABP Ref. 88.RL.2866 – in August 2011 the Board decided that the replacement of a mobile home, which had occupied the site for more than 30 years and was re-orientated within that time frame, with a new mobile home of larger dimensions within a three month timeframe, at Inchydonney Island,

Clonakilty, County Cork, is development and is not exempted development, as a 'mobile home' was not covered under the Regulation exemptions;

- ABP Ref. 15.RL.2500 – in July 2008 the Board decided that the replacement of mobile homes with modern mobile homes on lands at Tain Holiday Village, Ballyoonan, Omeath, County Louth, is development and is not exempted development, as a 'mobile home' was not a caravan and therefore not covered under the Regulation exemptions.

5.0 Policy & Context

5.1. Mayo County Development Plan 2014-2020

5.1.1. Mayo County Development Plan 2014-2020 is the statutory plan for this area. The site is situated 70m to the northwest of the Area Plan boundary for Louisburgh. Volume 1 of the Plan primarily contains general planning policies and objectives for the County. Section 4 of Volume 1 to the Development Plan outlines the planning authority's strategy with respect to the 'Environment, Heritage and Amenity', including the following landscape protection objectives:

- LP-01 – ensure development is appropriate to the landscape;
- LP-02 – consider development in the context of landscape sensitivity;
- LP-03 – protect the landscape;
- VP-01 – ensure development does not adversely interfere with features of interest, including the coastline.

6.0 Statutory Provisions

6.1. Planning and Development Act 2000, as amended

6.1.1. Section 2(1) of the Act states the following:

- 'development' has the meaning assigned to it by Section 3;
- 'structure' means any building, structure, excavation, or other thing constructed or made on, in or under land, or any part of a structure so defined;

- ‘works’ includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal’

6.1.2. Section 3(1) of the Act states that:

- ‘development’ means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or over land’.

6.1.3. Section 4(1) of the Act sets out various forms and circumstances in which development is exempted development for the purposes of the Act.

6.1.4. Section 4(2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development.

6.2. Planning and Development Regulations 2001-2019

6.2.1. Article 6(1) of the Regulations provide that ‘subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1’.

6.2.2. Part 3 of Schedule 2 to the Regulations sets out rural classes of exempted development, including limited use of land for camping. Class 1 allows for ‘temporary use of any land for the placing of any tent, campervan or caravan or for the mooring of any boat, barge or other vessel used for the purpose of camping’, subject to the following conditions and limitations:

(1) Not more than one tent, campervan or caravan shall be placed within 100 metres of another tent, campervan or caravan at any time.

(2) No tent, campervan, caravan or vessel shall remain on the land for a period greater than 10 days.

(3) No tent, campervan, caravan or vessel shall be used for the storage, display, advertisement or sale of goods or for the purposes of any business.

(4) No tent, campervan or caravan shall be placed on land within 50 metres of any public road unless the land is enclosed by a wall, bank or hedge, or any combination thereof, having an average height of not less than 1.5 metres.

6.2.3. As provided for in Article 9(1)(a) of the Regulations and relevant to this case, development that would be exempted development article 6 of the Regulations, shall not be exempted development, if the carrying out of such development would, inter alia:

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan;

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site;

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

7.0 The Referral

7.1 Referrer's Case

7.1.1. The referrer's submission was received by An Bord Pleanála on the 16th day of July 2019 and was accompanied by land registry details, a layout plan drawing showing two docking point locations, an extract from the Regulations and extracts from the Development Plan. The submission can be summarised as follows:

- the site is not in an area identified in the Development Plan as containing scenic routes, protected views or visually-sensitive landscapes;

- the lands are 50m from the settlement boundary and residential-zoned lands for the village of Louisburgh;
- no camping structure would occupy the land for a period of greater than ten consecutive days, nor would they be positioned within 100 metres of another camping structure or within 50m of the local road.

7.2. Planning Authority's Response

7.2.1. The planning authority did not respond to the referrer's submission.

7.3. Observations

7.3.1. None received.

8.0 Assessment

8.1. Introduction

8.1.1. The purpose of this referral is not to determine the acceptability or otherwise of the matters raised in respect of the proper planning and sustainable development of the area, but rather whether or not the matters in question constitute development, and if so fall within the scope of exempted development within the meaning of the relevant legislation.

8.2. Is or is not development?

8.2.1. While tents, campervans and caravans would be manufactured off site and transported to the site, they would be fixed close to or at the two docking points, as illustrated in the layout drawing submitted by the referrer. As such I am satisfied that the fixing of these structures on land would entail an act of construction. Accordingly, this act would result in the carrying out of works on land and such works would constitute 'development' based on the definitions provided in the Act. Therefore the use of the lands for the purposes of camping would constitute development.

8.3. Is or is not exempt development?

Exempted Development

- 8.3.1. Part 3 of Schedule 2 to the Regulations deals with rural classes of exempted development, listing the conditions and limitations to the exemptions, if any. In particular, Class 1 allows for temporary use of any land for the placing of any tent, campervan or caravan for the purpose of camping. The referrer specifically states that the proposed use of the land for camping would be undertaken in compliance with three of the four conditions and limitations listed beside exemption class 1. The referrer does not specifically address whether or not the tents, campervans or caravans would be used for the storage, display, advertisement or sale of goods or for the purposes of any business. Accordingly, I consider that the use of the land for camping, comprising tents, campervans or caravans that would not be used for the storage, display, advertisement or sale of goods or for the purposes of any business, would come within the scope of exempted development, as provided for under Class 1 of Part 3 of Schedule 2 to the Regulations.

Restrictions on Exempted Development

- 8.3.2. Article 9(1)(a)(vi) states that exemptions under Article 6 of the Regulations shall not apply if the carrying of such development would 'interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed'. The referrer asserts that the site is not located in an area that is identified in the Development Plan as containing scenic routes, protected views or visually-sensitive landscapes. The planning authority has asserted that two previous applications for development on the site were refused planning permission as the proposed developments would interfere with the character of the landscape, the preservation of which was an objective of the Development Plan.
- 8.3.3. Initially I note that the planning applications referred to by the planning authority relate to decisions dating from October 2011 (MCC Ref. P11/375) and April 2000 (MCC Ref. P98/1972) and the decisions for these applications would not have been undertaken with respect to the current statutory plan for this area; Mayo County Development Plan 2014-2020. Furthermore, these applications proposed permanent structures, a house and wastewater treatment system (MCC Ref.

P11/375) and 18 holiday homes (MCC Ref. P98/1972), which would have a considerably different visual appearance and impact than the temporary and sporadic siting of tents, campervans and caravans on the land. An assessment as to whether or not Article 9(1)(a)(vi) applies should only be undertaken with respect to the existing context, the actual development subject of the referral and the objectives of the current or draft Development Plan.

8.3.4. Objective VP-01 of the current Development Plan is relevant and this states:

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

8.3.5. Map 4 of the Development Plan illustrates that the regional road (R335), running parallel with the coastline and approximately 750m southwest of the referral site, is a scenic route with highly scenic views to the north towards the coast and to the south towards the Sheffrey Hills. The referral site is not visible from this scenic route. The Plan outlines that the visual impact of developments, will be assessed with respect to the Landscape Appraisal for County Mayo, which identifies the entire county coastline, including the area 200m to the northwest of the referral site, as a sensitive or vulnerable location. I am satisfied that the most prominent natural features of interest integral to the coastal line and the associated landscape when viewed in the context of the referral site, include the Cloghmoyle dunes system, Carrowmore hill overlooking the bay, the open waters to Clew Bay and Clare Island. There are existing agricultural shed structures on the lands and housing in the immediate area is primarily located on higher lands closer to the village and on the eastern slopes of Carrowmore hill. The landscape immediately surrounding the site is low-lying, open and largely undeveloped. Positioned below the roadside, the entire site is visible from the local road leading to the beach. While the siting of campervans and caravans on site would be for temporary periods, the introduction of substantial extrinsic structures into the environment at this location would be intrusive. Given the nature of the receiving environment, I am satisfied that the use of the referral site for camping in the manner described, would adversely interfere with views from the road towards features of natural beauty within the coastal landscape. The carrying

out of such development would therefore interfere with the character of views of special amenity value, the preservation of which is provided for under objective VP-01 of the Development Plan. Accordingly, the restrictions on exempted development under Article 9(1)(a)(vi) of the Regulations would apply.

- 8.3.6. Article 9(1)(a)(viiB) states that the exemptions under Article 6 of the Regulations shall not apply if the carrying out of such development would comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment, and the development would require an appropriate assessment, because it would be likely to have a significant effect on the integrity of a European site. This restriction is addressed in section 8.5 directly below.
- 8.3.7. Article 9(1)(a)(viiC) states that the exemptions under Article 6 of the Regulations shall not apply if the carrying out of such development would 'consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000. Cloghmoyle dunes proposed Natural Heritage Area (pNHA) (Site Code: 001483) adjoins the northwest corner of the site. This site is not designated under Section 18 of the Wildlife (Amendment) Act 2000 and I am satisfied that the development would not be likely to have an adverse impact on designated natural heritage areas (NHAs), including the closest NHA, Tawnymackan Bog NHA (Site Code: 000548), which is upstream and 3.7km to the south of the referral site.

8.4. Environmental Impact Assessment - Preliminary Examination

- 8.4.1. Having regard to the nature and scale of the development, as referenced in the question above, it is considered that the issues arising from the proximity and connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment), as there is no likelihood of other significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.5. Appropriate Assessment

8.5.1. The development is described in section 2 of this report. Neither an Appropriate Assessment (AA) Screening Report nor a Natura Impact Statement (NIS) were submitted with the referral. There are open drains running through the site and along the boundaries of the site. These drains feed westwards into a tributary of the Bunowen River, a river which is noted as having a moderate ecological status in the River Basin Management Plan and feeds directly into Clew Bay between Carrowmore beach and Turlin strand.

8.6. Description of European Sites

8.6.1. Designated sites within 15km of the referral site include the following:

Designated Site & Code	Distance & Direction
West Connaught Coast candidate Special Area of Conservation (cSAC) (Site Code: 002998)	400m to the northwest
Oldhead Wood SAC (Site Code: 000532)	1.3km to the east
Mweelrea/Sheeffry/Erriff Complex SAC (Site Code: 001932)	5.3km to the south
Lough Cahasy, Lough Baun and Roonah Lough SAC	5.4km to the southwest
Cross Lough (Killadoon) SAC	8.8km to the southwest
Cross Lough (Killadoon) Special Protection Area (SPA)	8.9km to the southwest
Clare Island SPA	9.1km to the northwest
Clare Island Cliffs SAC	9.2km to the northwest
Clew Bay Complex SAC	9.2km to the northeast

8.6.2. With the exception of the West Connaught Coast cSAC (Site Code: 002998), I am satisfied that the other sites within 15km of the referral site can be 'screened out' on the basis that significant effects on these European sites could be ruled out as a result of the separation distance from the referral site to these European sites or the

location of these European sites upstream or across expansive open waters from the referral site.

- 8.6.3. The West Connaught Coast cSAC comprises a substantial area of marine waters lying off the coasts of Counties Mayo and Galway. The following Conservation Objective is set for this cSAC:

Conservation Objective for West Connaught Coast cSAC (002998)	
1349 - Common Bottlenose Dolphin <i>Tursiops truncatus</i>	To maintain the favourable conservation condition of Common Bottlenose Dolphin

- 8.6.4. Map 3 accompanying the National Parks and Wildlife Service (NPWS) Site Conservation Objective for the West Connaught Coast cSAC identifies the mouth of the Bunowen river, as being within the habitat area for the Common Bottlenose Dolphin.

8.7. Is the project necessary to the management of European sites?

- 8.7.1. The proposed development is not directly connected with the West Connaught Coast cSAC and it is not necessary to the management of this or any European site.

8.8. Direct, Indirect or Secondary impacts

- 8.8.1. There is hydrological connectivity between the referral site and the West Connaught Coast cSAC. Arising from this, any likely significant impacts, with reference to the West Connaught Coast cSAC site conservation objectives, would be solely through:

- pollutants or sedimentation to ground or surface water (e.g. run-off silt, fuel oils, wastewater effluent) at construction and operational phases of the proposed development.

- 8.8.2. Services, including wastewater services, would be required for occupants of the tents, campervans and caravans. While there would be some scope for off-site removal and disposal of wastewater via campervans and caravans, I am not aware of services existing currently on site. No details of provisions to deal with potential fuel spills from campervans or other vehicles are provided. Failure to deal with wastewater and pollutants arising from the development to the requisite

environmental standards would have likely implications for surface and groundwater quality. Having regard to the proximate downstream hydraulic connectivity between the referral site, the Bunowen River and the West Connaught Coast cSAC, there is potential for interdependence and interconnectivity between the habitat of the Common Bottlenose Dolphin and surface water and groundwater running through the referral site. Without adequate provisions, there are unresolved concerns that the proposed development could pose an unacceptable risk to groundwater and surface water. Therefore, it cannot be reasonably ruled out beyond scientific doubt that there would not be significant effects, either individually or in combination with other plans or projects, on this European site on the basis of the information available.

8.9. Cumulative and In-Combination Effects

8.9.1. I do not consider that there are any specific in-combination effects that arise from the development when taken in conjunction with other plans or projects.

8.10. Appropriate Assessment Screening Conclusion

8.10.1. On the basis of the information provided with the referral and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the development individually, or in combination with other plans or projects would not be likely to have a significant effect on West Connaught Coast cSAC (Site Code: 002998), in view of the site's Conservation Objective. In such circumstances, the development would require an appropriate assessment because of the likely potential to have a significant effect on the integrity of a European site and, accordingly, the restrictions under Article 9(1)(a)(viiB) of the Regulations apply.

9.0 Recommendation

9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the temporary use of lands for camping, comprising tents, campervans and caravans at Bunowen,

Louisburgh, County Mayo, is or is not development or is or is not exempted development:

AND WHEREAS Padraic O'Donnell requested a declaration on this question on the 16th day of July, 2019 from An Bord Pleanála:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) section 2(1), 3(1) and 4 of the Planning and Development Act 2000, as amended,
- (b) article 6(1) and article 9(1) of the Planning and Development Regulations 2001-2019 and Class 1 of Part 3 of Schedule 2 to those Regulations,
- (c) the planning and development history of the site,
- (d) the submissions of the Referrer and the Planning Authority,
- (e) Mayo County Development Plan 2014-2020,
- (f) the nature and scale of the development, the receiving environment and surrounding context, including European sites,
- (g) the report of the Planning Inspector:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the temporary use of the lands for camping comprising tents, campervans and caravans would constitute development,
- (b) the temporary use of the lands for camping comprising tents, campervans and caravans would fall within the scope of the provisions in Class 1 of Part 3 of Schedule 2 to the Planning and Development Regulations 2001-2019,
- (c) the carrying out of the development would interfere with the character of views of special amenity value, the preservation of

which is provided for within objective VP-01 of the Mayo County Development Plan 2014-2020 and, therefore, the restrictions under Article 9(1)(a)(vi) of the Planning and Development Regulations 2001-2019, apply,

(d) an appropriate assessment would be required for the development, because it would be likely to have a significant effect on the integrity of a European site and, therefore, the restrictions under Article 9(1)(a)(viiB) of the Planning and Development Regulations 2001-2019, apply.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the Planning and Development Act 2000, as amended, hereby decides that the temporary use of lands for camping, comprising tents, campervans and caravans at Bunowen, Louisburgh, County Mayo, is development and is not exempted development.

Colm McLoughlin
Planning Inspector

4th November 2019