



An
Bord
Pleanála

Inspector's Report ABP-318818-24

Development	Retention for extension to agricultural barn.
Location	Lands at Reennagappul and to the west of Market Street, Kenmare, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	23730
Applicant(s)	KPK Properties Ltd.
Type of Application	Retention
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party
Appellant(s)	Martin Arthur
Observer(s)	None
Date of Site Inspection	21 st June 2024
Inspector	Ciara McGuinness

1.0 Site Location and Description

- 1.1. The subject site is located in the townland of Reenagappul, Kenmare, Co. Kerry, circa 400m to the south-west of the Main Street in Kenmare. The subject lands comprise a farmyard complex, containing a large shed and yard area. The yard area is gravelled and fenced. The adjoining lands to the east are greenfield and contain livestock. I note from my site visit that the shed the subject of this appeal is used for storage of bales and farming equipment.
- 1.2. The site has a stated area of 0.31ha. The Kenmare Wastewater Treatment Plant is located c.50m to the north-west of the site. Upgrade works are currently being carried out at the Treatment Plant. There is an existing quarry to the south-west of the lands. The Kenmare stone circle, a National Monument, is situated circa 100m to the north-east of the lands. The subject lands are accessed from a private road which is gated and accessed from Market Street.

2.0 Proposed Development

- 2.1. The proposal is for the retention of an extension to an existing agricultural barn. The extension is stated as 166.64sqm (gross floor space). The overall area of the barn including the extension is 453.6sqm. The height of the barn extension matches the existing barn at 6.078m. The materials also match the existing barn with green metal cladding to the upper walls and roof. The lower walls comprise reinforced concrete.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Grant Permission on 14th December 2023, subject to 4 no. of conditions. Conditions were of a standard nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planners Report (Dated 18/08/2023) notes that the agricultural barn is set back away from the public road and is very well screened by mature trees along the

boundary. The barn is acceptable in terms of design, scale and location. It is considered that there will be no negative impacts on residential or visual amenity. The submissions received were taken into consideration. Issues raised in relation to land ownership/registration are civil matters. Having regard to the submission by the Department of Housing, Local Government and Heritage, Further Information (FI) is requested in relation to the external lighting of the structure to assess whether it is having an impact on the Lesser Horseshoe Bat.

The applicant responded to the FI request and confirmed that all external lighting had been removed from the agricultural barn. The response was considered acceptable as per the Planners Report dated 13/12/2024. A grant of retention permission is recommended.

3.2.2. Other Technical Reports

County Archaeologist – No mitigation required.

Environmental Assessment Unit – AA Screening Report provided. It is considered that the development, would not have required an EIA or a determination as to whether an Environmental Impact Assessment would have been required.

3.3. Prescribed Bodies

Department of Housing, Local Government and Heritage (DAU) – The site is approximately 107m from the Kenmare River Special Area of Conservation (SAC). As this area is designated for the protection of Lesser Horseshoe Bat. The Department requests that FI be provided on external lighting of the structure, if present, to assess whether it is having an impact on the species due to its sensitivity to artificial lighting. No further response following receipt of FI.

Irish Water – No objection.

3.4. Third Party Observations

A third-party observation was received from the appellant Martin Arthur. The issues raised generally reflect the grounds of appeal and relate to landownership, the intended use of the shed and current enforcement issues on the site.

4.0 Planning History

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

The Internal Planning Authority Report notes that Enforcement File Ref:Enf:9521 relates to the proposal.

Adjacent Sites

PA Reg Ref 22/55 / ABP-313364-22 – Permission granted for upgrades to and increased capacity of the existing Municipal Wastewater Treatment Plant (WWTP) and Cromwell's Bridge Pumping Station (PS) in Kenmare County Kerry.

RL08.307488 - The Board found that the alleged unauthorised quarrying activity constitutes development and is not exempted development, as it does not come within the scope of any exemption under Section 4 of the Planning and Development Act 2000, as amended, or any exemption provided for under Article 6 and Schedule 2 of the Planning and Development Regulations 2001, as amended.

RL08.311192 – The Board found that the stripping back and removal of all of the topsoil and trees on lands to create an alleged unauthorized extension of 2.75 hectare to the existing unauthorized quarry, and the importation of broken stone from the quarry extension for storage in the existing quarry at Reennagappul, Kenmare, is development and is not exempted development as it does not come within the scope of any exemption under Section 4 of the Planning and Development Act 2000, as amended, or any exemption provided for under Article 6(3) and 8C and Class 11 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

5.0 Policy Context

5.1. Kerry County Development Plan 2022-2028

The relevant objectives with the Development Plan are outlined below;

Objective KCDP 9-39 Support and facilitate the thematic objectives outlined in “Our Rural Futures”, rural development policy 2021-2025, to strengthen economic activity and employment in rural areas.

Objective KCDP 9-53 Facilitate and support the development of sustainable agricultural practices and facilities within the county, subject to normal planning and environmental criteria and the development management standards contained in Volume 6 of this plan.

Objective KCDP 9-55 Facilitate the sustainable modernisation of agriculture and to encourage best practice in the design and construction of new agricultural buildings and installations to protect the environment, natural and built heritage and residential amenity.

Objective KCDP 11-77 Protect the landscapes of the County as a major economic asset and an invaluable amenity which contributes to the quality of people's lives.

Objective KCDP 11-78 Protect the landscapes of the County by ensuring that any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area. Any development which could unduly impact upon such landscapes will not be permitted.

5.2. Kenmare Municipal District LAP 2024-2030

- 5.2.1. The Kenmare Municipal District LAP 2024-2030 came into effect on the 24th May 2024. The site is within the settlement boundary of Kenmare. The site is zoned P1 Agriculture with the objective 'zoned for agricultural and related activities'.

5.3. Natural Heritage Designations

Kenmare River SAC (Site Code 002158) – c.80m to the north of the site.

5.4. EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a preliminary examination or screening assessment. Refer to Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows;

- The applicant is statutorily obliged to submit an Ecological Impact Assessment that addresses any potential impacts on the ecology of the site, including a bat survey. References to other planning applications where an Ecological Impact Assessment was requested by the Planning Authority are provided.
- The existing shed may contain a bat roost. There is no evidence that a bat survey was undertaken. The introduction of internal lighting within the shed may have a harmful effect on the Lesser Horseshoe Bat.
- A comprehensive assessment of potential impacts on the closest European site has not been undertaken. Concerns are raised regarding the robustness of a screening report in the absence of a bat survey.
- Concerns are raised about the use of the shed. The appellant contends that the shed has been used for the storage of building materials used in the construction of houses in the Kenmare area. The appellant references other enforcement files in relation to the developer's activity on adjoining sites.

6.2. Applicant Response

The applicant's response to the appeal is summarised as follows;

- The erection of the original barn does not form part of the retention application. The original barn constituted exempt development under Class 9 of Part 3 of Schedule 2 of the Regulations.
- As the external lighting was removed any potential impacts on lesser horseshoe bat have been eliminated. A condition was attached by the Planning Authority which prohibits the use of external lighting on the agricultural barn in the future. The appellant incorrectly states that the applicant was statutorily obliged to submit an Ecological Impact Assessments.

Examples provided the applicant are not relevant to the proposed development.

- An Appropriate Assessment Screening was undertaken by Kerry County Council, which concluded that appropriate assessment would not be required.

6.3. Planning Authority Response

None.

6.4. Observations

None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows;

- Principle of Development/use
- Ecology
- Appropriate Assessment

7.2. Principle of Development/Use

7.2.1. The development the subject of this appeal relates to the proposed retention of an extension to an existing agricultural barn. The development is on lands zoned P1 Agriculture with the objective to provide for the agricultural use of lands and related activities. I am satisfied that the proposed use of the building is for agricultural purposes. On the day of my site visit I notes that the shed was used for the storage of bales and farming equipment, and I noted livestock on the adjoining greenfield site. I would note that sheds are common agricultural structures and that the shed is of a standard agricultural design. I do not consider that the development would generate any additional traffic or any residential amenity issues. Overall, I am satisfied that the development is in accordance with the zoning objective for the site

and would not seriously injure the visual or residential amenity of the area and would be acceptable in terms of public health and traffic.

7.3. Ecology

- 7.3.1. The appellant contends that the applicant is statutorily obliged to submit an Ecological Impact Assessment. The Chartered Institute of Ecology and Environmental Management (CIEEM) Guidelines For Ecological Impact Assessment in the UK and Ireland, promote good practice in Ecological Impact Assessment (EclA). The guidelines note that EclA is a process of identifying, quantifying and evaluating the potential effects of development-related or other proposed actions on habitats, species and ecosystems. I note that the Guidelines state that "EclA on its own is not a statutory requirement. It is an evaluation process undertaken to support a range of assessments." In this regard, each application is assessed on its own merits. The proposed development is for an extension to an existing agricultural shed. Having regard to the very minor nature and scale of the proposed development, and the location of the development within an active agricultural yard, I do not consider that an ecological assessment is required in this instance.
- 7.3.2. Furthermore, I note that Section 11 of the County Development Plan relates to the Environment. It is stated that this Chapter contains policies and principles which will ensure that the natural environment, biodiversity and ecosystems are protected. I note that there is no specific policy requirement therein, which would require an Ecological Impact Assessment to be submitted for this development.
- 7.3.3. The appellant also raises issues with regards to the potential impact on lesser horseshoe bat. I note that Department of Housing, Local Government and Heritage request that FI be provided on external lighting of the structure, if present, to assess whether it is having an impact on the species. The applicant confirmed that the external lighting on the structure had been removed. No further response was received from the Department following receipt of FI. The response was considered acceptable by the Planning Authority. I note that agricultural activities are established at the site. I consider that any impacts of the barn extension would be similar to those established and not considered likely to be significant. The issue Appropriate Assessment is dealt with separately below in Section 8 and Appendix 2.

8.0 AA Screening

- 8.1. See Appendix 2 of this report for Appropriate Assessment Screening Determination. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site, namely the Kenmare River SAC, and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The very minor scale of the development and lack of impact mechanisms that could significantly affect a European Site
- Location-distance from nearest European site and lack of connections
- Taking into account screening determination by LPA

9.0 Recommendation

I recommend that permission is granted for the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to the nature and scale of the development within an established agricultural farmyard, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the visual or scenic amenity of the area and would be acceptable in terms of public health and environmental sustainability. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 17th day of November

2023, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The building shall be used for agricultural/horticultural storage and associated purposes only. The building shall not be used for human habitation or any commercial purpose other than a purpose incidental to farming/horticulture, whether or not such use might otherwise constitute exempted development.

Reason: In the interest of orderly development and the amenities of the area.

3. No external lighting shall be erected on the agricultural building.

Reason: To clarify the plans and particulars for which permission is granted.

4. Existing trees and hedgerows surrounding the site shall be preserved and maintained, unless otherwise agreed in writing with the planning authority

Reason: To protect the rural character and visual amenities of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Ciara McGuinness
Planning Inspector

6th January 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318818-24		
Proposed Development Summary	Retention for extension to agricultural barn.		
Development Address	Lands at Reennagappul and to the west of Market Street, Kenmare, Co. Kerry		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes ✓	Tick if relevant and proceed to Q2.
		No	Tick if relevant. No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			Proceed to Q3.
No	✓		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ Date: _____

Appendix 2 – Screening the need for Appropriate Assessment

Screening the need for Appropriate Assessment

Appropriate Assessment :Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the extension to the existing shed in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The proposed development comprises the retention of an extension to an existing shed within an agricultural farmyard. I have provided a detailed description of the development in Section 2 of my report. The site is c.400m west of Kenmare town centre.

A screening report for Appropriate Assessment was not submitted by the applicant. However, in the Local Authority assessment of the proposed development, Appropriate Assessment Screening was undertaken by Kerry County Council as part of their assessment and a finding of no likely significant effects on a European Site was determined. Kerry County Council concluded the proposed development would not require Appropriate Assessment.

There are no water courses or other ecological features of note on the site that would connect it directly to European Sites in the wider area. The Finnihy River which forms part of the Kenmare River SAC is located to the north and west of the site.

European Sites

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation or Special Protection Area (SPA).

The boundary of the nearest European Site, the Kenmare River SAC (002158) is within 100m.

Other European sites in the wider area are excluded from further consideration because there is no hydrological or other connectivity, and because of the distances involved.

European Site	Qualifying Interests (summary)	Distance	Connections
Kenmare River SAC	Habitats: Large shallow inlets and bays, Reefs, Perennial vegetation of stony banks, Vegetated sea cliffs of the Atlantic and Baltic coasts, Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>), Mediterranean salt meadows (<i>Juncetalia maritimi</i>), Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes), Fixed coastal dunes with herbaceous vegetation (grey dunes), European dry heaths, <i>Juniperus communis</i> formations on heaths or calcareous grasslands, Calaminarian	c.80m to the north of the site	Indirect

	<p>grasslands of the Violetalia calaminariae, Submerged or partially submerged sea caves</p> <p>Species: Vertigo angustior (Narrow-mouthed Whorl Snail), Rhinolophus hipposideros (Lesser Horseshoe Bat), Phocoena phocoena (Harbour Porpoise), Lutra lutra (Otter), Phoca vitulina (Harbour Seal)</p>			
<p>Likely impacts of the project (alone or in combination)</p> <p>There is potential for surface water run-off from construction works resulting in changes to environmental conditions such as water quality. It is noted however that there are no watercourses within or adjoining the works area. Due to the nature of the development and the presence of a buffer area between the site and Kenmare River SAC, with no direct ecological connections and distance from receiving features connected to Kenmare River SAC, it is highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites.</p> <p>The construction of the extension may have generated noise and disturbance of a temporary nature. However, due to the distance from the SAC and intervening land uses, it is unlikely that significant effects would occur in relation to otter/seal. Construction works for the project would be limited to during the day, when otters and lesser horseshoe bat are not active.</p> <p>Contaminated surface water runoff is not considered likely during the operational stage of the project. No effluent would be generated by the proposal. It is considered that agricultural activities are established at this location. While the scale of the shed has increased, it is considered that the operational stage impacts would be similar to those already established and would not be likely to be significant.</p> <p>Likely significant effects on the European sites in view of the conservation objectives</p> <p>The proposed development occurs within 2km of the Dunkerron Souterrain roost and therefore Lesser horseshoe may utilize habitats adjacent the development for foraging. However the development does not have any external lighting and agricultural activities are established at the site. The impacts would be similar to those established and not considered likely to be significant. The proposal does not present a realistic risk to water quality in the Kenmare River SAC or to otter likely to utilise the Rivier Finnihy.</p> <p>Having regard to this distance, the nature, scale and extent of the works, the nature of the receiving environment, the absence of a direct hydrological link, and implementation of standard construction techniques, significant effects on the European site are unlikely.</p> <p>In combination effects</p> <p>The proposed development will not result in any effects that could contribute to an additive effect with other developments in the area.</p> <p>No mitigation measures are required to come to these conclusions.</p>				
Overall Conclusion				

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site, namely the Kenmare River SAC, and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The very minor scale of the development and lack of impact mechanisms that could significantly affect a European Site
- Location-distance from nearest European site and lack of connections
- Taking into account screening determination by LPA