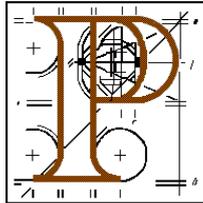


# An Bord Pleanála



## Inspector's Report

**PL13.243491**

**DEVELOPMENT:-** Permission to construct (a) machinery store, (b) extension to calf house, (c) slatted cattle unit (d) extension to calving boxes and permission to retain (e) calf house (f) calving boxes (g) extension to cow unit and all associated works at Bawntard North, Kilmallock, Co. Limerick

### **PLANNING APPLICATION**

**Planning Authority:** Limerick County Council  
**Planning Authority Reg. No.:** 14/496  
**Applicant:** Gabriel Cleary  
**Application Type:** Permission  
**Planning Authority Decision:** Grant Permission

### **APPEAL**

**Appellant:** Noel Halpin  
**Type of Appeal:** Third v Grant  
**Observers:** None

**DATE OF SITE INSPECTION :** 20<sup>th</sup> August 2014

**INSPECTOR:** Mairead Kenny

## **SITE LOCATION AND DESCRIPTION OF PROPOSAL**

The site is located a rural area to the north-east of Kilmallock in south county Limerick and comprises a farmyard of stated area of 0.62 hectares. Access is gained from the southern boundary of the site which adjoins the minor public road. The southern site boundary is marked by an earthen bank which is planted with a hedgerow.

To the east and at the opposite side of the public road are two dwellinghouses and one partly completed dwellinghouse at which construction appears to have ceased at present. To the west, north and east of the site is farm land. On the basis of the documentation on file including the 6inch OS map with a holding outlined in blue, the adjacent farm lands appear to be in the ownership of the applicant. The stated area of the entire land holding is 24.4 hectares according to the application form. Further to the west the nearest dwellinghouse is the place of residence of the applicant, which is visible from the subject site.

Within the farmyard complex are a range of buildings and structures and the application provides for permission to retain or extend some of these as described below. In all the application is for permission to retain 296 square metres of buildings and for permission to construct an additional 437 square metres of building. I refer below to the numbers marked on the 1:500 site layout plan submitted by the applicant.

- Permission is sought to retain two extensions (number 11 and 12) to the large slatted cow unit (number 2) and to add a further extension (number 9)
- Permission is sought for more than doubling of the size of the slatted cattle unit (addition of building number 8 to the existing number 3)
- Permission to retain a calf house (number 10) and to add two extensions, one being an extension of the existing use (number 7), the other being a machinery store.

The information submitted indicates that the housing of 80 cows over winter is proposed and that there would be 30 in-calf heifers and 40 calves up to 1 year old. This would give rise to a requirement for slurry capacity due to livestock of 723 cubic metres and an additional 157 cubic metres from dairy washings. The total storage available is 900 cubic metres, which is less than the total required.

Regarding the agitation of the slatted tank at number 8 the use of contractor equipment is stated to allow for a single point agitation arrangement.

## **PLANNING HISTORY**

There is no record of recent relevant planning history.

## **POLICY AND LEGISLATIVE CONTEXT**

Under the provisions of the Limerick County Development Plan 2010-2016 the importance of agricultural employment is noted. The sector is described as having played a key role as a building block for a strong and diversified rural economy and it is of importance in maintaining the viability of towns and villages. Proposals for agricultural development will normally be permitted where they are appropriate in nature and scale, where the proposal is necessary, where there are no suitable redundant buildings which could be used, where the development is not visually intrusive in the local landscape and where the proposal demonstrates that it has taken into account traffic, environmental and amenity considerations.

The relevant regulations at the time of writing are the EC (Good Agricultural Practice for the Protection of Waters) Regulations 2014 (SI 31 of 2014).

Data from the DAHG website indicates that the nearest Natura 2000 site is under 7km from the site – this is Ballyhoura Mountains SAC, site code 002036.

## **SELECTED INTERNAL REPORTS SUBMITTED TO PLANNING AUTHORITY**

The planner's report notes that the development in an existing agricultural facility will not exercise a significant effect on the conservation status of any SAC or SPA and therefore an Appropriate Assessment is not necessary. There are no immediately adjoining houses and the development is within an existing farm complex and is acceptable in principle in this regard. Compliance with relevant regulations will be required. The letter of objection is noted. While the drawings 'do not contain a huge amount of details the necessary details have been indicated'.

The report of the Environment section notes that there do not appear to be any issues of concern from an environmental point of view. The applicant should be reminded of the requirement that all farming activities be carried out in accordance with the requirements of the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2014.

## **DECISION OF PLANNING AUTHORITY**

The Planning Authority decided to grant permission subject to the following conditions :

- To be in accordance with the plans and particulars as amended by the submission of 10<sup>th</sup> April 2014
- All farming activities to be in accordance with the requirements of SI 31 of 2014
- Roof covering / sidings to be of dark colour.

## **GROUNDS OF APPEAL**

The main points of the appeal are :

- The documentation is inadequate and fails to include all information for the purposes of waste management
- Agitation of the tank from both ends is not possible
- The site entrance is hazardous and other details are missing
- The scale of the development constitutes a major increase in the capacity of the farmyard and no permission has been sought for recently constructed underground storage tanks. The waste storage is for 150 cattle which is far in excess of the capacity of the holding.
- Mitigation to include boundary treatments, screen planting etc. would be appropriate in view of the impact on the landscape and the nearby houses as the development can be clearly seen from the road.
- Health and safety including prevention of access to the site by children and measures to reduce noise, lighting , odour and other impacts are required.
- In the event of non-compliance with the relevant regulations the conditions do not require inspection or control, or that the applicant demonstrate compliance. I refer to SI 31 2014/6/30 for details of responsibilities of Local Authorities to carry out inspections.
- The farmyard is improperly designed as there is no plan for handling of surface water runoff, no indication of the locations of downpipes or open drainage ditches or falls or levels especially in the vicinity of the dairy and the silage slab.
- There is an ongoing problem in this area with groundwater quality and without proper drawings it will be impossible to ensure accountability.
- There is no information relating to the outlet from the underground tank – there was a condition previously whereby runoff from the yard was directed into local watercourses via an underground drain from a storage tank by the dairy.
- The underground slatted slurry tanks were to contain effluent and slurry produced in the farmyard but due to the construction overhead of sheds the original containment measures are now inadequate.

### **RESPONSES TO APPEAL**

The **Planning Authority** indicates that the works are embedded in the farm complex and represent the consolidation and improvement of the facility and accordingly do not represent a serious visual intrusion or serious negative impact on adjoining dwellings. The environmental management of the farm yard in terms of waste management and pollution does not fall within the remit of the Planning Authority.

The documentation was reviewed by an Agricultural Scientist in the Council who considered it adequate subject to a condition stipulating that the applicant comply with relevant regulations. Condition 2 refers.

The **applicant** has responded as follows:

- A waste management plan was prepared and was submitted to the Environmental Officer
- The main underground tank was approved in 2003 and it is 4m from the earthen ditch, allowing the agitator to reverse in at right angles to the shed as has been the practice for the last ten years. The new tank has been agitated on two occasions.
- The farmyard was in existence before the houses were constructed and no objection has come from these residents.
- In relation to the design of the farm buildings advice was sought from a number of experienced persons who are listed.
- On inspection of the farmyard by the Environmental Officer of the Council an old over ground slurry pit was noted to be leaking, advice was given and a waste management plan requested and on each subsequent visit to the site including 5 or 6 times since 2013 he was happy with the progress made in meeting conditions and satisfied with the plan and the permanent decommissioning of the over ground slurry pit and he noted that the farmyard was clean and well maintained.
- There is no intention to increase stock numbers.
- All new buildings are away from the existing houses.
- The farmyard has been and will be inspected by a number of bodies including the HSA.
- The appellant is not resident nearby and is using the planning system to further a personal grudge
- Restrictive conditions not imposed on other farms should not be imposed.

### **ASSESSMENT**

Having regard to the nature and scale of the development the proposal to retain existing structures and to develop additional buildings will consolidate and upgrade the existing farmyard and is acceptable in principle.

The appellant has raised a number of issues which I will consider below under the headings of (i) adequacy of information, (ii) traffic, (iii) visual impact (iv) surface and groundwater impacts and (v) other issues.

*Documentation* The appellant states that the application details are incomplete and that there are grounds for invalidating the application. This matter was considered by the Council's planner. I agree with the determination that the drawings though lacking detail are adequate for the purposes of the application. The drawings are to scale and from inspection I concluded that the existing development on the site is accurately represented. The proposed extensions all relate to existing buildings and I do not consider that it is necessary in the circumstances to indicate site levels. There are no immediately abutting buildings outside the site and I do not consider that the depiction of existing houses across the public road or the separation distances is warranted. I do not consider that it is necessary to make an application to retain the underground tank at 8 as this is an inherent part of the structure proposed for that location.

*Traffic* It is the stated opinion of the appellant that the existing site entrance constitutes a traffic hazard. At the time of inspection I noted the large area available for vehicles to park off the road – this in turn allows drivers to maximise the available sight-distances and I found no difficulty with the sightlines in practice. The removal of additional hedgerow and bank could be undertaken – this would require omission of the proposed buildings numbered 9 and 10. However, I do not consider that this is warranted. The reversing of large vehicles from the public road will be required for the purposes of agitation of the slurry tank but this will occur very infrequently and would not reasonably be described as constituting a traffic hazard in my opinion. I consider that the development proposed is acceptable in terms of traffic safety and that the site entrance is adequate for the required purposes.

*Visual Impact* The main concern identified in the appeal relates to the view of the farmyard from the public road, which it is stated requires additional landscaping. The development which it is proposed to retain and the new buildings in combination will consolidate the complex and will not extend over additional lands or be in any way visually discordant or obtrusive. I do not consider that additional landscaping is warranted having regard to the character of this area and of the existing facility.

*Surface water and groundwater* The appellant makes a number of comments relating to the proposals for surface water drainage. I consider that in the interest of clarity it is appropriate to attach a condition that all effluent from yards and roofs drain to soakpits, that all tanks be self contained and that all soiled water be directed to the tanks. I did not inspect the far side of the public road where the appellant states a stream is positioned into which a tank discharges. However, the relevant regulations cover this matter and provide the legislative basis for preventing environmental pollution. Nothing in the internal reports prepared for the Planning Authority indicate any concern on this matter and the applicant's response to the appeal has clearly identified that a single pre-existing issue has now been addressed and that the facility has been inspected a number of times by relevant officials in recent years.

*Other issues* In relation to the principle of the development the appellant states that the scale of the development is inappropriate for the extent of the land holding of 24.4 hectares. It is a requirement that the applicant ensure that there is sufficient lands available for land spreading. In the interest of clarity and control of development I consider it reasonable that the Board request that the applicant clarify to the Planning Authority details of the numbers of animals and arrangements for disposal of slurry and other matters and condition 6 below refers. It might be argued that this condition is not strictly necessary but it is one which the Board has used previously in relation to similar developments. On balance therefore I recommend it for consideration.

In relation to the objector's comments regarding the lack of waste management plan, the applicant indicates that these details have in fact been submitted to the Council officials.

In relation to the tank under the slatted shed it is the appellant's opinion that the agitation of the tank from one end is not possible and that if it is not properly agitated there would be a serious hazard.

The appellant refers to a number of matters relating to health and safety including the odours from the tanks, lighting, noise and safety for children. The site comprises an existing operating farm facility. I do not consider that the subject development gives rise to any additional impacts in terms of the matters raised by the appellant.

Having regard to the qualifying interests of the Ballyhoura Mountain SAC, to the 7km distance from the site, lack of hydrological connection and the fact that the SAC is upland of the site, I consider that there is no likelihood of significant effects on that site or on other Natura 2000 sites in the vicinity.

### **RECOMMENDATION**

I recommend that the Board uphold the decision of the Planning Authority to grant permission for the reasons and considerations and subject to the conditions below.

### **REASONS AND CONSIDERATIONS**

Having regard to its rural location within an established farm complex, it is considered that, subject to compliance with the conditions set out below, the development to be retained and completed is a reasonable intensification of an established agricultural farmyard use in a rural area where the established land use is agriculture. The proposed development would not seriously injure the amenities of the area or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application except as may otherwise be

required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

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

2. The roof and side cladding of the structures shall be in grey, dark grey, green or dark green. .

**Reason:** In the interest of visual amenity.

3. All foul effluent and slurry generated by the proposed development and in the farmyard shall be conveyed through properly constructed channels to the proposed and existing storage facilities and no effluent or slurry shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road.

**Reason:** In the interest of public health.

4. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains, streams or adequate soakpits and shall not discharge or be allowed to discharge to the foul effluent drains, foul effluent and slurry storage tanks or to the public road.

**Reason:** In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.

5. A change in the approved method of agricultural waste storage and disposal on site shall not be permitted, and livestock numbers shall not be increased in a manner that results in the storage requirements, as outlined in Statutory Instrument Number 31 of 2014, European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2014, being exceeded.

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

6. The slatted shed shall be used only in strict accordance with a management schedule to be submitted to and agreed in writing with the planning authority, within three months from the date of this order. The management schedule shall be in accordance with the Statutory Instrument Number 31 of 2014, European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2014 and shall provide at least for the following:

- (a) Details of the number and types of animals to be housed.

- (b) The arrangements for the collection, storage and disposal of slurry.
- (c) Arrangements for the cleansing of the buildings and structures.

**Reason:** In order to avoid pollution and to protect residential amenity.

**Mairead Kenny**  
**Senior Planning Inspector**  
**24<sup>th</sup> September 2014**