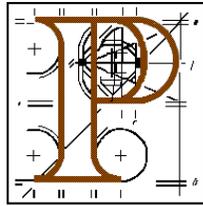


# An Bord Pleanála



## Inspector's Report

**Development:** Slatted shed with calf creep area, extend existing horse shed and hay / straw storage shed.

**Location:** Thomastown Demesne, Ballydangan, Co Roscommon

### Planning Application

Planning Authority: Roscommon County Council

Planning Authority Reg. Ref.: PD14/215

Applicant: Tony Whyte

Type of Application: Permission

Planning Authority Decision: Grant Permission

### Planning Appeal

Appellant: Martin O'Neill

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

Date of Site Inspection: 11<sup>th</sup> December 2014

Inspector: Dolores McCague

## **1 SITE LOCATION AND DESCRIPTION**

- 1.1 The site is located at Thomastown Demesne, Ballydangan, Co Roscommon on a local road north west of the old N6 now the R446. There are several dwellings in the vicinity of the site, including one within the site. The public road runs in an east to west direction at the front of the site. The site is occupied by a dwelling and road access towards the eastern end of the road frontage, and a separate access and farm roadway at the western end; and farm buildings, yards and paddocks to the south of the dwelling. The farm road runs along the site boundary adjoining the appellant's property. The appellant's dwelling is located close to this boundary which is formed by a tall hedgerow. The site is given as 1.09ha.
- 1.2 The site is located in an area of moderate groundwater vulnerability although the general area is characterized by areas of high or extreme vulnerability, rock near the surface or karst; and as having swallow holes and seasonal lakes in some areas.

## **2 PROPOSED DEVELOPMENT**

- 2.1 The proposed development is a slatted shed with calf creep area and an extension to existing horse shed and hay and straw storage shed.

## **3 PLANNING AUTHORITY DECISION**

- 3.1 The application lodged on the 4<sup>th</sup> July 2014 includes a map showing lands in the applicant's ownership, stated on the application form to be 13.18ha in extent. The site layout incorrectly labels a building which is horse stabling as a neighbouring dwelling house and this error was corrected in a letter received by the planning authority on the 2<sup>nd</sup> Sept 2014.
- 3.2 Initial reports  
Environment – 28/7/2014 – conditions  
Planning report recommending further information 30/7/2014

- 3.3 Further information request regarding distance from neighbour, and sight distance.
- 3.4 Further information response 21/8/2014. The response outlines various locations which were considered for the proposed development and the difficulties encountered.
- 3.5 The response refers to an objection on the file –

The proposals will be 58m and 73m from neighbours house and not 45m and 55m as stated by the objector.

The proposals are SE and the prevailing winds are west to east, any smells noise will be carried away from the objectors house. Development will be in accordance with Dept. of Agriculture specifications S101 and S123 and there will be no pollution of groundwater.

Sightlines – 15 years ago he and his father removed an existing roadside hedge and erected a post and wire fence, the hedge was approx. 2m from the centre of the road and they extended this by 2m, to improve the sightline, a new hedge has been established behind this line. He is willing to cut back the new hedge and to maintain it. The proposed facilities will result in a reduction in the amount of traffic onto the public road as all animals will be over-wintered in one location and not numerous locations resulting in numerous trips.

All lands owned and farmed are to the west and 90% of traffic will exit to the west. Removing the existing hedgerow will provide little benefit as 35m (east) there is a line of Lawson Cyprus which his parents will not consent to remove. There is a slight incline and then decline in the road which, the applicant states, is more of an issue than the hedgerow.

- 3.6 Planner's report includes:
- Due to the rural setting where agriculture is the prevailing land use there is insufficient grounds to require the developer to reconfigure the proposed development.
- The applicant has indicated that there will be no intensification of use of the proposed entrance.

Sightlines are limited in a easterly direction. Traffic egressing the site may present an undue risk of traffic hazard to west bound priority traffic.

There is essentially no sightline in an easterly direction.

The sightline is obscured by an overgrown boundary hedge immediately to the east of the entrance. The lowering of this boundary to a height not exceeding 1.2 would give sight lines in excess of 50 to 60m.

The section of road frontage which contributes to the achievement of adequate sightlines is within the planning unit.

- 3.7 The planning authority decided to grant planning permission subject to 11 conditions including no. 7 – requiring the submission of proposals to permanently lower and maintain existing vegetation and other obstacles to a height not exceeding 1.2m along the site frontage from the existing entrance serving the development in an easterly direction for 30m.
- 3.8 The decision was in accordance with the planner's recommendation.
- 3.9 An observation on the file has been read and noted.

## **4 PLANNING HISTORY**

13243 erection of a dwelling house and construction of septic tank (permitted Sept 1980).

13,243A/92 four mushroom tunnels (permitted Nov 1982).

06/1811 horse stables, lunging area loose shed, manure pit and associated facilities (permitted March 2007). Condition no. 15 stated that the proposed development shall not be used as a commercial venture without a relevant grant of planning permission.

## **5 GROUNDS OF APPEAL**

- 5.1 A third party appeal has been submitted by Dolan and Associates Ltd., Civil Engineering and Architectural Consultants on behalf of Martin O'Neill.
- 5.2 The grounds of appeal can be summarised as:

The application is invalid as the applicant did not pay the appropriate planning fee; no fees were paid in respect of the storage tank. Discrepancies in floor area stated in the application form for 06/1811 and the details currently presented for the existing development are cited. Appellant requests the Board to adjudicate on whether or not unauthorised development has taken place.

A farmyard access road was constructed without the benefit of planning permission, not included in the development description of PD 06/13243. An aerial photograph of the area prior to the construction of the access road is attached to the appeal submission.

This unauthorised development is causing a nuisance to the appellant within 2m of his dwelling:

- it is used at irregular and unsocial hours,
- the use of a vibrating roller, vehicular traffic and parking of vehicles on the roadway,
- increased traffic particularly tankers used for land spreading.

The work under 06/1811 remains incomplete. Topsoil and materials continue to be stockpiled on the land.

The proposed development could be relocated within the landholding to allay the appellant's concerns.

The existing sheds are a source of constant annoyance and disturbance and the proposed intensification would further detract from appellant's enjoyment of his property.

The appellant is involved in farming which is well maintained and landscaped to a high standard.

He feels that the decision may be politically motivated.

Re sightlines – it is barely credible that the applicant's parents would not allow the setting back of their boundary. The hedge has been allowed to grow unchecked for 7-8 years and he questions that it will now be cut back in September each year.

Sightlines were deemed to be substandard and the Board is requested to refuse permission.

These types of developments together with landspreading have been the single largest contributor to the contamination and deterioration of groundwater quality over the past 40 years.

The appellant's water supply is checked on a regular basis and is not contaminated.

## **6 RESPONSES**

### **6.1 The First Party**

The First Party has responded to the grounds of appeal which response includes:

The family dwelling was erected on foot of planning permission granted in 1980 (ref PD 13243). It is located as indicated on the site layout plans and is his parent's residence.

In 1982 an application for four mushroom tunnels was made. In 2006 further diversification was necessary. A planning application was made (ref 06/1811) for the erection of horse stables, lounging area, loose shed and manure pit. The proposed lunging area was not built. The buildings were used primarily for horses and breeding mares, as part of a standard farm with no equestrian activity, no commercial activity and no visitors or traffic.

The farm is primarily cattle farming and out wintering of cattle is no longer feasible; cattle in Ireland are now housed for the winter months.

An initial planning application in 2008 ran into difficulties regarding proximity to a site of historical significance (ref PD 08/842), and was discontinued. The current site was considered the best location.

The proposed cattle shed is a relatively small structure, to accommodate the cattle on the applicants holding for winter housing. The storage tanks for the cattle sheds have adequate capacity for the storage of effluent volumes associated with the total number of animals housed for an 18 week storage period. Land maps showing the provision and availability of the land areas necessary for the safe spreading of the slurry volumes have been submitted.

Anybody choosing to reside in the countryside must be aware of the need for the maintenance of sustainable and viable practise in order to try to ensure that family farming can be continued. Out wintering cannot be countenanced having regard to environmental, farming and land damage.

The response refers to issues raised:

The applicant has engaged with the planning authority in withdrawing the previous planning application and arranging a pre-planning meeting.

The photograph submitted with the appeal shows the presence of a wide gate onto the public road at the location of the current access point.

There is no traffic at unsocial hours and the existing farm yard facilitates farming activity carried out during normal working hours.

There has never been parking along the public road.

The presence of tankers is once a year as in virtually all farm land; it is a standard method of fertilisation. A vibrating roller was used on the property on one occasion approx. 15 years ago.

The proximity to his family house would indicate that any impact such as smell, noise etc. would also impact on his family home.

The pre-planning report states that a maximum of 20 animals would be housed, not the 15 stated by the appellant.

The applicant works on the farm and his daily routine does not normally involve many trips off farm. His family home has its own separate entrance.

There is no difficulty in the provision of the required vision splay to the west. Traffic entering and leaving the yard will not encroach on the paved area in front of the appellant's site. To the east of the entrance the boundary hedge is 2.6m from the edge of the carriageway. It can be trimmed back another 400mm to ensure optimum sight line. Applicant is prepared to furnish an undertaking to the planning authority.

The proposed location of the cattle shed is at the rear of the existing farm yard compound, 73m from the appellant's dwelling and separated therefrom by a mature hedgerow and tall trees.

The location was chosen to offer the best compromise to the overall co-ordination of the farm yard. The extension to the loose shed is an extension to an existing building.

Responding to concerns regarding damage to a well: the proposed slurry tanks serving the cattle sheds are constructed to standards which ensure that the tanks are water tight. It is in the applicant's interests as well as his neighbours, to ensure that there should not be leakage.

The septic tank installation serving the appellant's dwelling is located in a direct line between the proposed cattle shed and the borehole location and is more likely to pose a threat to the ground water quality in the well location. The proposed tank poses no threat to ground water quality.

Slurry is already spread on lands immediately to the west of the appellant's property and this legitimate activity has more potential to damage the quality of the water source than any water tight tank.

The allegation of the planning decision being 'politically motivated' is rejected.

## 7 PLANS AND POLICIES

- 7.1 The Roscommon County Development Plan 2014-2020 is the relevant policy document.

Chapter 3, which deals with Economic Development, refers to the importance of agriculture and of facilitating the development of agriculture and agricultural practices.

## 8 ASSESSMENT

- 8.1 The issues which arise in relation to this appeal can be considered under the headings: access, groundwater and nuisance and the following assessment is dealt with under those headings.

### 8.2 Access

- 8.3 The appellant states that the existing entrance is unauthorised.
- 8.4 The farm gate at the western end of the site is shown on the appellant's photograph as existing *'prior to the construction of the unauthorised access road'*.
- 8.5 This entrance road was part of two previous permissions.
- 8.6 It is identified on the planning drawings for 3, 243A/92 Layout Plan, scale 1:500, which states: *'new 7m wide access road made with 804 stone and sand mix ...'*
- 8.7 It is also shown on the site layout for PD/06/1811 and referred to in the Area Engineers report *'entrance is via an existing agricultural entrance. The access road should be constructed of suitable stone and fill material which won't result in debris being brought onto public road.'*
- 8.8 Sightlines have been raised as a concern. There will be additional use of the existing entrance. The applicant has undertaken to trim the hedge at the front of the site which will improve visibility in an easterly direction. The farm road accessing at the western end of the site became established following planning permissions 3, 243A/92 and PD/06/1811.
- 8.9 In my opinion the increase in the level of usage of this entrance which is to a local road should not be a reason to refuse permission.

### **8.10 Groundwater**

8.11 The site is not located in an area where groundwater is particularly vulnerable, although there are vulnerable areas in the general area including land shown in the ownership of the applicant.

8.12 I agree that the issue in relation to groundwater is more likely to be land spreading and not the tank in the slatted shed. Farm yard management should ensure that any spillages in the vicinity of the tank when emptying operations are being carried out are properly managed and I note in this regard that the applicant has a farm house which is also supplied by a well water supply in close proximity to the proposed development. I consider therefore that proximity to the appellant's well water supply and his concerns in relation to groundwater should not be a reason to refuse permission.

### **8.13 Nuisance**

8.14 The appellant has concerns in relation to proximity to his dwelling to the proposed development; there are also other dwellings in the vicinity: across the road and to the east. The proposed development is of a modest scale, related to the size of the farm. I consider that there is nothing on the file to suggest that there will be any exceptional noise or smell arising as a result of the proposed development other than those associated with agriculture, which is the predominant land use in this area.

## **9 RECOMMENDATION**

I consider that, subject to the following conditions, the proposed development, which would provide necessary agricultural facilities, would be acceptable in terms of farm layout, would not unduly impinge on the amenities of residential property in the vicinity, would accord with the policies and objectives of Roscommon County Development Plan; and would therefore be in accordance with the proper planning and sustainable development of the area.

Conditions:

- 1 The development shall be carried out 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 details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

- 2 Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. In this regard-
  - (a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and
  - (b) all soiled waters shall be directed to a storage tank. Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

**Reason:** In the interest of environmental protection and public health.

- 3 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, prior to commencement of development. The management schedule shall be in accordance with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2009 (SI no. 101 of 2009), and shall provide at least for the following:

- (1) Details of the number and types of animals to be housed.
- (2) The arrangements for the collection, storage and disposal of slurry.

- (3) Arrangements for the cleansing of the buildings and structures (including the public road, where relevant).

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

- 4 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.

- 5 Slurry generated by the proposed development shall be disposed of by spreading on land, or by other means acceptable in writing to the planning authority. The location, rate and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in accordance with the requirements of the European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 20010 (SI no. 610/2010).

**Reason:** To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of watercourses.

- 6 A minimum of 18 weeks storage shall be provided in the underground storage tank. Prior to commencement of development, details showing how it is intended to comply with this requirement shall be submitted to and agreed in writing with the planning authority.

**Reason:** In the interest of environmental protection and public health.

7 The external finishes of the proposed extension (including roof tiles) shall be the same as those of the existing building in respect of colour and texture.

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

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Dolores McCague  
Inspectorate

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Date

Appendix 1 Map and Photographs

Appendix 2 Copy extracts from Roscommon County Development Plan 2014-2020