



An
Bord
Pleanála

Inspector's Report ABP-307103-20

Development	To construct an entrance, straw bedded cattle shed with slatted tank and ancillary works.
Location	Dundullerick West, Dundullerick East, Leamlara, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	20/4282
Applicant(s)	Kieran O'Connor & Eileen O'Leary
Type of Application	Permission
Planning Authority Decision	Grant, subject to 21 conditions
Type of Appeal	Third Parties -v- Decision
Appellant(s)	Thomas Kenneally John & Sarah Fitzpatrick
Observer(s)	Eamonn & Clare Daly
Date of Site Inspection	25 th June 2020
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located 5.6km to the E of Watergrasshill and Junction 17 on the M8 and 2.8km to the W of Ballincurrig on the R626. This site lies in a rural area, which is composed of farmland and woodland. It is accessed off the L5812-5, a local secondary road that runs on a N/S axis to the E of the site.
- 1.2. The main body of the site is square in shape and it is sited centrally within the applicants' "L-shaped" lands on the W side of the L5812-5. (Other lands owned by the applicants lie on the E side of this local road). This site would be accessed off the local road by means of a new access point and an accompanying E/W route to the main body of the site.
- 1.3. The site has an area of 0.37 hectares. It lies within one continuous field, which over its western portion is the subject of gentle downward gradients in a westerly direct towards an area of woodland and the River Owennacurra. This field is down to grass. It is bound to the SE by a row of three residential properties and to the NE by a further row of three residential properties, which are accompanied by two more such properties to the N and four to the E.
- 1.4. The nearest residential property to the SE is accompanied to the NE by a triangular area of land, the northern boundary to which abuts the route of the proposed means of access. The field in which the site lies is bound by agricultural fencing and along the roadside by a wall, hedging, and trees. The main body of the site abuts one of these boundaries along its northern boundary, the remaining boundaries being undefined "on the ground".

2.0 Proposed Development

- 2.1. The proposal would entail the siting of a straw bedded cattle shed with slatted tank structures in the main body of the site. This shed would be 16.4m wide and 19.4m deep. It would have eaves and ridge heights of 4.275m and 7.290m, respectively. Its gabled eastern and western ends would be enclosed, while its longer southern and northern elevations would have open expanses for ventilation. Finishing materials would comprise reinforced concrete and green agri-clad sheeting under fibre cement roofing sheets.

- 2.2. The southern elevation would be accompanied by a cattle crush and the northern elevation would comprise a canopy and a feeding passage. Internally, the northern portion of the shed would be served by slats and a 257 cubic metre slurry tank, while the southern portion would be a straw bedded area.
- 2.3. The proposal would also entail the construction of a new access point off the L-5812-5 and an accompanying route to the proposed shed. This access point would comprise a splayed sod and stone entrance. It and accompanying sightlines would entail some roadside loss of trees and vegetation.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 21 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

See planning history and Area Engineer's advice.

3.2.2. Other Technical Reports

- Irish Water: No objection, standard notes cited.
- Cork County Council:
 - Area Engineer: No objection: Sightlines with x dimension of 2.4m and y (north) dimension of 80m and y (south) dimension of 75m achievable and acceptable, in view of slower speeds due to road conditions. Tree canopies to be maintained at 3m above the road level.
 - Environment: No objection, subject to conditions.

4.0 Planning History

19/6203: Similar proposal for site 130m to the north of the current one: Refused on the grounds that, as it would only 52m from the nearest 3rd party dwelling, odours

and noise would adversely affect residential amenity, and the sightlines at the existing access would be sub-standard.

5.0 Policy and Context

5.1. Development Plan

Under the Cork County Development Plan 2014 – 2020 (CDP), the site lies within a rural area. Under Policy Objective EE 8-1, this Plan undertakes to encourage the development of sustainable agricultural infrastructure, including farm buildings. It also undertakes to discourage the removal of hedgerows and to protect watercourses from pollution.

5.2. Natural Heritage Designations

- Great Island Channel pNHA (001058)
- Great Island Channel SAC (001058)
- Cork Harbour SPA (004030)

5.3. EIA Screening

The proposal is for a type of development that is not, under Parts 1 & 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2019, identified as a project for the purposes of EIA. Accordingly, the question of sub-threshold development does not arise.

6.0 The Appeal

6.1. Grounds of Appeal

(a) Thomas Kenneally of Dundullerick West

- The proposal was previously refused for a nearby site.
- The PA did not request that the applicants seek a more suitable site, e.g. to the NE on land beside woodlands with a better access point.

- The proposal would negatively impact upon the appellant's residential property, i.e. it would be visible and so it would have an adverse effect on the value of the property. Noise, particularly at night, would be disruptive.
- The lands outlined in blue have a smaller area than that stated, i.e. 29.18 acres (11.82 hectares) rather than 34 acres. The proposed stocking level of 60 cattle would *prima facie* be excessive.
- The proposal may be the beginnings of a farm yard, which would be unacceptable in a primarily residential area.
- The applicants reside in Carrigwohill/Midleton and so attending to cattle in the proposed shed would generate trips on the narrow local road network. Ideally, this shed should be sited near to where they reside.
- The achievement of 90m sightlines would result in considerable environmental damage in terms of the loss of ditches and trees. The submitted plans are insufficiently detailed in this respect.
- The current proposal would be nearer to the Owenacurra River than its predecessor and so the risk of pollution would be that much greater.
- The applicants' land is too small to allow slurry from the proposed cattle shed to be spread on it.

(b) John & Sarah Fitzpatrick of of Dundullerick West

- The appellants reside in a dwelling house 106m away from the site. The proposal would result in dirt, smells, and noise affecting their residential property and other such properties nearby, rather than the applicants' one which is elsewhere.

The applicants' land is served by 3 existing accesses, each of which is better than the one proposed.

The proposal would be likely to be accompanied by a farm yard, which could come closer again to the appellants' residential property.

- The proposed access would be accompanied by sub-standard sightlines and so its use would add to the existing hazard posed by tractors and farm machinery, which are over-sized for the narrow local road network.

The proximity of the proposal to the Owenacurra River and the associated local water table means that pollution of the same could arise.

- The land is not served by farm buildings at present, and, if a building is now needed, then it should be sited next to the existing farmhouse.
- The draft permission is critiqued, insofar as it fails to address the following concerns:
 - The spread of ancillary structures closer to the appellants' residential property,
 - No attempt to require that such structures be sited on the far side of the proposed cattle shed from the said property,
 - No mitigation through planting of the visual impact of the proposal,
 - No mitigation of noise by means of a sound barrier,
 - No details on how waste would be handled,
 - No guarantees with respect to damage to the walls/hedgerows that bound the appellants' residential property, and
 - No consideration given to alternative more suitable sites.

How would the proposed works be monitored to ensure compliance with conditions?

- The proposal would adversely affect the value of the appellants' residential property. Additionally, adjoining land in their ownership, which abuts the proposed means of access, may now no longer be viable as a future house plot for a family member.

6.2. Applicant Response

The applicants have responded to appellant (a)'s grounds of appeal as follows:

- The current proposal responds to the previous reasons for refusal of application 19/6203.

- The alternative site suggested suffers from an access point that is too narrow and too tight to facilitate the movements of agricultural vehicles with machinery.
- The appellant's residential property is 160m away from the site and screened from it by vegetation.
- Attention is drawn to the intermingling of residential properties and farmland in the locality: Concerns over increased animal noise at night are questioned.
- The reference to "59 acres" relates to the applicants' overall landholding rather than simply that which is in Dundullerick.
- In relation to the number of livestock, buying and selling occurs throughout the year and the applicants' have the option of renting land nearby if required.
- Attention is drawn to the primacy of agriculture in the locality and the scope that exists to operate the proposed shed in a manner compatible with residential amenity.
- While the applicants farm land beside their dwelling house in Carrigwohill/Midilton, they do not own this land.
- The proposed access was previously authorised under permitted application 06/9806 for a dwelling house.
- The risk of property devaluation is questioned.
- The risk of water pollution would be capable of being mitigated satisfactorily.
- Slurry has previously been spread on the applicants' lands at Dundullerick.

6.3. **Planning Authority Response**

None

6.4. **Observations**

Eamonn & Clare Daly begin by reviewing the previous application 19/6203. They then proceed to comment as follows on the current application:

- The view is expressed that there are alternative less problematic sites within the applicants' landholding.
- Notwithstanding the resiting of the proposed shed, it would still have a profoundly negative impact upon residential amenity, e.g. in terms of odours and noise at anti-social hours.
- The existing gateway to the host field has been widened, prompting concern that the applicants may be intent upon using it in connection with the proposed shed.
- Attention is drawn to baled silage, which is stored to the rear of the observers' residential property. Such siting is indicative of a lack of consideration for neighbours.
- Confusion pertains to the size of the applicants' landholding at Dundullerick.
- Concern is expressed as to the carrying capacity of the land for the numbers of livestock envisaged.
- Attention is drawn to the applicants' off-site place of residence.
- The submitted plans show the 90m sightline incorrectly, i.e. it connects with the far side of the public road rather than the nearside. Details of the proposed access are scant.
- The proposed access would disrupt the roadside boundary, which comprises trees, hedgerows, stone walls and earthen mounds.
- The proposed shed would lead to a loss of value to residential properties in the area and it would affect their saleability.
- The proposed shed would pose a pollution risk to the Owenacurra River and private wells.
- The proximity of residential properties would militate against slurry spreading on the applicants' landholding. Where it would be spread has not been disclosed.
- Attention is drawn to potential health risks that arise from residing in the vicinity of livestock sheds wherein concentrated animal feeding operations are being undertaken.

- Attention is also drawn to the imperatives of climate change and the need to reduce the size of the national herd.

6.5. Further Responses

None

7.0 Assessment

7.1. I have reviewed the proposal in the light of the CDP and the LAP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use,
- (ii) Amenity,
- (iii) Access,
- (iv) Water, and
- (v) Stage 1 Screening for AA.

(i) Land use

7.2. The site is located within a rural area and it lies within one of several fields that the applicants farm in the townland of Dundullerick, which together have a total area of 13.75 hectares. They also farm land near their home between Carrigtwohill and Midelton where they have with a total area of 10.12 hectares. The applicants outline how they intend to have 30 cattle (6 – 18 months of age) on the former land for the summer and 30 cattle (18+ months of age) on the latter land, too for the summer. The proposed shed would then house all of their cattle on the subject site for the winter.

7.3. Appellant (a) has questioned the ability of the lands highlighted by means of a blue edge on the submitted plans to carry the number of cattle cited. Both appellants have questioned why the applicants do not site the proposed shed on the land beside their residence. They likewise express concern that this shed could be the beginning of a more extensive farm yard in what is predominantly a residential area.

- 7.4. While I do not have the benefit of any agricultural surveyor's assessment of the carrying capacity of the land cited, during my site visit I observed that it did appear to be reasonably fertile. I note, too, that appellant (a) may not have taken into account the other land referred to near the applicants' residence.
- 7.5. The applicants have indicated that they selected their Dundullerick lands for the proposed shed, as they do not own the lands that they farm beside their residence in Carrigtwohill/Midleton.
- 7.6. I note the description of the area as being predominantly residential. During my site visit, I observed that whereas there is a reasonably high incidence of residential properties in the townland, it is a rural one within which farmland and woodland are the underlying land uses. Objective EE 8-1 of the CDP is supportive of the development of sustainable agriculture, including farm buildings, and so I do not consider that, in principle, objection can be raised to the proposed shed, due to the presence of residential properties in the locality.
- 7.7. *Prima facie* the proposed shed would be capable of functioning as a stand-alone livestock facility. The submitted plans indicate that it would be designed as a part slatted/part straw bed shed with a feeding passage beneath a canopy on its northern elevation and a crush pen on its southern elevation. This shed would be surrounded by a clean yard. Presumably fencing and gating would be installed in this respect.
- 7.8. The applicants estimate that 250 bales per annum would be needed as fodder. They have not indicated where these bales would be stored, but during my site visit I observed the open storage of bagged cylindrical bales in a position towards the NE corner of the host field. I anticipate that such open storage would continue, perhaps in a position more convenient to the proposed shed.
- 7.9. If the Board is minded to grant, then the outstanding details in the aforementioned two paragraphs should be clarified by means of a condition.

I conclude that the proposal would, in principle, accord with the land use of the rural area of the site.

(ii) Amenity

- 7.10. As indicated above, under application 19/6203, a similar proposal was envisaged for a site to the NE of the current one. This site would have been within 52m of the

nearest third party dwelling house to the NE and so the application for it was refused on the grounds of residential amenity. The current site would be 205m away from the said dwelling house and 106m away from what would now be the nearest third party dwelling house to the SE.

- 7.11. The appellants express concern that their amenity would be adversely affected by the proximity of the proposed shed to their residential properties. Specifically, they cite the incidence of noise (especially at night), odours, and dirt that would be likely to arise and the visibility of the shed itself and the absence of mitigating measures to allay these impacts. The appellants also express concern that the applicants did not seek to site the proposed shed on their lands to the E of the local road, the L5812-5.
- 7.12. I note that the proposed shed would be sited in a position whereby it would seek to maximise its separation distance from the nearest dwelling house up wind of it, i.e. as the prevailing wind comes from the SW, to the NE, within the constraints of the host field, i.e. its gradient falls away to the W and the woodland beyond.
- 7.13. I note, too, that the proposed shed would be relatively modest in size, i.e. 16.4m wide and 19.4m deep and its eaves and ridge heights would be 4.275m and 7.290m, respectively. This shed would be composed of a steel frame structure with part reinforced concrete/part green agri-clad sheeting for walls under a fibre cement roof. Its E and S elevations would be visible from the residential properties to the SE. The former elevation would be enclosed, i.e. its walling would be solid, as would its sliding door. The latter elevation would be largely enclosed, apart from air gaps in its sheeting just below its eaves line. Thus, within the constraints that the need for good ventilation pose, the design of the building itself would minimise the ensuing environmental impacts.
- 7.14. During my site visit, I observed that the boundaries to the residential properties to the SE with the applicants' land are denoted by hedgerows at various stages of maturity. Thus, screening would be available on an increasing basis. (The nearest such property has a mature coniferous tree in its NW corner, which would contribute significantly to easing the line of sight between the existing dwelling house and the proposed shed). I also observed the lands to the E, and I noted that the two access points to the same are close to existing residential properties. Accordingly, the siting

of the proposed shed on these lands would be likely to lead to amenity concerns, too.

- 7.15. Appellants (b) have a further specific concern about the access route to the proposed shed insofar as it would abut a triangular site adjoining their residential property on which they had planned to build in the future. They express the concern that the presence of this route would effectively negate such plans.
- 7.16. By way of response, while I note the appellants' aspirations, in the absence of any extant planning permission, I am not in a position to give any weight to these. I also note that the applicants state that the need for a cattle truck to be in attendance would be rare and so usage of the access route in this respect would be decidedly limited. That said, more frequent use by agricultural vehicles would arise.
- 7.17. I conclude that the proposed shed would, due to its siting and design, be compatible with the amenities of residential properties in a rural area.

(iii) Access

- 7.18. Under application 19/6203, the applicants proposed to use the existing agricultural access to the host field from the L5812-5. However, as this access lies close to a bend in the local road, its S sightline is sub-standard and so its increased usage was considered to be unacceptable.
- 7.19. Under the current application, the applicants have selected a new access point to the south of the aforementioned bend and at the mid-point between this bend and another bend further to the south on the local road. While the submitted site plan shows sightlines with dimensions of 3m x 90m to the N and S, such sightlines would not be achievable without, in the former case, an inordinate loss of walling/hedgerow and, in the latter case, encroachment onto land outside the applicants' control.
- 7.20. During my site visit, I observed that the local road is of single lane width (c. 3.6m wide) and variable horizontal alignment. While subject to an 80 kmph speed limit, I am confident that the nature of this road is such that lower speeds are the norm. In these circumstances, I concur with the Area Engineer in his assessment that it would be reasonable to relax the dimensions of the sightlines to that which would be achievable, i.e. 2.4m x 80m to the N and 2.4m x 75m to the S. In order to minimise tree loss, he also advised that crowns be raised to ensure that branches do not protrude into the said sightlines below a height of 3m. I consider that a survey of

roadside trees should be conditioned to identify which ones would be affected thereby. Likewise details of the design and layout of the entrance way and accompanying means of access that would be formed should be conditioned, too.

7.21. I conclude that the proposed new access to the site would be sited in the optimum position along the L5812-5 to ensure satisfactory sightlines.

(iv) Water

7.22. The proposed shed would be served by a connection to the public water mains. Irish Water has raised no objection, in principle, to such a connection.

7.23. The proposed shed would be served by a 257 cubic metre slurry tank (gross capacity of 257 cubic metres and net capacity of 236, i.e. a freeboard of 21 cubic metres). The applicants have calculated that the number of cattle that they envisage housing in this shed would generate 197 cubic metres of waste and so the tank specified would be of sufficient size to handle this amount.

7.24. Appellant (a) has questioned whether the aforementioned amount of slurry would be capable of being spread on the applicants' small landholding at Dundullerick. Such matters are addressed under the Nitrates Regulations, i.e. European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017.

7.25. The surface water run-off from the roof of the proposed shed would be channelled by means of rainwater goods into a soakaway(s) in the surrounding field.

7.26. I conclude that the proposed water supply and drainage arrangements would be satisfactory.

(v) Stage 1 Screening for AA

7.27. The site is not in or near to a Natura 2000 site. To the W of this site at a distance of 330m runs the Owennacurra River, which converges with other rivers to flow into the Great Island Channel SAC and the Cork Harbour SPA at Midelton.

7.28. During my site visit, I observed that, in addition to the aforementioned separation distance, there is a woodland between the site at the said River. I did not observe any source/pathway/receptor route between them and so I do not consider that the proposal would be likely to have any significant effects upon the Conservation Objectives of the above cited Natura 2000 sites.

7.29. Having regard to the nature and scale of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. That permission be granted.

9.0 Reasons and Considerations

Having regard to the Cork County Development Plan 2014 – 2020 and the planning history of the applicants' lands, the Board considers that, subject to conditions, the proposal would, in principle, be acceptable, as it would support the agricultural use of the said lands, which lie within a rural area wherein agriculture is inherently an appropriate land use. The siting and design of the proposed cattle shed would be such that it would be compatible with the amenities of residential properties in the vicinity. This shed would be accessed by means of a new entrance to the applicants' lands from the L5812-5, which would be sited optimally to ensure that satisfactory sightlines can be achieved. It would be served by the public water mains and its proposed drainage arrangements would be satisfactory. No Appropriate Assessment issues would arise. The proposal would accord with the proper planning and sustainable development of the area.

10.0 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
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	<p>shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>(a) Details of the fencing and gating to be incorporated in the clean yard around the proposed cattle shed.</p> <p>(b) Details of where baled fodder would be stored.</p> <p>(c) Details of the proposed entrance to the site and the accompanying means of access to the cattle shed.</p> <p>(d) A survey of roadside trees and hedging identifying which would need to be removed in connection with the proposed entrance and which would have branches that would encroach into the accompanying sightlines. These sightlines would have an x distance of 2.4 metres and a y distance to the north of 80 metres and a y distance to the south of 75 metres and they would extend upwards to a height of 3 metres above ground.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of clarity, visual amenity, and road safety.</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
4.	<p>The applicant of developer shall enter into a water agreement with Irish Water, prior to the commencement of development.</p>

	Reason: In the interest of public health.
5.	<p>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.</p> <p>Reason: In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.</p>
6.	<p>All foul effluent and slurry generated by the proposed development shall be conveyed through properly constructed channels to the proposed 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.</p> <p>Reason: In the interest of public health.</p>
7.	<p>The slatted shed shall be used only in strict accordance with a management schedule which shall 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 Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2017, as amended, and shall provide at least for the following:</p> <ul style="list-style-type: none"> (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. <p>Reason: In order to avoid pollution and to protect residential amenity.</p>
8.	<p>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 Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2017, as amended.</p>

	Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of watercourses.
9.	<p>A minimum of 16 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.</p> <p>Reason: In the interest of environmental protection and public health.</p>

Hugh D. Morrison
 Planning Inspector

22nd July 2020