

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

## Tipperary County

**Planning Register Reference Number: 15/600480**

An Bord Pleanála Reference Number: PL 92.245897

**APPEAL** by the Department of Arts, Heritage and the Gaeltacht, Development Applications Unit of Newtown Road, Wexford against the decision made on the 19<sup>th</sup> day of November, 2015 by Tipperary County Council to grant subject to conditions a permission to Thomas Lanigan care of Thomas Downey of Pill Road, Lower Kilmacow, via Waterford Erection for development comprising erection of slatted cubicle shed and all associated works and retention and completion of a slatted cubicle shed and all associated works at Rathclarish, Carrick-on-Suir, County Tipperary. The proposed development was revised by further public notices received by the planning authority on the 15<sup>th</sup> day of September, 2015 and the 27<sup>th</sup> day of October, 2015 in accordance with plans and particulars lodged with the said Council.

### DECISION

**GRANT permission for retention and completion of a slatted cubicle shed and all associated works in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for erection of slatted cubicle shed and all associated works based on the reasons and considerations marked (2) under.**

### MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## REASONS AND CONSIDERATIONS (1)

Having regard to the nature and scale of the shed proposed to be retained and completed, and to its location within an existing farm yard, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the amenities of the area or of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. The development proposed to be retained and completed would, therefore, be in accordance with the proper planning and sustainable development of the area.

### CONDITIONS

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 15<sup>th</sup> day of September, 2015 and the 27<sup>th</sup> day of October, 2015 and by the further plans and particulars received by An Bord Pleanála on the 11<sup>th</sup> day of July, 2016, 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 within three months of the date of this order and the development shall be carried out and completed out in accordance with the agreed particulars.

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

2. Water supply and drainage arrangements for the shed, 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 indicated compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority and shall be completed to the written satisfaction of the planning authority within six months of the date of this order.

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

3. All uncontaminated roof water from the shed 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.

4. 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 within three months of the date of this order. The management schedule shall be in accordance with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2014, as amended, 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.

5. All foul effluent and slurry generated by the development shall be conveyed through properly constructed channels to the 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 protection of the environment and of public health.

6. Slurry generated by the 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, 2014, as amended.

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

7. A minimum of 16 weeks storage shall be provided in the underground storage tank. Details showing how it is intended to comply with this requirement shall be submitted to and agreed in writing with the planning authority. The development shall be completed in accordance with these requirements to the written satisfaction of the planning authority within six months of the date of this order.

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

8. Within three months of the date of this order, the shed shall be painted dark green to the written satisfaction of the planning authority.

**Reason:** In the interest of the visual amenities of the area.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid within three months of the date of this order or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

## **REASONS AND CONSIDERATIONS (2)**

The proposed shed would be located on a substantial archaeological enclosure that is scheduled for inclusion in the next revision of the statutory Record of Monuments and Places (Record Number TS079-011). Notwithstanding that much of the above-ground features have been removed, it is considered that the proposed development would injure or interfere with an archaeological enclosure of significant archaeological interest, and would exacerbate the damage already caused by the construction of a slurry tank and the laying out of a farm track. The proposed development would contravene Policy LH16 (Archaeology and Cultural Heritage) of the South Tipperary County Development Plan, 2009 (as varied), which is to safeguard sites, features and objects of archaeological interest, and would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2016.**