

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

## Kilkenny County

**Planning Register Reference Number: 14/257**

An Bord Pleanála Reference Number: PL 10.246236

**APPEAL** by William Chambers care of Liam McGree and Associates Limited of Grange, Cuffsgrange, County Kilkenny against the decision made on the 6<sup>th</sup> day of March, 2015 by Kilkenny County Council to grant subject to conditions a permission to John Mooney care of Billy Moran of The Square, Castlecomer, County Kilkenny in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Retention of extension to agricultural structure and extension to slurry tank and agitating point as constructed at Sidegate, (Cloneen Townland), Moneenroe, County Kilkenny.

## DECISION

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## 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

Having regard to the nature and extent of the development to be retained, to the history of onsite agricultural activity, to the existing character and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development to be retained 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.

The Board considered the nature, scale and location of the development to be retained, the documentation submitted with the application, the Habitat's Directive Project Screening Assessment carried out by the planning authority, the report of the Planning Authority's Environment Section (date stamped February 26<sup>th</sup>, 2015) and reference to the farm inspection undertaken under the Good Agricultural Practice Regulations, the submissions on file, and the report of the Planning Inspector. The Board undertook an Appropriate Assessment screening exercise in relation to the potential effects of the subject development on European Sites. In completing the screening exercise, the Board considered the distances to European sites and in particular to the River Barrow and River Nore Special Area of Conservation (Site Code 002162), and concluded that the development, by itself or in combination with other development in the vicinity, was not likely to have had and would not be likely to have significant effects on European sites.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the established nature and extent of agricultural activity in the existing farmyard and considered that the development to be retained which is to deliver improved environmental conditions by providing sufficient winter slurry storage capacity has, as stated in the applicant's response to the planning authority's further information request, resulted in 'no intensification of farming activity'.

The Board accepted that there would be some diminution in the amenities of nearby residents by virtue of the new agitation point but considered that any injury arising from slurry agitation would arise on a limited number of occasions during any year, would be of short term duration, would be carried out in accordance with good agricultural practice and would not, having regard to the scale and extent of the established on site agricultural operation, be so serious as to warrant a refusal of planning permission in this instance.

In respect of the discharges from onsite structures, the Board had regard to the report of the planning authority's Environment Section (date stamped February 26<sup>th</sup>, 2015) and considered that there was no evidence of the retained development having any impact the structural integrity of the adjacent dwelling. Finally, while the Board considered that there was no evidence of any polluting effluent arising from the structures, the Board attached a planning condition requiring the submission of a report prepared by a suitably qualified structural engineer to the planning authority within six months of the date of the order to confirm that the underground storage tanks will continue to be fit for purpose and give rise to no seepage.

### **CONDITIONS**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 12<sup>th</sup> day of February, 2015, 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. The design, capacity and structural integrity of the slurry storage facilities shall be maintained so that there shall be no runoff or seepage of slurry effluent therefrom. A report prepared by a suitably qualified engineer on the structural integrity and effectiveness of the storage tanks shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this Order.

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

3. (a) All effluents and farmyard manure shall be managed and disposed of in strict accordance with the EU (Good Agricultural Practice for Protection of Waters) Regulations, 2014.
- (b) Slurry shall not be spread on the lands during the period 15<sup>th</sup> October to 15<sup>th</sup> January inclusive, or during wet weather, or on frozen ground. Slurry spreading shall always be curtailed to the capacity of the land to retain, neutralise and assimilate the loading.

- (c) The development works shall be designed and undertaken so as to facilitate the minimisation of waste production. Any wastes to be removed from the site shall only be removed by an authorised Waste Contractor and shall be disposed of to an authorised waste recovery/disposal site.

**Reason:** To prevent pollution and in the interest of the proper planning and sustainable development of the area.

4. All oxidisable and galvanised surfaces of the development shall be painted to match the existing farm buildings and the painting shall be maintained and renewed as necessary.

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

---

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

**Dated this            day of            2016.**