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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Tipperary County Council**

**Planning Register Reference Number: 18/601132**

**Appeal** by The Development Applications Unit, Department of Culture, Heritage and the Gaeltacht of Newtown Road, Wexford against the decision made on the 7<sup>th</sup> day of November, 2018 by Tipperary County Council to grant subject to conditions a permission to John and Shane Seymour care of Brian England, Design and Draughting Services of Stoneyacre, Cloughjordan, County Tipperary in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** The erection of agricultural structures including (1) a cubicle shed with adjacent concrete aprons and underground effluent storage tank, including removal of an existing stone building to facilitate the proposed development. (2) The construction of extensions to existing milking parlour and dairy, adjustments to yard facilities, including all associated site works. The proposed development is located adjacent to recorded Protected Structure S120 Cloughprior House at Cloughprior, Puckane, Nenagh, County Tipperary.

## **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 policies and objectives set out in the North Tipperary County Development Plan 2010-2016 (as varied), it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of land use, would not seriously injure the residential and visual amenities of the area, would be acceptable in the context of the setting of the adjoining protected structure and in terms of archaeological impact. The proposed development 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. The applicant is required to employ a suitably qualified archaeologist, specialising in medieval building survey, to prepare an archaeological impact assessment of the proposed development. This shall include the preparation of a record of the building proposed for demolition and the carrying out of a programme of archaeological test excavation across the development site. This assessment shall be carried out in advance of commencement of any development works, including any ground disturbance other than that carried out as part of the archaeological impact assessment.

The archaeological impact assessment shall include:

- (a) An inspection, survey and photographic record of the building proposed for demolition. The report shall contain descriptions, plans and photographs of the building and include proposal for mitigation measures in respect of any archaeological/architectural features of note that may be affected by the development. The report shall also synthesise the archaeological and historical

background of the site compiled from an examination of any relevant maps or other sources.

- (b) The archaeologist shall then excavate test trenches across the site, at locations chosen by the archaeologist. Having consulted the site plans in consultation with the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht. Excavation shall take place to uppermost archaeological horizons only – where they survive. Where archaeological material is shown to be present, the archaeologist shall stop works pending agreement with the National Monuments Service as to how to further proceed. All features/archaeological surfaces within the test trenches shall be hand-cleaned and clearly visible for photographic purposes.
- (c) Having completed the work, the archaeologist shall submit a detailed report on the archaeological impact assessment to the planning authority and the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht in advance of the commencement of any development works. The report shall advise on the degree to which the extent, location and levels of all proposed demolition works, foundations, service trenches and other sub-surface works required for the development will affect any archaeological remains. It shall be illustrated with appropriate plans and sections.
- (d) Where archaeological material (whether above or below ground and including masonry features of archaeological or architectural interest) is shown to be present, further mitigation measures will be required; these may include redesign (in whole or in part), to allow preservation in situ, archaeological excavation and/or monitoring. The developer shall consult the planning authority and the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht in absence of agreement as to the necessary mitigation.

**Reason:** To ensure the continued preservation (either in situ or by record) of places, caves, site, features or other objects of archaeological interest.

3. The cubicle 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, and shall provide at least 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.

**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. All uncontaminated roof water from the 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.

6. 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.

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

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, off-site disposal of construction/demolition waste, and measures to ensure that no polluting material or contaminated surface water enters groundwater, any watercourse, or any public road.

**Reason:** In the interests of public safety and residential amenity.

8. 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 prior to commencement of development 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.

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

**Dated this            day of            2019.**