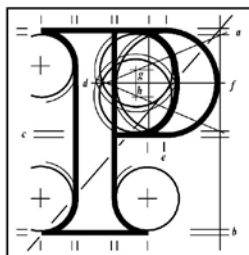


An Bord Pleanála



Inspector's Report

Development: To retain slatted tank and to construct lean-to shed over this tank and ancillary works at Grey Grove, Kilmihil, Co. Clare.

Application

Planning authority: Clare County Council
Applicant: John Joe Breen
Planning application reg. no. 15/567
Type of application: Retention permission and permission
Planning authority's decision: Grant, subject to 8 conditions

Appeal

Appellant: Edel Shannon
Type of appeal: Third party -v- Decision
Observers: None
Date of site inspection: 4th February 2016

Inspector: Hugh D. Morrison

Site

The site lies in the townland of Grey Grove, which is located 8.6 km to the west of Liscasey on the N68 and 3 km to the north east of Kilmihil on the R484. The area of the townland comprises rolling countryside, which is farmed and forested, and within which there is a dispersed settlement pattern of farmsteads and one-off dwelling houses. A network of local roads links the site to the aforementioned national secondary and regional roads.

The site itself extends over 0.252 hectares and it encompasses the applicant's existing farm yard. This yard is accessed via a pair of gates in its south eastern corner from the local road, the L2084. Its frontage to this road is screened by a hedgerow and a line of conifers. Conifers also grow within the site to the north and west of the yard. The main building within this yard is a cattle shed, which is composed of concrete blocks. This building is sited in the south western corner of the yard and it is accompanied by a row of stone outbuildings, which are sited on the eastern side.

The appellant's cottage lies to the east of the aforementioned outbuildings. This cottage is served by a dedicated drive-in from the local road and by a garden to the front and far side. It is separated from the outbuildings by an access track that runs from the local road to a Dutch barn to the rear of the cottage, which is used by the applicant for storage.

The applicant's bungalow is sited to the west of the farm yard.

Proposal

The proposal entails the proposed retention of a 91 cubic metre tank, which has been constructed towards the north western corner of the yard. The proposal also entails the proposed construction of a lean-to shed over this tank, which would be slatted. This shed would be attached to the existing cattle shed. It would have a floor space of 97 sq m and it would be laid out to provide cubicles for 12 suckler cows with their calves, which would be served by a feed passage. The exposed elevations of the shed would be composed of cast in-situ concrete and the two half gables and the roof would be clad in pvc coated galvanised sheeting.

Planning authority's decision

Following receipt of additional information, permission was granted subject to 8 conditions.

Technical reports

None

Grounds of appeal

- The structure is not 100m away from the appellant's dwelling house and yet consent for it has not been given by her.
- Given the aforementioned proximity, the appellant's quality of life would be severely disrupted, due to noise and environmental factors.
- The relevant minimum separation distance of 100m should be adhered to.
- The appellant's dwelling house would be devalued.

Responses

The planning authority has responded to the above cited grounds of appeal by reiterating its reasons and considerations for granted permission.

The applicant has responded to the above cited grounds. He begins by outlining the need for the development as follows:

- In the interests of animal welfare,
- To promote the health and safety of those dealing with animals,
- To enable livestock numbers to be maintained, and
- To avoid the use of bi-sheds nearer to the appellant's dwelling house.

The applicant alleges that the appellant gave her verbal agreement to his development, thereby rendering it exempted development, only to withdraw such agreement after the works started.

The applicant's wife has also responded. She draws attention to the restricted use of the said bi-sheds. However, due to worsening weather and the applicant's age, the development is sought to facilitate the more efficient handling of animals. The aforementioned allegation is reiterated.

Planning history

UD15 – 074: Enforcement enquiry re. construction of an agricultural shed.

Development Plan

The Clare County Development Plan 2011 – 2017 (CDP) shows the site as lying within a settled landscape and so Objective 16.2 is of relevance. It states the following:

To permit development in areas designated as "settled landscapes" to sustain and enhance quality of life and residential amenity and promote economic activity subject to:

(i) Conformity with all other relevant provisions of the Plan and the availability and protection of resources.

(ii) Selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design which are directed towards minimising visual impacts.

(iii) Regard being given to avoiding intrusions on scenic routes and on ridges and shorelines.

Development in these areas will be required to demonstrate:

(iv) That sites have been selected to avoid visually prominent locations.

(v) That site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, water bodies, public amenities and roads.

(vi) That design for buildings and structures reduce visual impact through careful choice of forms, finishes and colours, and any site works seek to reduce visual impact.

Assessment

I have reviewed the proposal in the light of the CDP, planning history, and the submissions of the parties. Accordingly, I consider that this application/appeal should be reviewed under the following headings:

- (i) The need for planning permission,
- (ii) Visual amenity,
- (iii) Residential amenity,
- (iv) Drainage, and
- (iv) AA.

(i) The need for planning permission

1.1 The appellant draws attention to the fact that the proposal is/would be within 100m of her dwelling house and yet she has not given her consent to the same. She insists on the need to uphold this measurement as a minimum separation distance between the proposal and her dwelling house.

1.2 The applicant and his wife state that the appellant gave her verbal consent to the proposal and so he proceeded on the basis that it would be exempted development, only for such consent to be subsequently withdrawn.

1.3 The aforementioned submissions relate to Class 6 of Part 3 of Schedule 2 to Article 6 of the Planning and Development Regulations, 2001 – 2015. This Part is entitled “exempted development – rural”. This Class is entitled “agricultural structures” and it encompasses “Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.”

1.4 The proposal would entail the provision of a cattle shed with a gross floorspace of 97 sq m, which would be attached to the applicant’s existing cattle shed (gross floorspace of 98.5 sq m). Thus, this shed would come within the aforementioned threshold of 200 sq m. Whether or not it would be exempted development hinges on whether or not the seven conditions and limitations that accompany the said Class would be complied with. I will discuss each of these conditions and limitations in turn:

1. No such structure shall be used for any purpose other than the purpose of agriculture.

The applicant’s proposal relates solely to agriculture.

2. The gross floor space of such structure together with any other such structures situated within the same farm yard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.

The existing and proposed sheds would have a total floor space of 195.5 sq m. These buildings would be used for housing cattle. An adjacent building, referred to as the bi-sheds by the applicant’s wife, lies some 10m away from the existing shed. Although these bi-sheds lie within a state of some disrepair, the applicant’s wife refers to the possibility of their use for housing cattle. Their scaled floor space is 60 sq m. Within 25m of the proposed shed lies a hay barn, which is used for storage. During my site visit, I inspected this barn and I am satisfied that it is neither in use for housing livestock nor is it configured for such use. Thus, while its scaled floor space is 152 sq m, I do not consider that it should be included within the assessment prompted by the above cited 300 sq m threshold. Accordingly, the structures that are/would be/could be used for housing cattle have a total floor space of 255.5 sq m and so they come within this threshold.

3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.

The applicant has completed a Part 4 application form that relates to agricultural development. In doing so, he states that the tank beneath the proposed slatted shed, which would be used to house 12 suckler cows with their calves, would have a volume of 91 cubic metres. (The existing cattle shed is used to house 12 suckler cows with their calves). Waste from the said tank would be spread on his land (13.269 hectares) between March and September. He explains that the impetus for the proposed shed is to facilitate the better management of his herd, as out wintering of cattle is proving more difficult.

Beyond the aforementioned information the applicant has not demonstrated that his proposed tank would be compliant. I am not, therefore, in a position to comment further on this condition.

4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.

The proposed extension to the existing shed would come within the scaled distance of c. 8.5m from the public road, which bounds the site to the south. Accordingly, the threshold of 10m would be exceeded and so the exempted status of this extension is removed.

5. No such structure within 100 metres of any public road shall exceed 8 metres in height.

While the proposed extension would be sited within 100m of the public road cited above, as it would have a maximum height of 4.25m, it would come within the 8m height threshold.

6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.

The proposed extension would lie some 25m to the west of the appellant's dwelling house. Thus, it would exceed the stated threshold of 100m and so, unless the appellant gives her written consent to this extension, its exempted status is removed. The applicant and his wife state that verbal consent was given and then withdrawn. However, the requirement is for written consent and there is no evidence before me that such consent was given.

7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

The roof and sides of the proposed extension would be clad in pvc coated galvanised sheeting and so it would be, in effect, painted.

1.5 I conclude that, as the proposed cattle shed would exceed the thresholds set out under conditions and limitations denoted as 4 and 6, this shed needs planning permission.

(ii) Visual amenity

2.1 Under the CDP, the site is located within a settled landscape, wherein, under Objective 16.2, the importance of minimising the visual impact of new development in the countryside is emphasised. Such minimisation can be achieved by paying careful attention to site selection and to the choice of design and finishes.

2.2 The applicant proposes to complete the construction of a slatted cattle shed within his existing farm yard. This shed would thus incorporate a modern methodology of storing animal waste for subsequent spreading on surrounding farm land. It would be attached to the existing cattle shed and it would effectively double the housing available for the applicant's herd of suckler cows.

2.3 The existing cattle shed is sited in a position adjacent to the local road, which runs past the southern boundary of the farm yard. This boundary is denoted by means of a hedgerow and a line of mature conifers. There are also similar conifers to the west and north of the farm yard. The entrance to the farm yard is via a pair of gates that are clad in galvanised sheeting. This entrance is in the south eastern corner and the accompanying eastern boundary is enclosed by means of a row of stone outbuildings. Consequently, the existing cattle shed is largely screened from public views available from the said local road.

2.4 The proposed cattle shed would be sited to the rear of the existing one. Furthermore, this shed would be attached to the existing one and their respective maximum heights would coincide in a shared ridge line. Their western elevations would align and the proposed eastern elevation would be stepped back from the existing one. Accordingly, the proposed cattle shed would be almost entirely concealed from the said public views.

2.5 The appellant's cottage lies to the east of the aforementioned row of stone outbuildings. An access track passes between the two corresponding elevations with the cottage presenting a blank gabled end elevation to the same. Thus, there would be no line of sight from within the cottage to the proposed cattle shed on the opposite side of the outbuildings. This cottage is served by a front garden and an adjoining side garden to the east. Views of the proposed cattle shed would likewise be blocked by the said outbuildings.

2.6 I, therefore, conclude that the visibility of the proposed cattle shed from the local road and adjacent appellant's cottage and garden would be minimal and so the resulting visual impact would be compatible with the existing visual amenities of the area.

(iii) Residential amenity

3.1 The appellant insists that, as the proposed cattle shed would be sited well within 100m of her cottage, it should be regarded as too close. Furthermore, she expresses concern that this shed would disrupt her quality of life, due to the noise and other environmental factors that would ensue.

3.2 Under the first heading of my assessment, I discuss whether the current proposal needs planning permission or not. One of the considerations in this respect relates to situations wherein a dwelling house, not occupied by the applicant farmer, would be within 100m of proposed livestock housing. This consideration exists for the purpose of establishing whether or not planning permission is needed. As such it does not prejudge the question that arises where such need exists as to whether permission should be granted or not. Thus, the Board is not obliged to consider that "in principle" the proposed cattle shed would be too close to the appellant's cottage.

3.3 The appellant's cottage is sited in a position whereby within its immediate vicinity to the west lies the applicant's existing farm yard and to the north lies a Dutch barn, which the applicant uses for storage. (This barn is accessed via a track that runs between the stone outbuildings on the eastern side of the farm yard and the said cottage). Given the proximity of the existing farm yard, the existing amenities of the cottage are affected by the fact that this is a working yard, which presently accommodates a cattle shed, and so the presence of livestock and the handling of the same leads to noise and other environmental factors.

3.4 The proposed cattle shed would effectively double the number of suckler cows with their calves that could be accommodated in the farm yard, i.e. from 12 to 24. Thus, the intensity of the yard's use would increase. However, the range of noise and environmental factors would be similar and so, provided the slurry tank is managed in accordance with relevant statutory codes of practice, the amenity of the cottage would not be affected by new impacts but by a rise in the incidence of existing ones. Such a rise would not in my view warrant objection to the proposed cattle shed and conditions could be attached to any permission in connection with the said codes of practice.

3.5 Given the foregoing discussion and that outlined under the second heading of my assessment, I do not consider that there is any basis for the appellant's claim that her cottage would be devalued by the proposed cattle shed.

3.6 I, therefore, conclude that the proposed cattle shed would be compatible with the amenities of the appellant's adjacent dwelling house.

(iv) Drainage

4.1 Under the current proposal, foul water would be handled by means of the slatted tank and surface water would be piped to and discharged into an adjacent stream, presumably the one shown as bounding the site to the west.

4.2 Again, provided the slatted tank is managed in accordance with relevant statutory codes of practice, the proposed handling of foul water would be satisfactory. With respect to the handling of surface water, I note that the submitted plans do not show the proposed drainage layout for the same. I note, too, that the proposed cattle shed would be accompanied by an extension to the concrete surfaced portion of the yard, which presently accompanies the existing cattle shed, i.e. the area of concrete surface yard would increase by c.172 sq m, from 80 sq m to 252 sq m. In these circumstances, the existing and proposed drainage layout for the farm yard as a whole should be made the subject of a condition precedent, to ensure that arrangements in this respect would be satisfactory.

4.3 I conclude that the drainage arrangements for the proposal would be capable of being satisfactory.

(v) AA

5.1 The site is not located in a Natura 2000 site and the nearest such site, the Lower River Shannon SAC (site code 002165), is 5.4 km to the south east, at Cranny.

5.2 Under the current proposal, surface water only would discharge to the stream, which flows along the western boundary of the site. From the submissions before me, I have seen no evidence that this stream forms part of a network of water courses, which flow into the above cited Natura 2000 site. Accordingly, I am not aware of any relevant source/pathway/receptor route. In all of these circumstances, I consider that this proposal would not have a significant impact upon the Conservation Objectives of either this Natura 2000 site or ones further away again from the appeal site.

5.3 Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed

development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Recommendation

In the light of my assessment, I recommend that the proposal to retain a slatted tank and to construct a lean-to shed over this tank and ancillary works at Grey Grove, Kilmihil, Co. Clare, be permitted.

Reasons and considerations

It is considered that, subject to conditions, the agricultural development proposed for retention and completion would be appropriate to the site, which, under the Clare County Development Plan 2011 – 2017, is located in a settled landscape. This development would be compatible with the visual and residential amenities of the area. It would be capable of being satisfactorily drained and it would not pose any Appropriate Assessment issues. The proposal would thus accord 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, as amended by the further plans and particulars submitted on the 9th day of October 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. 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 the re-commencement of development.

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

3. Details of the finishes of the proposed cattle shed and the location of any fencing of the adjoining farm yard shall be submitted to, and agreed in writing with, the planning authority prior to the re-commencement of development.

Reason: In order to allow the planning authority the opportunity to assess the impact of these matters on the visual amenity of the area before development re-commences.

4. 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 the re-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.

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

5. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

6. A minimum of 18 weeks storage shall be provided in the underground storage tank. Prior to commencement of re-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. 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, 2009 (SI no. 101 of 2009).

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

Hugh D. Morrison

Inspector

12th February 2016