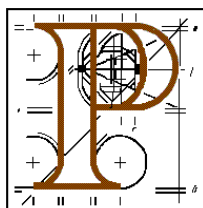


An Bord Pleanála



Inspector's Report

Appeal Reference No: PL92.245897
Development: Slatted Cubicle Shed and Associated Works
at Rathclarish, Carrick-on-Suir, Co Tipperary

Planning Application

Planning Authority: Tipperary County Council
Planning Authority Reg. Ref.: 15/600480
Applicant: Thomas Lanigan
Planning Authority Decision: Grant Permission with Conditions

Planning Appeal

Appellant(s): Department of Arts, Heritage and the Gaeltacht
Type of Appeal: 3rd v Condition (absence of)
Observers: None
Date of Site Inspection: 13 February 2016
Inspector: Juliet Ryan

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The subject site has a stated area of 1.23 hectares and is located at an existing farmholding in a rural area some 8km north of Carrick-on-Suir in County Tipperary.
- 1.2 The site is accessed from a narrow local road. It is located on the eastern side at a bend in the road. The double farm gates open onto an access drive that runs c.65 metres east towards the farm buildings. Adjacent and to the south is the site of the detached two-storey house.
- 1.3 The existing farm buildings are located in a cluster on site and comprise various sheds and silage pits clustered around the main cattle shed with and milking parlour. A standalone machinery shed is also located on site. There were cattle on site at the time of inspection.

2.0 PROPOSED DEVELOPMENT

- 2.1 The proposed development comprises a slatted shed with underground slurry storage tanks and associated site development works at an existing dairy farm.
- 2.2 The development is to be located adjoining existing farm structures. The development has a stated GFA of 868 sq m, with a shed height of 8.3 metres.
- 2.3 The proposed capacity of the slurry tank is 712 cubic metres, and it is proposed to spread waste on land between February and September.

3.0 PLANNING HISTORY

The Planner's Report sets out details of site's planning history, which may be summarised as follows:

- Reg Ref 12/426 – permission granted for erection of straw bedded shed
- Reg Ref 06/1221 – permission granted for new livestock feed yard and cattle crush race; slatted tank, new dairy, extension of milking parlour and associated works
- Reg Ref 01/927 – permission granted for calving boxes, loose sheds and associated works

- Reg Ref 96/32 – permission granted for silage pit, easy feed and convert existing cubicles to dairy

4.0 PLANNING AUTHORITY DECISION

4.1 Submissions / Observations

No Third Party objections were received.

The Planning Authority referred the application to the following prescribed bodies:

- Minister for Arts Heritage and the Gaeltacht (DAU)
- Arts Council
- The Heritage Council
- An Taisce
- Failte Ireland

Submissions were received from An Taisce and the National Monuments Service (DoAHG).

4.1.1 An Taisce

The submission from An Taisce notes that the proposal comprises an intensification of an existing farm use and requests that the council ensure that a comprehensive Slurry Management Plan is carried out, and that a feed management plan be required in order to curb methane emissions.

4.1.2 National Monuments Service

- Notes that proposal appears to have direct impact on the subsurface remains of a Recorded Monument (RMP No. TI079-011)
- Notes that the sizeable oval-shaped enclosure is recorded as having been levelled some 30 years ago, but that archaeological traces and earthworks remain and are clearly visible from aerial photography
- Recommends pre-development archaeological testing be conditioned and sets out wording for such condition

4.2 Planning and Technical Reports

- 4.2.1 The **District Engineer's Report** recommended conditions in respect of surface water run-off. It further noted the proposed intensification of farm use and the failure of the proposal to address existing substandard sightlines at the entrance.
- 4.2.2 The first **Planner's Report** notes that discussion took place with the Environment Section, who had no concerns regarding impact on water. The report notes that the proposal is located within a designated zone of archaeological interest and that a condition requiring monitoring should be attached. The report also noted that there were buildings on site, the planning status of which was unclear.

4.3 Additional Information

- 4.3.1 Additional information was requested in respect of two items, which may be summarised as follows:
1. Revised sight plan with proposals to improve sightlines at entrance
 2. Details in respect of structure on site that might constitute unauthorised development.
- 4.3.2 The Additional Information response (which was considered significant and subsequently advertised) may be summarised as follows:
- Revised drawings illustrating 70m sightlines at 2.4m setback
 - Application for retention of easy feed structure under construction

4.4 Reports Consequent to Additional Information

There are no reports on file in respect of the Additional Information submission.

4.5 Clarification of Additional Information

Clarification of Additional information was requested in respect of three items, which may be summarised as follows:

1. Revised drawings showing 70m sightlines at 4.5m setback (not 2.4m setback)

2. Drawings of the easy feed unit for retention as constructed
3. Revised notices

4.5.1 Clarification of Additional Information Response

The Clarification of Additional Information response was subject to revised public notices, and may be summarised as follows:

- Drawing depicting sightlines at access and confirmation that farm machinery can be seen clearly over 1.5m stone wall to southeast
- Drawing detailing easyfeed to be retained

4.6 Reports Consequent to Clarification of Additional Information

No Third Party submissions (including from Statutory Consultees¹, whom the Clarification documentation was sent) were received.

The **District Engineer** was satisfied with the revised sightlines as proposed and recommended robust conditions to ensure that these be completed expediently.

The Planner's Report was satisfied with the clarification of additional information and recommended a grant of permission.

4.7 Planning Authority Decision

The Planning Authority decided to grant permission subject to seven conditions, none of which related to archaeology.

5.0 GROUNDS OF APPEAL

The Third Party appeal has been submitted by the Department of Arts, Heritage and the Gaeltacht, and may be summarised as follows:

- Does not object to principle of proposal but to absence of conditions in respect of archaeology

¹ An Taisce; DAU, Dept of Arts Heritage & Gaeltacht; Failte Ireland; Irish Water; Arts Council; The Heritage Council

- Requests the Board to revise decision to include conditions to address the archaeological concerns of the National Monuments Service
- Acknowledges that monument was mostly levelled in 1970s, but submits that archaeological impact assessment is required given that remaining elements of a substantial oval-shaped enclosure (enclosing fosse & associated low earthworks) are clearly visible from aerial photographs
- Department has recommended archaeological impact assessment in submission to Planning Authority but no such condition was included
- Given scale of monument and location of proposal, archaeological impact must be assessed and any mitigation measures determined
- Sets out wording of proposed condition

6.0 RESPONSES / OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority Response

In a brief response, the Planning Authority considers the request of the Appellant (namely, to include a condition requiring archaeological mitigations) to be reasonable, and has no objections to the imposition of such a condition.

6.2 First Party Response

A brief response on behalf of the First Party outlines why the Planning Authority did not attach a condition in respect of archaeology, namely:

- Development does not interfere with recorded monument on site
- There are multiple permissions pertaining to the lands, one of which is a slurry tank which is equally proximate to the monument and was not subject to archaeological monitoring
- The DoAHG did not comment on these previous applications
- The enclosure has been completely levelled by another party

7.0 POLICY CONTEXT

7.1 South Tipperary County Development Plan 2009-2015

- 7.1.1 The South Tipperary County Development Plan remains operative (its lifetime having been extended consequent to the amalgamation of North and South Tipperary County Councils).
- 7.1.2 The subject site is located in rural area not zoned for development.
- 7.1.3 The Development Plan recognises the need to manage agricultural slurries in an environmentally sensitive manner, with Policy TI11 stating that agricultural developments should comply with the European Communities Regulations in this regard.
- 7.1.4 The Development Plan recognises the county's rich archaeological heritage. Policy LH16 has a stated aim of safeguarding archaeological sites and securing preservation in situ.
- 7.1.5 The subject site encroaches on land designated as a national monument, with the wider field in which it is located comprising reclaimed pasture containing the remains of what was a large oval enclosure (RMP TIO79011)

8.0 ASSESSMENT

- 8.1 The following European sites are within 15km of the subject site:
- Lower RIVER Suir SAC
 - Comeragh Mountains SAC
 - Nier Valley Woodland SAC

The closest of the above European sites is the Lower River Suir SAC. Given that the subject proposal is at an existing dairy farm, and having regard to the absence of any source-pathway-receptor links to the SAC, no appropriate assessment issues arise.

- 8.2 This is an appeal by a statutory consultee (the Development Applications Unit of the DoAHG) requesting that an archaeological condition be attached to the Planning Authority's grant of permission. There is no objection to the principle of the subject proposal. Accordingly, and notwithstanding the Board's entitlement to consider the proposal de novo, I consider whether or not such a condition should be imposed is the key issue for determination in the subject appeal.

- 8.3 At the outset I would note that the nature of the subject development is acceptable at an existing farm complex. I would also note that the Applicant has addressed other outstanding issues such as sightlines at the entrance etc during the additional information process, and that the Planning Authority was satisfied with the proposal in this regard. As such, I am satisfied that the proposed construction of a slatted cubicle shed with underground slurry tanks and associated works at an existing dairy farm and adjacent to existing farm buildings is appropriate.
- 8.4 I would note that the first Planner's Report acknowledged the original submission from the DAU in respect of archaeology and proceeded to recommend that conditions be attached in this regard. The final Planner's Report, however, did not reconfirm this issue. It would appear, therefore, that the failure to attach conditions in respect of archaeological monitoring was an oversight. In response to the subject appeal, the Planning Authority confirms it has no objection to the attachment of such a condition.
- 8.5 The First Party objects to the imposition of archaeological conditions, stating that the monument in question was levelled completely some 30 years ago; that no such monitoring has been required in respect of previous planning permissions; and that the development will not interfere with the recorded monument.
- 8.6 The Board is referred to the mapping on file and in the appended pouch. It is clear that the subject proposal, at the west of existing buildings, is closer to the recorded monument than any other existing structures, and would definitely appear to encroach upon the general area. As such I consider an archaeological condition to be reasonable. In forming this opinion I am also mindful that the proposal involves underground storage tanks and alteration of ground levels.
- 8.7 In respect of the levelling of the enclosure some time ago, the Appellant confirms that this is mostly the case, but that certain items of archaeology remain.

9.0 CONCLUSION AND RECOMMENDATION

- 9.1 In view of the foregoing, I consider that it would be appropriate to attach a condition in respect of archaeological impact. In coming to this conclusion I am mindful of Policy LH16 of the Development Plan, which has a stated aim of safeguarding archaeological sites and securing preservation in situ.
- 9.2 I recommend that a condition in respect of archaeology be attached as follows:

The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

Juliet Ryan
Senior Planning Inspector
27 April 2016