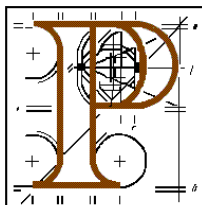


## An Bord Pleanála



## Inspector's Report

**Development:** Slatted Unit with a Straw Lieback and Associated works at Curraghmore, Slieverue, Co. Kilkenny

### Planning Application

Planning Authority:	Kilkenny Co. Co.
Planning Authority Reg.	15/323
Applicant:	Robert Roche
Type of Application:	Permission
Planning Authority Decision:	Grant Permission with Conditions

### Planning Appeal

Appellant(s):	Paul Roche
Type of Appeal:	Third Party Vs Decision
Observers:	None

**Date of Site Inspection:** 29/05/2016

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The subject site is a farmyard located to the east of the N25 New Ross – Waterford Road. The side road off the National Primary road serves a high volume of one off housing and farms. The general topography is falling gently eastwards towards the R. Barrow.
- 1.2 The laneway to the farmyard, serves two dwellings and the farm. The farm includes a number of outhouses, a slatted unit and a silage pit. The laneway is in poor structural condition.

## **2.0 PROPOSED DEVELOPMENT**

- 2.1 The proposed development is to construct a slatted unit with straw lieback and associated works.

## **3.0 SUBMISSIONS RECIEVED**

- 3.1 There are no objections from the Roads Design Office in Tramore.
- 3.2 There were objections received to the proposal from a number of third parties. Their concerns cited were:
- Devalue property as it is inappropriately located too close to dwellings
  - The lane servicing the proposal is in poor conditions and the construction traffic will render it worse
  - Concerns regarding smells and odours, the applicant does not live beside the unit

## **4.0 TECHNICAL REPORTS**

- 4.1 The **Planning Report** stated:
- The site is located some distance from an Natura 2000 designated site and does not require an AA. Screening process
  - Access from local road and private laneway

**Further Information requested on 27th of July 2015** regarding concerns over proximity of the proposed development to existing dwellings on high gradient. The applicant was informed the planning authority had serious concerns over the negative impact the proposal may have on adjoining dwellings.

**Clarification of Further information dated 3<sup>rd</sup> of November 2015** stated all wells within 100metres of the proposed unit are to be indicated and the minimum separation distances as per Department of Agriculture Specification S123 had to be adhered to.

## **4.2 Environment Report**

There is a well indicated within 53metres from the proposed slatted unit. The Department of Agriculture, Food and Marine documents S123 is relevant and there was no hydrogeological survey submitted. The applicant has a private well 15metres from the proposed unit, he can relocate his well within the landholding, this should be conditioned. Conditions are prescribed.

## **5.0 PLANNING AUTHORITY'S DECISION**

**5.1** Kilkenny Co. Co. granted planning permission for the development subject to 5No. standard conditions:

1. A revised site plan is to be submitted with the slatted unit setback 60metres from third party water supplies.

## **6.0 APPEAL GROUNDS**

Mr. Roche has appealed the planning authority's decision to grant planning permission for the proposed development on the following grounds:

- The existing lane that will service the proposed development is in poor repair, and the construction traffic will make the condition of the lane worse. The council did not impose a condition to repair the lane.
- The required separation distances form dwellings and boreholes has not been complied with. There are wells which have not been indicated on the drawings. The Council have requested a revised site layout drawing which is most unsatisfactory.
- The appellant is not totally opposed to the proposal, he wants his concerns addressed within the grant of permission.

## **7.0 RESPONSES**

### **7.1 Planning Authority**

#### *Item 1*

The site is located along a local tertiary road serving a limited number of dwellings and the farmyard. The cul de sac is in poor structural condition and it is acknowledged the construction works associated with the proposal will accelerate the structural deterioration of the road. Road Improvements to such roads are carried out under the Community Involvement in Roads Scheme (CIR) , whereby the residents and landowners pay 15% towards the cost of works. The applicant should apply for a CIR and pay the contribution that would form part

of the permission that the road be resurfaced before any construction works commence.

*Item 2*

The proposal does not meet with minimum separation distances, and this has been addressed under Condition 1 attached to the permission. The planning authority did not consider the relocation of the shed to have a material impact on the objectors amenity or health and therefore did not request further clarification.

**7.2 Applicant's Response**

*Item 1*

The third party appellant uses the lane more than the applicant and has heavier machinery. The road is public and in charge by Kilkenny Co. Co. The proposed development will not involve any additional traffic except during periods of construction.

*Item 2*

All the requested information was supplied by the applicant to the planning authority, including the applicant and appellant's boreholes. The revised plans comply with the planning regulations.

**8.0 PLANNING HISTORY**

8.1 **07/196** –planning permission granted for a slatted unit.

**9.0 Policy**

**9.1 Department of Agriculture, Food and Marine**

S. 123 (November 2015) - *Minimum Specification for Bovine Livestock Units and Reinforced Tanks* included in the Appendix

The minimum distance between a storage facility and a public/ private water supply source, either surface or ground, shall be 60metres for new farmyards and this may be reduced to not less than 30metres for existing farmyards subject to a hydrogeological survey.

**10.0 ASSESSMENT**

10.1 The proposed slatted unit to be built alongside an existing slatted unit within an established farmyard. It is positioned slightly uphill of the existing unit within a field currently used for grazing. Having regard to the fact the proposed slatted unit is to be located within an existing operating farmyard, is a vital consideration on this case.

10.2 The third party appellant resides at the end of the cul de sac which provides access to the farmyard. His house is positioned alongside the farm. He has expressed concerns over two issues and he is not opposed to the principle of the development. Following my site inspection, I consider his two grounds of appeal to be reasonable. His concerns are as follows:

- The poor structural condition of the access lane which will be undermined even further during the construction period of the development. He has requested the laneway be resurfaced.
- The close proximity of the proposed slatted unit to private water supplies

10.3 The planning authority has responded to the appeal, and agrees with the third party concerns, and has requested the Board to impose certain conditions as stated below:

- The site is located along a local tertiary road serving a limited number of dwellings and the farmyard. The cul de sac is in poor structural condition and it is acknowledged the construction works associated with the proposal will accelerate the structural deterioration of the road. Road Improvements to such roads are carried out under the Community Involvement in Roads Scheme (CIR), whereby the residents and landowners pay 15% towards the cost of works. The applicant should apply for a CIR and pay the contribution that would form part of the permission that the road be resurfaced before any construction works commence.
- The proposal does not meet with minimum separation distances, and this has been addressed under Condition 1 attached to the permission. The planning authority did not consider the relocation of the shed to have a material impact on the objectors amenity or health and therefore did not request further clarification.

#### 10.4 **Access Road**

Firstly I agree the Board should impose a condition requiring the applicant to make a contribution towards the upgrading of the access road which in my opinion, should be resurfaced following completion of the development. The laneway is currently in very poor structural repair with large potholes throughout, and it provides access to two existing dwellings and the farmyard. Neither of the dwellinghouses served by the laneway, are occupied by the applicant, therefore the residents will suffer an unnecessary loss of amenity and traffic safety following the construction of the slatted unit, as the laneway will deteriorate further from its existing poor condition. The applicant's response to this issue on appeal is unacceptable, stating the third party appellant uses the laneway more with large vehicles, and his claims are totally unsubstantiated. I believe the applicant should liaise with the planning authority following completion of the proposal and contribute financially towards the upgrading of the laneway

## 10.5 **Water Supply**

I have appended a copy of the relevant document published by **Department of Agriculture, Food and Marine S. 123** (November 2015 - *Minimum Specification for Bovine Livestock Units and Reinforced Tanks*). The document states the minimum distance between a storage facility and a public/ private water supply source, either surface or ground, shall be 60metres for new farmyards and this may be reduced to not less than 30metres for existing farmyards subject to a hydrogeological survey. The applicant has not carried out an hydrogeological survey and according to the appeal file, he has not indicated accurately all private water supplies within a 100metres of the proposed shed. I note the borehole on the third party residential curtilage is 52.3metres from the proposed slatted unit as per the further information submitted on the 18<sup>th</sup> of December 2015. A condition should be attached to reposition the proposed shed in accordance with S. 123 in terms of the correct separation distance from all public/ private water supplies.

## 11.0 **RECOMMENDATION**

I recommend the planning authority's decision to grant planning permission be upheld by the Board

### **REASONS AND CONSIDERATIONS**

Having regard to the location of the development to be carried out within an existing farmyard, in a rural area where agriculture is the predominant land use, and to the relative scale of the development in the context of the existing development in the farmyard, it is considered that, subject to compliance with the conditions set out below, the development to be carried out would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, and would, therefore, be in accordance with the proper planning and sustainable development of the area

### **CONDITIONS**

1. The development shall be retained in accordance with the plans and particulars lodged with the application, as amended by the further particulars received by the planning authority on the 18<sup>th</sup> of December 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, and the development shall be retained 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 from clean paved areas and roofs shall be collected separately and discharged to soakaways, and

(b) all soiled waters shall be directed to a storage tank.

Within two months of the date of this order, drainage details showing compliance with the above requirements shall be submitted to and agreed in writing with the planning authority, and completed to the satisfaction of the planning authority.

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

3. 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 within two 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, 2010 (SI no. 610 of 2010), and shall provide at least for the following:

(a) Details of the number and types of animals to be housed.

(b) The arrangements for the collection, storage and disposal of slurry.

(c) Arrangements for the cleansing of the buildings and structures.

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

4. The slatted unit shall be constructed strictly in accordance the Department of Agriculture Food and the Marine S.123 *'Minimum Specification for Bovine Livestock Units and Reinforced Tanks'* Published in November 2015. In this regard within three months of this decision the applicant shall submit the following:

(a) A site layout indicating the entire development setback a minimum of 60metres from all private/ public water supplies.

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

5. A minimum of 16 weeks' storage shall be provided in the underground storage tank. Within two months of the date of this order, 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.

6. Slurry generated by the proposed development shall be disposed of by spreading on land, or by other means acceptable 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, 2010 (SI no. 610 of 2010). No slurry shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road. Within two months of the date of this order, details showing how it is intended to comply with this requirement shall be submitted to and agreed in writing with the planning authority.

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

7. Waste sent off for recovery or disposal shall only be conveyed by an authorised Waste Contractor and transported from the retention development site to an authorised site of waste recovery or disposal in a manner that will not adversely affect the environment. Details for the management including the transportation of such waste shall be submitted to and agreed in writing with the planning authority within two months of the date of this order.

**Reason:** To provide for the recovery/disposal of waste and the protection of the environment.

8. All oxidisable and galvanised surfaces of the development, including the external finishes used to enclose the existing openings shall be finished/painted to match the existing shed, and the painting shall be maintained and renewed as necessary.

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

9. The local tertiary road cul de sac serving the subject site and a number of dwellings shall be resurfaced following the completion of the proposed development. The applicant shall consult with the planning authority regarding funding and the amount of a contribution payable towards the costs of resurfacing the lane.

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

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**Caryn Coogan**

**Planning Inspector**

**02/06/2016**