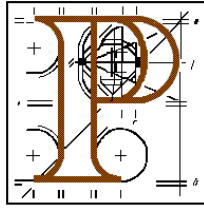


An Bord Pleanála



Inspector's Report

PL20. 246167

DEVELOPMENT: Erect a slatted shed and widen a field gate
ADDRESS: Killiaghan and Gort, Lecarrow, Co Roscommon

PLANNING APPLICATION

Planning Authority: Roscommon County Council
Planning Authority Reg. No.: 15/364
Applicant: William Kilcline
Application Type: Permission
Planning Authority Decision: Grant permission subject to conditions

APPEAL

Appellants: Mark and Louise Bolton
Type of Appeal: 3rd party vs. grant
Observers: None
DATE OF SITE INSPECTION: 6th May 2016
INSPECTOR: Stephen J. O'Sullivan

1.0 INTRODUCTION

- 1.1 This report deals with a third party appeal against a decision of Roscommon County Council to grant permission for a slatted shed.

2.0 SITE

- 2.1 The site has a stated area of 0.169ha. It is in a rural area c12km north-west of Athlone and 2km south of the village of Lecarrow. It consists of part of a field under pasture upon which two agricultural sheds stand. Those sheds were used for dry storage at the time on inspection. The site has c90m of frontage onto a county road c2.4m wide, with an existing field gate at its south-western corner. The roadside boundary of the site is marked by stonewall with intermittent hedges. There is a field gate onto a county road in the south-western corner of the site. Two dormer bungalows stand on the opposite side of the road.

3.0 PROPOSAL

- 3.1 The proposed development would involve the erection of a slatted shed behind the existing sheds. The roof would have a height of 6.19m and would cover an area of 187m². The stated area of the slurry tank is 197m³. The shed would house a maximum of 16 suckler cows, 16 cattle under 2 years and 16 calves. Maps were submitted indicating two areas upon which slurry from the development might be spread.
- 3.2 It is also proposed to erect a new gate on the access from the public road, recessed from the edge of the carriageway.

4.0 POLICY

- 4.1 The Roscommon County Development Plan 2014-2020 applies. Sections 3.4 and 9.26 of the plan refer to agriculture and states that the planning authority will facilitate it while seeking to protect the environment and amenities and compliance with applicable regulations and guidelines.
- 4.2 The site is not within any Natura 2000 site. The nearest are the SAC and SPA at Lough Ree c2.5km to the east and the SAC at Lough Funshinagh c2.5km to the west.

5.0 HISTORY

- 5.1 No previous applications on the site were raised by the parties. The applicant referred to a grant of approval for a house opposite the site under Reg. Ref. 05/938.

6.0 DECISION

6.1 The planning authority decided to grant permission subject to 5 conditions. The conditions required compliance with the SI31 of 2014 and with the plans submitted with the application. They did not alter the proposed development.

7.0 REPORTS TO THE PLANNING AUTHORITY

7.1 A submission objected to the development on grounds similar to those set out in the subsequent appeal.

7.2 Environment Section – A nutrient management plan is required.

7.3 Planner's report – The obligations of the farmer to comply with applicable agricultural regulations cited in the report from the environment section can be addressed by condition in the event of a grant of permission. The nearest Natura 2000 site is at Lough Rea 2.65km away. The development would not be likely to have significant effects with regard to AA or EIA. Adequate information has been submitted on the proposed shed; its storage capacity for slurry; the number and type of animals that would be housed there and the duration of their housing; and the size and location of lands upon which slurry spreading would occur. Farming and landspreading are directly regulated by the regulations in SI31/2014 rather than by the planning system, but a proposal of this nature should not compromise the receiving environment. The development would not have a detrimental visual impact. When living in the rural environs one may reasonably expect agricultural activity in the vicinity which require facilities such a sheds and slurry storage to functions effectively. The proposed development is acceptable in its setting and it would not be reasonable to refuse permission due to visual, residential or environmental impact. The proposed access arrangements would represent a substantial improvement from the current situation. A grant of permission was recommended.

8.0 GROUNDS OF APPEAL

8.1 The grounds of appeal can be summarised as follows-

- The appellants' house is 112m from the proposed development and would face that open side of the slatted shed. They have no issue with agriculture but the location of the proposed development causes concerns. The existing sheds at this location are used only for storing straw and hay.
- Such agricultural developments are governed by the EU Good Agricultural Practice for the Protection of Waters Regulations. The supplementary application form states that 48 livestock would be housed in the shed, requiring 197m³ of slurry storage. However the submitted plans show only 136m³ with a future provision for a fourth bay. There is an

inconsistency in the application and insufficient information of the file. The appellants are seriously concerned about a risk of pollution of water and their well which is only 60m distant. The proposed development would therefore be prejudicial to public health.

- A screening for appropriate assessment needs to be carried out.
- Adequate measures are not proposed to deal with odour.
- The proposed development could have been located elsewhere on an extensive landholding. A shed closer to the applicant's house would be more suitable during calving season.
- The aims of the county development plan to protect the environment and amenity carry more weight than those to promote agriculture. The proposed development would threaten the visual and residential amenities of the area and would materially contravene the provisions of the county development plan.
- The widened entrance would be on a substandard road with inadequate sightlines. The proposed development would thus cause a traffic hazard.

9.0 RESPONSES

9.1 The planning authority did not respond to the appeal.

9.2 The applicant's response can be summarised as follows-

- The applicant's landholding is 15.66ha. The existing complex includes a livestock pen and a shed that could use used periodically to house a animal. It was chosen as the best location for a slatted shed that suits the operation of the farm.
- The drawings clearly show a storage tank of 197m³. There is no inconsistency in the storage calculations submitted with the application. The storage tank would be on reinforced concrete. Bedding would be straw that would be landspred directly from the shed. Roofwater would be disposed to soakpits. There would be no silage slab or dungstead. The planning permission for the appellants house specified a connection to a mains water supply, cf. condition no. 16 of approval 05/938. The appellants' well is outside the roadside fence. 3.5m from the public road. The well is susceptible for runoff from the public road, but the proposed development poses no threat to it.
- The odour nuisance from a 3 bay slatted shed is minimal. Landspreading will not take place on excluded areas.

- The existing field gate is a straight road with maximum sightlines. The entrance is being recessed in the interests of road safety. The development will not pose a traffic hazard..
- The existing shed would screen the proposed development from the public road.

10.0 ASSESSMENT

10.1 The agricultural use of the proposed development would be in keeping with its rural location. The principle of the proposed development is therefore acceptable. The agricultural use of the site and the surrounding area for cattle is established. It is this established activity which gives rise to potential effects on water quality, odour and traffic. The proposed development of a slatted house provides a facility to manage and mitigate the potential environmental impacts that arise from that activity. Agriculture is not generally subject to planning control, due to its exemption under section 4(1)(a) of the act and the fact that it was the established use over most of the country well before the planning regime was introduced. However it is subject to specific environmental controls under the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2014, SI no. 31 of 2014, which govern stocking rates and effluent storage in slatted units, and the disposal and landspreading of slurry from them. It is not the function of the planning system to replicate or enforce such controls. However it would be appropriate to ascertain whether a proposed structure whose erection does require planning permission could be used in a manner consistent with them. In this regard the applicant has submitted details of the numbers and type of cattle that would be housed; the volume of effluent storage that would be provided; of the containment of that effluent on site; and of the lands on which it would be subsequently spread. These details are sufficient to indicate that the proposed development could be used in compliance with the regulations. The regulations may be cited in the conditions attached to any grant of permission. In these circumstances the proposed development would not give rise to environmental pollution and would not pose a threat to the quality of ground or surface waters.

10.2 The proposed development is not in or immediately adjacent to any Natura 2000 site, the nearest being the SAC at Lough Funshinagh and the SAC and the SPA at Lough Ree, c2.5km to the west and east of the site respectively. As concluded in the paragraph above, the proposed development would not give rise to a negative effect on the quality of ground or surface waters. There are no other pathways by which it could affect those or any other Natura 2000 sites. Therefore, having regard to the nature and scale of the proposed development and its distance from any Natura 2000 site, no appropriate assessment issues arise and the proposed development would not be likely to have a significant effect on a Natura 20 site, either individually or in combination with any other plans or projects

- 10.3 As the proposed development would not threaten the quality of waters it would not be prejudicial to public health.
- 10.4 The proposed development would not have a significant impact on the character of the rural landscape in this area.
- 10.5 The proposed structure for housing cattle in the countryside would not be likely to give rise to odours which would give rise to a nuisance or reasonable grounds for complaint in a rural area.
- 10.6 The proposed development would not be likely to have a significant negative effect on the environment, either with respect to water, air, natural heritage, the landscape or otherwise. Therefore it would not contravene the provisions of the county development plan which seek to protect the environment.
- 10.7 As the proposed development would not be prejudicial to public health or threaten the quality of ground water, would not injure the visual amenities of the area, and would not give rise to odours which would be out of keeping with its rural location, it would not seriously injure the residential amenities of property in the vicinity, including those of the appellants' property. The applicant is entitled to seek planning permission for particular developments upon his land. It then it falls to the planning authority and the board to assess the proposals that are put in front of them on their particular merits, rather than to compare them to other proposals which the landowner did not actually make.
- 10.8 The road serving the site is straight and level and its width and condition are adequate to cater for agricultural traffic. The recessing of the field gate serving the site is a reasonable measure and the specifications of the altered access are proper for the function it would serve and the road upon it would be located. The proposed development would not give rise a traffic hazard or the obstruction of road users.

11.0 CONCLUSION

- 11.1 The proposed agricultural development would be appropriate to its rural location. It would not have a negative impact on the quality of waters or on the landscape, or on other aspects of the environment. It would not be likely to have significant effects on any Natura 2000 site either individually or in combination with other plans or projects. It would not seriously injure the residential amenities of the houses in the vicinity, nor would it cause traffic hazard. It would therefore be in keeping with the proper planning and sustainable development of the area.

12.0 RECOMMENDATION

- 12.1 I recommend that permission be granted subject to the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to the location of the development in a rural area and to its nature and limited scale, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Furthermore, having regard to the nature and scale of the proposed development and its distance from any European site, no appropriate assessment issues arise and the proposed development would not be likely to have a significant effect on a European site, either individually or in combination with any other plans or projects

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. 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 commencement of development.

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, prior to commencement of development. The management schedule shall be in accordance with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2014 (SI no. 31 of 2014), 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 (including the public road, where relevant).

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 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 Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2014 (SI no. 31 of 2014).

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

7. A minimum of 18 weeks storage shall be provided in the underground storage tank. Prior to commencement of 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.

8. Details of the finishes of the agricultural shed, the location of fencing of paddocks and other areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The finished floor level of the building shall be not more than 300 mm above the existing ground level.

Reason: In order to allow the planning authority to assess the impact of these matters on the visual amenity of the area before development commences in the interests of orderly development.

Stephen J. O'Sullivan
9th May 2016