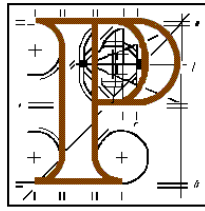


An Bord Pleanála



Inspector's Report

PL27.246217

DEVELOPMENT:- Lean-to structural steel shed (125sqm) which is joined to existing steel shed (291.4sqm) for use and support for sheep farming at Lacken, Co. Wicklow.

PLANNING APPLICATION

Planning Authority: Wicklow County Council
Planning Authority Reg. No: 15/1244
Applicant: Philip & Maria Gallagher
Application Type: Permission
Planning Authority Decision: Refuse

APPEAL

Appellant: Philip & Maria Gallagher
Type of Appeal: 1st-V-Refusal
DATE OF SITE INSPECTION: 27th April 2016
Inspector: Colin McBride

1. SITE DESCRIPTION

- 1.1 The appeal site, which has stated area 0.16 hectares is located to the south of Lackan village and just to the east of the Poulaphuca reservoir. The appeal site is located between the public road, which runs along the western side of the reservoir and the lakeshore. Land levels fall towards the reservoir away from the public road. The site is occupied by an existing agricultural sheds currently in use for sheep farming.

2. PROPOSED DEVELOPMENT

- 2.1 Permission is sought for retention of a lean-to structural steel shed of 125.9sqm, which is joined to an existing structural steel shed of 291.4sqm. The structure for retention will be for used for sheep farming.

3. LOCAL AND EXTERNAL AUTHORITY REPORTS

3.1

(a) Water & Environmental Services (17/12/15): Information required in relation to storage of manure and the location and size of soak pits.

(b) Planning report (28/01/16): The planning history of the proposal was noted including two previous refusals. It is noted that the site and structures on site have been used for non-agricultural uses. It was noted that the structures on site have not been used for agricultural purposes for a significant period of time and there is no justification for the proposal on agricultural grounds. In regards to appropriate assessment is noted that the site has been used for activities in the past such as a music festival with concerns regarding impact on the Poulaphouca Reservoir SPA as well as concerns about the future use of the site for such activity. In addition the applicant has failed to give adequate details regarding effluent storage with the potential for an adverse impact on the SPA through discharges. Refusal was recommended based on the reasons outlined below.

4. DECISION OF THE PLANNING AUTHORITY

- 4.1 Permission refused for the following reasons...

1 Having regard to:

-The location of the site in a highly sensitive rural area which is designated as an area of outstanding natural beauty in close proximity to the Poulaphouca Reservoir SPA

-The stated objective of the current County Development Plan 'to permit the development of new, appropriately located and designed agricultural buildings, which are necessary for the efficient and environmentally sound use of the agricultural practice.

-The failure of the applicants to demonstrate that the proposed agricultural structure is necessary for the efficient operation of a viable agricultural practice

-The use of these lands and structures thereon for purposes other than agriculture

It is considered that the proposed development would contravene the objectives of the County Development Plan and therefore it is considered that to allow this development would be inconsistent with the maintenance of the areas rural character, and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to Objective BD3 of the County Development Plan 2010, the Department of Environment "Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities", 2009 and the details submitted, it is considered that inadequate information has been submitted in relation to this development in particular, the full nature and extent of the activities carried out on site and as such it is not possible to ascertain that the proposed development will not adversely affect the integrity of the Poulaphouca Reservoir SPA. To determine the application in the absence of the above would be contrary to the conservation objectives of the Natura 2000 sites, the Appropriate Assessment Guidelines, the policies of the County Development Plan and the proper planning and sustainable development of the area.

5. PLANNING HISTORY

- 5.1 14/2026: Permission refused for a lean-to structural steel shed joined structural steel shed for the purpose of sheep farming. Refused as it was consolidation of unauthorised development, appropriate assessment issues and country development plan policy.
- 5.2 13/8095: Permission refused for lean to structural steel shed joined to extension structural steel shed for the purpose of sheep farming.
- 5.3 14/2104: Permission refused for change of use of existing agricultural building to a storage facility for storing equipment associated with water and local leisure sports.
- 5.4 06/5535: Permission granted for retention of farm buildings.

5.5 05/4282: Permission refused for farm buildings.

6. PLANNING POLICY

6.1 The relevant plan is the Wicklow County Development Plan 2010-2016.

7. GROUNDS OF APPEAL

7.1 A first party appeal has been lodged by Philip & Maria Gallagher, Templebodan, Lacken, Blessington, Co. Wicklow, the grounds of appeal are as follows...

- It is noted the structure in question is in a rural area and is an extension of a much larger permitted agricultural development and in this regard should be permitted. It is noted that the structure is clearly in agricultural use. The applicant notes that the structure is required for the existing sheep farming practices ongoing at this location.
- The applicants/appellants note that the proposal is for agricultural use and note that the planning history of the site confirms the agricultural nature of development at this location. The applicants/appellants are dissatisfied with the assessment of the proposal in regards to its nature of use.

8. RESPONSES

8.1 Response by Development Applications Unit.

- It is noted that there is no evidence that an Appropriate Assessment Screening, required by the Habitats Directive (92/43/EEC) Article 6, was carried out. There are possible impacts of the development on the qualifying interests of the Poulaphuca Reservoir SPA (Site Code 004063).

9. ASSESSMENT

9.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development

Design scale/visual impact

Nature of use/unauthorised development

Appropriate Assessment/effluent/public health

9.2 Principle of the proposed development:

9.2.1 Permission is sought for retention of an extension to an existing agricultural shed. The structure is located in a rural area and entails an extension to an existing permitted structure. I would consider that the principle of the proposed development is acceptable subject to the proposal being satisfactory in regards to its physical impact, visual amenity and environmental impact.

9.3 Design, scale/visual impact:

9.3.1 The site is located in a rural area in close proximity to the Poulaphuca Reservoir. The area the site is located in is designated as an area of outstanding natural beauty under the County Development Plan. Notwithstanding the designation of the area, the proposal is for retention of an extension to an existing permitted structure. The extension itself is subordinate in scale to the existing structure, has been designed to tie into the existing established structure in terms of height and external finishes. When viewed from the public road and lands to the west, which are elevated in relation to the site, the extension is not visible as it is on the eastern side of the permitted structure. Having regard to such I am satisfied that the visual impact of the proposed development would not be detrimental to visual amenities of the area or detrimental to the status of the area as an area of outstanding natural beauty.

9.4 Nature of use/unauthorised development:

9.4.1 The proposal is for retention of an extension to an existing agricultural shed, with the specific activity being sheep farming. At the time of the site inspection the existing structures on site are in use for sheep farming with the shed being used for fodder storage. I am satisfied that the proposed structure is an extension of an existing authorised activity and in this regard the proposal is satisfactory. It would appear that one of major concerns and reasons for refusal relates unauthorised activities being carried out on site with a history of such noted in the planning report. The proposal in this case is being assessed on its merits. In this regard a number of facts are relevant. Firstly there is permission on site for the existing structures as agricultural structures. At the time of the site visit the structures in question are in agricultural use. Secondly the structure subject to retention is for also for agricultural purposes and is ancillary to existing activity. At the time of the site visit this structure was in agricultural use (sheep farming). I am satisfied that the nature of use of the proposed development is ancillary and an extension of an existing authorised use and in such regard is acceptable in context of the proper planning and sustainable development of the area.

9.4.2 The issue of unauthorised development and what may have taken place or may take place in the future is not a relevant consideration. Based on the

merits of the case, what is proposed and my site inspection of the site, the proposal is accurate in description and acceptable in context of established authorised development. Unauthorised use and enforcement are not matters for the Board and irrespective of a grant of permission for the proposal, the Planning Authority have ample powers and jurisdiction in relation to unauthorised activity/enforcement issues should the need to deal with such matters arise

9.5 Appropriate Assessment/effluent/public health:

- 9.5.1 In relation to Appropriate Assessment the appeal site is not located within the confines of any Natura 2000 site, but is located in close proximity to two sites. The Poulaphuca Reservoir (Site Code 004063) SPA is located 80m to the west of the site and the Wicklow Mountains SAC is located approximately 500m to the east of the site. In particular the Planning Authority raise concerns regarding the full extent of activities on site and their potential impact upon the Poulaphuca Reservoir SPA. Firstly in regards to the Wicklow Mountains SAC, the site is remote from the designated area and has no physical impact on the area. In terms of potential discharges the site is located downslope of the SAC with no potential impact in relation to discharges. The site is located in close proximity to the Poulaphuca SPA which is designated as such due to its status as an important regional water supply. The potential impacts relate to discharges and reduction in water quality.
- 9.5.2 In regards to impact on the adjoining SPA and Screening for the purposes of Appropriate Assessment, I would note that the proposal is for retention of an extension to an authorised development/use/activity (agricultural use). In this regard I would note that the proposed development has no significant impact over and above that of the existing development on site and in this regard would have no significant or adverse impact on the integrity or status of any designated Natura 2000 site. In regards to issues such as surface water and effluent storage I would consider that such can be dealt with by way of conditions and I would note that the nature of the proposed development is for dry fodder storage and is not a slatted shed unit. In refusing permission in the context of the adjoining SPA the Planning Authority refer to potential unauthorised activities. For the purposes of assessment the proposal is being assessed on its merits and based on the development description. As outlined earlier the activity being carried out on site and description in the public notices is accurate. Any permission granted is for agricultural development only and the use of the site or development for any other activity that does not meet such description is a matter for consideration under this appeal. In relation to Appropriate Assessment Screening, required by the Habitats Directive (92/43/EEC) Article 6, I am satisfied that the proposal would not require a Stage 2 Appropriate Assessment. In this regard 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

I recommend a grant of permission subject to the following conditions.

REASONS AND CONSIDERATIONS

Having regard to location of the proposed development in a rural area, the existing use of the site, the existing agricultural shed on this site and the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would location, would not be prejudicial to public health, would not seriously injure the amenities of the area or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be 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 shed shall be used solely for housing sheep/storage associated with the applicants' agricultural activities at this location and shall not be used for any other purpose.

Reason: In the interest of clarity and to protect the amenities of the area.

3. Water supply and drainage arrangements for the site, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. In this regard uncontaminated surface water runoff shall be disposed of directly to soak pits on site in accordance with the requirements of the planning authority and all soiled waters shall be directed to a sealed tank to be provided on site, which shall be sized to provide a minimum 20 weeks storage, in accordance with details to be submitted to the planning authority for written agreement within one month of the date of this order.

Reason: In the interest of environmental protection, public health and to ensure a proper standard of development.

4. Dung and effluent generated by the 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, 2006.

Reason: To ensure the satisfactory disposal of waste material, in the interest

Colin McBride
28th April 2016