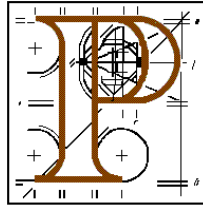


## An Bord Pleanála



### Inspector's Report

**PL26.246227**

**Development:** Retention of underground slatted unit and existing pumphouse and concrete wall.

**Location:** Rossminoge South, Rossminoge, Craanford, Co. Wexford.

### **Planning Application**

Planning Authority: Wexford County Council

Planning Authority Reg. Ref. No: 20151197

Applicants: John Murphy

Type of Application: Permission

Planning Authority Decision: Grant

## **Planning Appeal**

**Appellants:** Damien Gibbons & Kathryn Keogh

**Type of Appeal:** Third Party

**Observers:** None

**Date of Site Inspection** 25<sup>th</sup> of May 2016

**Inspector:** Siobhan Carroll

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.0.1 The appeal site is located in the townland of Rossminoge South, Rossminoge, Craanford, Co. Wexford. It is situated 9km to the south-west of Gorey. The village of Craanford is located 3.5km to the north of the site. The site is located on the western side of a private lane.
- 1.0.2 The site includes the farmyard which contains an agricultural shed with an area of circa 300sq m. The subject pump house is located 10m to the east of the shed. The subject underground slatted unit adjoins the southern elevation of the agricultural shed. The area to the south and west of the farmyard of the site is in agricultural use and forms part of the landholding.
- 1.0.3 The surrounding area is characterised by a relatively flat landscape with on-off housing interspersed along the local road network. The closest residential property which is the appellant's dwelling is situated circa 25m to the east of the site boundary. There is a two-storey dwelling located circa 44m to the north of the agricultural shed.

## **1.1 THE PROPOSED DEVELOPMENT**

Permission is sought the retention of an underground slatted unit and existing pump house and concrete wall. Features of the scheme include;

- Site area 5.53 hectares,
- Floor area of pump house for retention – 8.5sq m,
- The slatted tank measures c.3.2m x c.30m, with an internal depth of 2m and capacity of 138 cubic metres.

## **1.2 THE PLANNING AUTHORITY'S DECISION**

### **Internal Reports:**

Environment Section: No objections subject to conditions

Senior Executive Scientist (Environmental): No objections

Biodiversity Officer: No objections

### **Submissions**

The Planning Authority received one submission in relation to the application. The main issues raised are similar to those set out in the observation to the appeal.

### **Decision**

The Planning Authority granted permission subject to one condition.

## **1.3 PLANNING HISTORY**

None on site

## **2.0 PLANNING POLICY**

### **2.1 Development Plan**

#### **Wexford County Council Development Plan 2013-2019**

The subject site is located within Landscape Policy Area – Lowlands

Agricultural development is acceptable in principle at this location

Chapter 6 – Employment, Economy and Enterprise

Section 6.4.6 refers to Agriculture

Chapter 18 – Development Management Standards

Section 18.23 refers to Agricultural Buildings

### **2.2 National Guidance**

S.I. No. 610 of 2010, European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2006

Part 2 - Farmyard management

Part 3 - Nutrient Management

Part 4 - Prevention of Water Pollution from fertilisers and certain activities

Part 5 - General

### **3.0 APPEAL**

A third party appeal was submitted by Damien Gibbons & Kathryn Keogh 29<sup>th</sup> of February 2016. The content of the appeal submission can be summarised as follows;

- The appellants purchased their property in December 2013. They state that they were aware of a large shed at the rear of the property which contained animal fodder and bedding. In the course of purchasing the property it was never mentioned to the appellants that it was intended to use the shed to house livestock or construct a slatted unit at the site.
- The appellants state that they have experienced problems with the water quality from their well water supply. They sought and received permission from Wexford County Council for the installation of a filtration system to their water supply to provide for water fit for consumption.
- The appellants were advised by Mr Murphy in summer 2014 that he was constructing a milking parlour in the field behind their property. The appellants had no issue with this, however they then become aware that a slatted unit had been constructed.
- The appellants contacted Wexford County Council to establish the status of the slatted shed and were informed that it did not have permission. They were then advised in July 2015 that enforcement proceedings had begun.
- The appellants became aware in December 2015 that a planning application had been made in relation to the slatted unit when they view a planning notice on the farm gateway.
- The appellants request that the Board have regard to the following issues; the farm buildings are located too close to their dwelling, there was a previous Enforcement Order in relation to the slatted unit, concern regarding air and water quality, impact on their residential amenity particularly the use of the their garden and that the development would result in a reduction in value of their property.

### **3.1 First Party response submission**

A response to the third party appeal was submitted on the 24<sup>th</sup> of March 2016 by Arthur O'Leary & Associates Ltd on behalf of the applicant Mr John Murphy. The main issues raised concern the following;

- The appellants purchased their home in December 2013. They were in full knowledge that an active farmyard was located to the rear (north-west) of the property they purchased.
- Given the location of the property in an active rural and predominately agricultural region, the practices and activities of agriculture must have been apparent prior to purchase of the property.
- When the appellants purchased the property a considerably sized shed was located in the extreme north-west of the property. The shed has a length of 15m and a height of 5m and it offered screening to both parties from both land holdings. This shed was subsequently demolished.
- The applicant's agricultural sheds have been in place prior to 1963 and have been continually used for animal bedding, feed stuffs and livestock storage.
- The collection of effluent, dung and rainwater from the shed and yards has always been monitored in order to comply with Department of Agriculture standards and Regulations. As part of the applicants continued registration with Bord Bia and Glanbia annual testing and compliance with water quality standards for his bored well is compulsory. It is noted that the applicant's well is located closer to the farm units than the appellant's well.
- The subject underground tank provides for the controlled collection and storage of effluent and rainwater. The tank is compliant with the separation distance of 30m where the water source is level in elevation with the collection element.
- The applicant confirms that odours can permeate from slurry and dung collection units. The odours are in accordance with standard emission levels permitted by the Department of Environment. It is stated that no practice or activities have been carried out by the applicant to raise the emissions.

- The installation of the underground tank has resulted in the volumes of dung produced and stored within the waste bedding being lowered.
- It is stated that the emission odours from the farm cannot be attributed to the appellant's health status whatsoever.
- Due to the elevated and exposed nature of the two holdings it provides that the prevailing south-westerly winds clear all odours away from the appellant's property.
- The statement by the appellants in relation to a reduction in value of their property is speculative with no specific facts provided.

### **3.2 Planning Authority response submission**

- The Planning Authority is satisfied that the development proposed for retention is in accordance with the provisions of the Wexford County Council Development Plan 2013-2019. The proposal also consolidates the activities within this established farmyard and it does not unduly impact on neighbouring amenities.

## **4.0 ASSESSMENT**

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Principle of Development
- Impact on amenity of the area
- Appropriate Assessment

### **4.1 Principle of Development**

4.1.1 The subject site is located within the rural townland of Rossminoge South, Co. Wexford. The area is primarily agricultural in nature but it is noted that there are some residential properties in the vicinity. The nearest such property is that of the appellants which is located to the east. The appellant's property is located approximately 35metres from the flank wall of the existing permitted agricultural shed.

4.1.2 The proposed development, as has been outlined above, provides for the retention of an underground slatted unit and existing pump house

within an existing farmyard. Section 6.4.6 of the Wexford County Council Development Plan 2013-2019 refers to Agriculture and Section 18.23 refers to Agricultural Buildings. Agricultural development is permitted in principle at such rural locations and it is my opinion that such locations are generally, subject to good practice and management, the optimum location for agricultural developments. Notwithstanding the location and proximity of nearby residential properties, I therefore consider the proposed development to be acceptable in principle at this location.

## **4.2 Impacts on the amenity of the area**

- 4.2.1 The appellants have raised specific concerns in relation to the impact that the proposed development would have on their residential amenity as a result of the proximity of the proposed slatted unit. As has been stated above, the appellants dwelling is located approximately 35 metres from the flank wall of the existing agricultural shed and approximately 35 metres from the subject slatted unit. While it is noted that a pre-existing outbuilding located at the rear of the appellant's site has been demolished there is a shed located in the south-western corner of the site. This is situated 7.5m to the east of the subject slatted unit. The appellant's water supply an on-site bored well is situated in the north-eastern corner of their site and is circa 60 metres from the slatted unit.
- 4.2.2 The appeal site is situated in a rural and agricultural area and within an existing farmyard complex containing a large agricultural shed which has been in use for agricultural purposes over the past fifty three years. Therefore, the subject site is appropriate for the proposed development in terms of location. I consider that such rural areas are the most obvious location for uses such as that proposed.
- 4.2.3 It is stated within the file that the subject slatted unit would cater for 25 no. two-year old cattle. This scale of development is considered to be relatively modest. I note that the subject slatted tank measures c.3.2m x c.30m, with an internal depth of 2m. Calculations of the slurry production and storage capacity have been provided with the application. The capacity of the underground tank is 138 cubic metres. Over a period of sixteen weeks a total of 104 cubic metres of slurry would be produced by 25 no. cattle. A total area of 12.55 hectares of land is required for the spreading of the slurry in accordance with Table 6 of S.I. 610/2010. An area of 13 hectares is available for land spreading within the applicant's land holding. Therefore sufficient lands are available to provide for the spreading slurry generated by the



number of cattle in accordance with the storage requirements of SI 610 of 2010 (EC Good Agricultural Practice for Protection of Waters Regulations).

- 4.2.4 Having inspected the site and its environs, I would not have undue concerns regarding impacts on the amenity of nearby local residential properties, due primarily to the nature and scale of development proposed. I would expect that any noise or smells emanating from the development would not be excessive and consider that a certain degree of agricultural noise/smell is reasonable within such an agricultural area.
- 4.2.5 In relation to the matter of the reduction in value of the appellant's property, I have no information before me to believe that the proposed development if permitted would lead to devaluation of property values in the vicinity. As I have stated above, this is a rural area and it is my opinion that uses such as that proposed are to be expected at such rural locations.
- 4.2.6 Regarding the issue of potential pollution impact on the appellant's well, I note that the well is located over 60 metres from the subject slatted unit and that the operation of the slatted tank would significantly reduce the potential for such pollution. Furthermore, I note the reports of the Senior Executive Scientist and the Environment Section, which both recommend a grant of permission.
- 4.2.7 Accordingly, having regard to all of details set out above and based on the information before me I consider that the proposed development if permitted would not have undue impacts on the residential amenity of the area, as to warrant a refusal of permission.

### **4.3 Appropriate Assessment**

- 4.3.1 The site located at Rossminoge South, Rossminoge, Craanford, Co. Wexford. The River Bann is located 410m to the south-east of the appeal site. The River Bann and the River Slanney form the Slanney River Valley SAC (Site Code: 000781).
- 4.3.2 In relation to determining the effects of a development on a European site are likely and whether or not the effects are significant in light of the Conservation Objectives for the site. It should also be determined if there are cumulative effects with other projects. The Planning Authority carried out a screening for Appropriate Assessment and determined that it was not required. It was concluded in the report that the Planning Authority was of the opinion that having regard to the nature

of the proposed development that alone or in combination with other projects that there was no potential for significant effects to Natura 2000 site.

4.3.3 The conservation and qualifying interests and species and features of interest of the Slaney River Valley SAC include freshwater pearl mussel (*Margaritifera margaritifera*), sea lamprey (*Petromyzon marinus*), brook lamprey (*Lampetra planeri*), river lamprey (*Lampetra fluviatilis*), allis shad (*Alosa alosa*), twaite shad (*Alosa fallax fallax*), salmon (*Salmo salar*), estuaries, mudflats and sandflats not covered by seawater at low tide, Otter (*Lutra lutra*), water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation, old sessile oak woods with *Ilex* and *blechnum* in British Isles, alluvial forests with *alnus glutinosa* and *fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*).

4.3.4 Having regard to the nature of the proposed development the retention of an underground slatted unit and existing pump house any potential impacts would be likely to arise from the operation of the slatted unit. The appeal site is located circa 410m from the Slaney River Valley SAC. As established in section 4.2 of this report, the slurry produced in the slatted unit will be spread within the applicant's land holding. This will ensure that the effluent generated will be satisfactorily disposed of in a manner which protects water sources. In relation to this practice, I note that slurry spreading on individual farms is a matter for each farmer's nutrient management plans. As the slurry management system on site is controlled by guidelines and best practice, I would be satisfied that the slurry spreading will have no impact on the European Site if managed in accordance with regulatory requirements. Accordingly, the slurry produced on site will be stored on site and disposed of off-site in accordance with the storage requirements of SI 610 of 2010 (EC Good Agricultural Practice for Protection of Waters Regulations).

4.3.5 Accordingly, I am satisfied that it significant effects are unlikely to occur on any Natura 2000 site from the development proposed, alone or in-combination with associated agricultural activities subject to compliance with European Communities (Code of Good Agricultural Practice for Protection of Waters) Regulations 2014 in the management and disposal of organics wastes in order to prevent a negative impact on water quality status. Furthermore, a stage 2 appropriate assessment is not required.

## 5.0 Recommendation

- 5.0.1 I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be granted for the following reasons.

### REASONS AND CONSIDERATIONS

Having regard to the location of the development to be retained 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 retained would constitute an environmental improvement, 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 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 within three months from the date of this order and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The slatted unit 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.

3. 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.

4. 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.

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

**Siobhan Carroll,**  
**Inspectorate**  
**13<sup>th</sup> of June 2016**