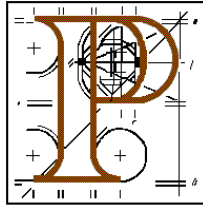


## An Bord Pleanála



## Inspector's Report

Development: Extension of existing farmyard facility and construction of slatted livestock unit and ancillary site services.

Location: Pattenspark, Ballyhaunis, County Mayo.

### Planning Application

Planning Authority: Mayo County Council  
Planning Authority Reg. Ref.: 15/695  
Applicant: Ivan Biesty  
Type of Application: Permission  
Planning Authority Decision: Grant Permission

### Planning Appeal

Appellant: Walter & Mary Cleary

Type of Appeals: 3<sup>rd</sup> v Grant  
Date of Site Inspection: 7<sup>th</sup> June 2016  
Inspector: Dolores McCague

# **1 SITE LOCATION AND DESCRIPTION**

- 1.1 The site is situated at Pattenspark, Ballyhaunis, Co Mayo, approx. 2.4km south west of Ballyhaunis on the Ballyhaunis to Claremorris road which is part of the national secondary road, N60, along a straight section of road. The site has two access points separated by a low plastered wall (c 1.2m height). The site is surfaced and occupied by two buildings. One is a small monopitch, agricultural building set back on the site and oriented parallel to the road. This building is a portal frame structure with a corrugated, galvanised steel roof and un-plastered block walls. The second building is a small domestic building forward of the other building and oriented at right angles to the public road. This building is in three bays, two of which are open to the front and have the appearance of turf/fuel sheds and one of which is an enclosed area with the appearance of a domestic store. A post and rail fence separates the area to the rear of the agricultural building from the front of the site. From the information on file a dwelling on this site, was the subject of planning permission
- 1.2 The site is flat and very slightly above the public road.
- 1.3 The site area is given as 0.288ha.

# **2 PROPOSED DEVELOPMENT**

- 2.1 The proposed development comprises the extension of existing farmyard facility and construction of slatted livestock unit and ancillary site service. The proposed building includes an extension to the existing lean-to type agricultural storage building (8.7m x 14.4m) which will be extended by 8.7m x 9.6m; and the erection of a slatted shed alongside and to the front of this extended building measuring 24m x 12.1m with underground tanks extending outwards at either end by some 1.2m and a connecting area running between the two buildings of c 0.5m width. A gravelled area is proposed to the rear of the building and

an area described as '*relocated livestock penning from site of building to the north east as shown on the 1:2,500 site location map*'.

- 2.2 The layout plan also shows the blocking up of one of the two existing gateways to the public road.
- 2.3 The 1:2,500 site location map, shows the extent of the frontage along the public road, N60 of the landholding associated with this site and the total 'lands farmed' are indicated on a map scale 1:10,560 (6"= 1mile). The 1:2,500 site location map has annotated at the eastern end of the lands '*existing pen to be relocated to new development to move it away from neighbouring house*'.
- 2.4 The total floor area of the development is given as 377.08m<sup>2</sup>.

### **3 PLANNING AUTHORITY DECISION**

- 3.1 The planning application was lodged on the 29<sup>th</sup> October 2015.
- 3.2 **Technical Reports**
- 3.3 Area Engineer – 15/11/15 – site abuts N60, refer to Road Design for report.
- 3.4 Transport Infrastructure Ireland – 25/11/15 – relies on planning authority to abide by official policy.
- 3.5 Planning Report 17/12/15 – N60. House granted retention to Mary Keegan (P02/1282) previously occupied the site. It is no longer there. Photos of a modern bungalow in the planner's report show the former house. Existing sheds were on site at the time of the previous application. CDP policies 38.1.2. recommending refusal, based on increase in vehicle movements.
- 3.6 Roads Design – 18/12/15 – no objection subject to conditions:
- 1) The existing wall along the site frontage shall be maintained.  
Reason: To maintain existing wall line.

2) Off carriageway parking shall be provided on site. Reason: In the interests of traffic safety and in order to provide adequate parking for the development.

3) No surface water runoff from the site shall discharge onto the public road – Existing road drainage shall not be impaired and entrances shall be designed and shaped to ensure the uninterrupted flow of existing roadside drainage. The area between the front boundary and the existing roadway shall be finished so that no water is discharged onto the roadway and that no water lodges on the roadway. A drainage channel shall be constructed at the location of the gates and this channel shall be drained to a drainage system. All surface water generated by the development during and after construction shall be disposed of to a soakpit or drain within the site boundaries. The developer shall not cause any water to impinge on the road and /or adjacent properties and shall bear the cost of any works carried out by the Roads Authority to correct any such drainage problem. Reason: In the interests of proper drainage and traffic safety.

- 3.7 Extension of time request – 18/12/15 – for 3 months.
- 3.8 Extension of time request granted – 21/12/15 – to – 22/3/16
- 3.9 Note from Director of Services added to planning report – 21/3/16 – *‘having examined the file and inspected the site I am satisfied that it is in order to grant permission and I am therefore directing that permission be granted’.*
- 3.10 The planning authority decided - 21/3/2016 – to grant planning permission subject to 17 conditions, including:
- 2) capacity of slurry tank at least 340.58 cubic metres.
  - 3) existing and proposed slatted houses shall not be used to accommodate more than the number proposed in submissions of 29/10/15, or the equivalent in terms of slurry production.
  - 4) the proposed slatted house slurry tanks on site shall be leak proof.
  - 5) no system of overflow, overspill or direct discharge shall take place from the proposed slatted tanks.
  - 6) The proposed silage slab shall be provided with kerbs and/or channels at least 3 inches high and all leachate shall discharge directly to the slatted tank.
  - 7) All uncontaminated surface water shall be discharged to field drains or soakpits which shall be to the satisfaction of Mayo

County Council. Only uncontaminated surface water shall be disposed of in this manner.

9) The contents of the slatted tanks shall be land spread in accordance with the standards laid down by SI No 31 of 2014 – European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2014.

10) Waste arising shall not be land spread during the months of November to March inclusive.

11) Waste shall not be land spread within 100m of any well, river, stream, watercourse or within 300ft of any lake or known source of drinking water.

12) Waste shall not be land spread preceding, during, or immediately after periods of unusually heavy rainfall, on frozen ground or at any time during which there would be heavy run-off of surface water.

13) no slurry, effluent, contaminated water or surface water shall be discharged from the site or land onto any road or public right of way.

## **4 PLANNING HISTORY**

Subject site

P02/1282 retention of dwelling house granted. There is no longer any dwelling on this site.

At the eastern extremity of the subject lands – warning letter to the first party in relation to ‘unauthorised construction of a livestock holding area on lands at Pattenspark, Ballyhaunis, Co Mayo – 27<sup>th</sup> August 2015. (copy submitted with the grounds of appeal).

## **5 GROUNDS OF APPEAL**

5.1 John Mooney & Company Ltd, Consulting Engineers have submitted an appeal against the grant of permission, on behalf of the third parties, Walter Cleary and Mary Cleary.

5.2 The grounds can be summarised as follows:

- 5.3 Traffic hazard – it is the responsibility of the applicant to demonstrate no traffic hazard.
- 5.4 Planner’s report says relocation of penning area cannot be conditioned but applicant refers to relocation. This area should have been included within the application boundary.
- 5.5 There is other unauthorised development – the demolition of the dwelling house should have been included in the application.
- 5.6 Ownership of the lands – details should have been submitted. All folios have not been included. There is a right of way burden which is not shown. The net spreadable area of 30.107 may not be accurate. Buffer zones are not shown or are inadequate. A site survey should have been provided with the application in order to clearly identify the available lands for slurry spreading, indicating the general suitability of the lands to receive slurry.
- 5.7 The details of soiled and clean water treatment in the farmyard are inadequate. Detailed drawings showing the hardstand areas should be submitted in order to calculate the soiled and clean water run-off.
- 5.8 Third parties recommend, as mitigation, that planting along the north-eastern boundary of the site/structure be required in order to enhance the visual aspect and reduce noise and odour.
- 5.9 Third parties recommend that further information be requested.
- 5.10 There is nothing in the decision to require the applicant to remove the unauthorised development immediately adjacent to third parties’ house, which is outside the site area. It should therefore be refused.

## **6 RESPONSES**

### **6.1 Planning Authority**

6.2 The Planning Authority has not responded to the grounds of appeal.

6.3 **First Party**

6.4 **The First Party** has responded to the grounds of appeal.

6.5 The response includes the first party has attempted, as far as feasible, to take on the concerns of his next door neighbour. His preferred location for this development would be adjacent to his existing farm building, however, this was not considered as it lies only approx. 15m from the neighbour's boundary. Instead, he is proposing to locate it approx. 350m from that boundary. The holding pen which is adjacent to the existing building will be dismantled and re-located to the new slatted house area. The proposal will ensure a far more eco-friendly type of farming and he will endeavour to work the land in compliance with good farm practice. The amount of transport to and from the farm will remain the same regardless of the outcome of the appeal, the cattle numbers will not increase even if the proposed slatted house goes ahead. The family have farmed in this area for generations, and this proposal ensures that they will continue to work the land in a sustainable manner.

## **7 POLICY CONTEXT**

7.1 **The Mayo County Development Plan 2014 – 2020** is the operative plan.

7.2 Relevant provisions include:

7.3 **Volume 1:**

RD-01 It is an objective of the Council to protect the capacity and safety of the National Road Network and Strategically Important Regional Road network in the County and ensuring compliance with the Spatial Planning and National Roads Planning Guidelines (January 2013).

Agriculture - AG-01 It is an objective of the Council to support the sustainable development of agriculture, with emphasis on local food supply and agriculture diversification (e.g. agri-business and tourism enterprises) where it can be demonstrated that the development will not have significant adverse effects on the environment, including the integrity of the Natura 2000 network, residential amenity or visual amenity.

7.4 Volume 2 - Planning Guidance and Standards for Development in County Mayo:

Residential development - 16.1.2 No new accesses or development that generates increased traffic from existing accesses onto National Roads outside the 60km/hr speed limits of such roads shall be permitted in accordance with the provisions of Section 2.5 of the DoECLG Spatial Planning and National Roads Guidelines. In exceptional circumstances, a less restrictive approach to this policy may apply to any development accessing onto National Roads from an existing access where, it can be demonstrated that such a development will not generate increased traffic onto the National Road. In such cases the existing access may require mitigation measures and upgrading where it is found to be substandard.

29.3 Rural enterprises such as agriculture, forestry, marine, resource related enterprises, medical, teaching, IT, etc. shall be considered in all rural areas subject to no adverse impacts (e.g. noise, odour, dust, light pollution and traffic) on neighbouring properties and the environment including visual amenity. Preference will be given to the conversion of existing buildings in rural areas for small-scale employment purposes.

38.1.2 No new non-residential accesses or development that generates increased traffic from existing accesses onto National Roads outside the 60km/hr speed limits of such roads shall be permitted in accordance with the provisions of Section 2.5 of the DoECLG Spatial Planning and National Roads Guidelines. A less restrictive approach to this policy may apply to development considered to be of national or regional strategic importance and in accordance with Section 2.6 *Spatial Planning and National Roads 2012* (DoECLG). Exceptions are required to be identified



for incorporation in to the Development Plan and the Council will undertake a survey to identify such sites and agree cases in consultation with the NRA where 'exceptional circumstances' will apply in accordance with the provisions of Section 2.6 of the DoECLG Guidelines. Such exceptions may also include extensions to existing permitted developments along National Roads. In such cases the existing access may require mitigation measures and upgrading where it is found to be substandard.

56.1 The Council recognises the importance of agriculture and agriculture diversification in the County. It is also recognised that those living on farms and working the land are the guardians of the countryside.

56.2 The principal aim shall be to support agriculture in the County subject to best environmental standards which promote maintaining good water quality and biodiversity. Therefore the activities on the farm shall comply with the provisions of S.I. No. 610 of 2010, European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2010.

#### 7.5 Spatial Planning and National Roads Guidelines (Jan 2012)

Required Development Plan Policy on Access to National Roads - with regard to access to national roads, all development plans and any relevant local area plans must implement the policy approaches outlined below. Lands adjoining National Roads to which speed limits greater than 60 kmh apply: The policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 kmh apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.

## **8 ASSESSMENT**

8.1 The main issues which arise in relation to this development are application procedure, development plan policies, traffic safety,

residential amenity and appropriate assessment and other issues and the following assessment is addressed under these headings.

## 8.2 **Application Procedure**

8.3 The grounds of appeal includes reference to the application procedure, that an extension of time was sought which is normally followed by the submission of further information; which was not the case here.

8.4 The sequence of events in relation to this file indicates that the Planning report was prepared and submitted to the decision maker on the same date as a Roads Section report was received, too late for inclusion in the Planning report. In the Planning report there is a recommendation to refuse on the basis of the location adjoining the N60, Development Plan policy in that regard and the creation of a traffic hazard. The Roads Section report recommends granting permission subject to conditions. It seems likely that the decision maker, faced with these differing recommendations required additional time to consider the application. Extension of time procedure requires that the applicant to request the extension of the period for considering an application and this is what occurred. Although in many cases an extension of time request is to allow an applicant time to make a further submission, this is not always the case. In my opinion the procedure followed was entirely appropriate.

## 8.5 **Traffic Safety**

8.6 Having regard to the location of the site on a national secondary route the issue of traffic safety must be considered.

8.7 The proposed development is located on a straight stretch of the N60 where the maximum speed limit applies. The proposed development is accessed via an existing access, where previously the development on site included a dwelling. The application documents show the provision of sightlines of 215m or more requiring only the trimming of vegetation along the frontage of the land holding, 215m being the sightline requirement for this class of road. Roads Design in their report dated 18/12/15 had no objection to the proposed development

subject to conditions which refer to the maintenance of the wall along the frontage, provision of off-carriageway parking and the disposal of surface water. The site is surrounded by a landholding of which it forms part. The lands are shown on a map submitted with the application scale 1:10,560 (or 6" = 1 mile). The total area of the landholding is not stated but the net spreadable area which excludes lands adjoining watercourses, is stated as 30.107ha. There are some existing sheds on the landholding, at the eastern end adjoining the third party house and at the subject site, but they are relatively limited in scale. In my opinion the proposed development provides necessary accommodation for extensive agriculture, not intensive farming, and is therefore a reasonable requirement to support the sustainable development of agriculture, in accordance with the Development Plan provisions.

8.8 In response to the grounds of appeal the first party states that the amount of transport to and from the farm will remain the same regardless of the outcome of the appeal.

8.9 I consider that subject to the conditions recommended by the Roads Design section, the proposed development would not constitute a traffic hazard.

#### 8.10 **Development Plan Policies**

8.11 The grounds of appeal refers to the Development Plan policies/objectives in relation to development along national roads.

8.12 The Mayo County Development Plan 2014 – 2020 contains a number of provisions which are relevant in the context of this application.

8.13 The Development Plan refers to the the importance of agriculture and supports its sustainable development. It also refers to the importance of protecting the capacity and safety of the National Road Network.

8.14 Volume 2 Planning Guidance and Standards for Development in County Mayo at 38.1.2 states that: *no new non-residential accesses or development that generates increased traffic from existing accesses onto National Roads outside the 60km/hr speed*

*limits of such roads shall be permitted in accordance with the provisions of Section 2.5 of the DoECLG Spatial Planning and National Roads Guidelines. A less restrictive approach to this policy may apply to development considered to be of national or regional strategic importance and in accordance with Section 2.6 Spatial Planning and National Roads 2012 (DoECLG)'.*

- 8.15 The Spatial Planning and National Roads Guidelines (Jan 2012), states that with regard to access to national roads, with speed limits greater than 60 kmh, all development plans and any relevant local area plans must implement the policy approach to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads.
- 8.16 The proposed development is not of national or regional strategic importance. It is however intrinsically bound to the established agricultural use of the land.
- 8.17 In response to the grounds of appeal the first party states that the proposal will ensure a more eco-friendly type of farming, the amount of transport to and from the farm will remain the same regardless of the outcome of the appeal, cattle numbers will not increase even if the proposed slatted house goes ahead, and this proposal ensures that the family who have farmed in this area for generations will continue to work the land in a sustainable manner.
- 8.18 I note that there was, until recently, a dwelling on the site and the traffic generated by that development no longer uses this access.
- 8.19 I accept that the proposed development is not an intensification of the farming activity on the landholding, shown outlined in blue on the documents submitted. In my opinion this proposal does not intensify traffic from an existing access to a national road and is therefore not contrary to the Spatial Planning and National Roads Guidelines, on which the County Development Plan policies are based.

**8.20 Residential Amenity**

8.21 The third parties have concerns in relation to development carried out close to their home: penning areas for livestock, and the impact on their residential amenities. They are concerned that, although the first party states in the application documentation that this penning will be relocated to the subject site, there is no condition attached to the decision which requires the removal and relocation of the penning. In my opinion since it is stated in the planning documents as part of the proposal, it would be reasonable, for clarity, to attach a condition to that effect.

8.22 The third parties request that conditions be attached requiring that planting be carried out along the north-eastern boundary of the site/structure in order to enhance the visual aspect and reduce noise and odour.

8.23 The subject site is at a significant distance from the third party property and separated from it by agricultural land and other agricultural buildings. In my opinion planting at the subject site is not required to protect their amenities or the amenities of the area.

**8.24 Appropriate Assessment**

8.25 The proposed development is the construction of a house with on-site effluent disposal. The nearest Natura site is River Moy SAC (002298) which is c 3.5km away. The subject site does not drain to the River Moy but to the Dealgan River which is part of the Lough Corrib SAC (000297), which is over 6km direct line distance from the subject site.

8.26 In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision on the proposed development. The process is known as appropriate assessment. In this regard a guidance document

'Appropriate Assessment of Plans and Projects in Ireland' was published by the DoEH&LG on the 10 December 2009.

8.27 Having regard to the nature and scale of the proposed development and proximity to the nearest European site, no Appropriate Assessment issues arise and 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.

8.28 **Other issues**

8.29 Various other issues have been raised by the third parties.

8.30 Third parties state that a complete listing of the land registry folio numbers is required and that details of a right of way should be shown. The third parties have not suggested that the landholding as submitted is inaccurate and therefore I am satisfied that the Board has sufficient information on which to make a decision.

8.31 Third parties state that the application should have included an application for retention of the demolition of the dwelling. The requirement to obtain planning permission for the demolition of a habitable dwelling provides protection to the housing stock. The circumstances under which the dwelling was removed from the site and whether or not it was, at the time, a habitable dwelling are unclear from this file and may be of interest to the planning authority. A reduction in the number of dwellings accessing a national road would generally be perceived as a planning benefit. In my opinion the former existence of a dwelling on this site should not be a reason to refuse permission.

8.32 Third parties state that more details are required in relation to hardstand areas in order to calculate soiled and clean water run-off and a site survey is required to clearly identify the available lands for slurry spreading, indicating the general suitability of the lands to receive slurry. In my opinion these are matters of detail and are amenable to regulation by condition.

## **9 RECOMMENDATION**

In accordance with the foregoing assessment, I recommend that planning permission be granted for the following reasons and considerations and subject to the following conditions.

### **REASONS AND CONSIDERATIONS**

It is considered that subject to the following conditions, the development as proposed, comprising, extension of existing farmyard facility and construction of slatted livestock unit and ancillary site services, would provide necessary accommodation for the extensive agricultural use of this landholding, and is therefore required to support the sustainable development of agriculture; would not impact on the amenities of the area or conflict with the County Development Plan; and would accordingly be in accordance with the proper planning and sustainable development of the area.

#### **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 The existing wall along the site frontage shall be maintained.

Reason: To maintain existing wall line.

- 3 Off carriageway parking shall be provided on site.

Reason: In the interests of traffic safety and in order to provide adequate parking for the development.

- 4 No surface water runoff from the site shall discharge onto the public road; existing road drainage shall not be impaired and entrances shall be designed and shaped to ensure the uninterrupted flow of existing roadside drainage. The area between the front boundary and the existing roadway shall be finished so that no water is discharged onto the roadway and that no water lodges on the roadway. A drainage channel shall be constructed at the location of the gates and this channel shall be drained to a drainage system. All surface water generated by the development during and after construction shall be disposed of to a soakpit or drain within the site boundaries. The developer shall not cause any water to impinge on the road and /or adjacent properties and shall bear the cost of any works carried out by the Roads Authority to correct any such drainage problem.

Reason: In the interests of proper drainage and traffic safety.

- 5 Prior to commencement of development on the subject site, the existing penning shall be removed from the location at the eastern end of the landholding; for relocation, as proposed, to the subject site.

Reason: In the interests of orderly development and to protect residential amenity.

- 6 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.

7 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, 2010 (SI No. 610 of 2010), 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.

8 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.

- 9 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.

- 10 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, 2009 (SI No. 610 of 2010).

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

- 11 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.

- 12 Details of the finishes of the agricultural shed and the location of fencing and penning shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interests of orderly development.

- 13 The proposed slatted house slurry tanks on site shall be leak proof and no overflow, overspill or direct discharge shall take place from the proposed slatted tanks.

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

\_\_\_\_\_  
Dolores McCague  
Inspectorate

\_\_\_\_\_  
Date

Appendix 1 Map and Photographs

Appendix 2 Extracts from the Mayo County Development  
Plan 2014 -2020