



An  
Bord  
Pleanála

## Inspector's Report PL93.246901

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<b>Development</b>	Construct (i) Farm Roadway, (ii) Slatted shed incorporating straw bedding, (iii) crush yard and all associated works at Glennanore, Ballymacarbry, Co. Waterford.
<b>Planning Authority</b>	Waterford City and County Council.
<b>Planning Authority Reg. Ref.</b>	16/49.
<b>Applicant(s)</b>	Derek Wall.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant subject to conditions.
<b>Appellant(s)</b>	Paul Proudfoot and others (3 <sup>rd</sup> Party vs. grant).
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	6 <sup>th</sup> October 2016.
<b>Inspector</b>	Ciara Kellett.

## 1.0 Site Location and Description

- 1.1. The site is located in a predominantly rural area with substantial tracts of agricultural and forested land. It is located c. 10km south-east of Clonmel, c.34km west of Waterford city and c.6km east of Ballymacarbry. It is located in the foothills of the Comeragh Mountains at a height of c.160m in the Nire Valley. The local road serving the site is a narrow country road not wide enough to allow two cars pass. There are other scattered dwellings and agricultural buildings in the wider area.
- 1.2. The site is located on the south-eastern side of the local road, L-10492. The site is part of a landholding stated as being 215 hectares which is split into three parcels. The site within the landholding, the subject of the application, is 0.1 hectare. The appellants' houses border the proposed site to the north, west and south. The lands to the north and west are c.50m from the site. The site is surrounded by mature hedgerows and trees, providing an established boundary. In the centre of the field there is a copse of trees and what appears to be the foundations of a dwelling. A watercourse runs along the boundary between the dwelling to the north and the site.
- 1.3. Appendix A includes maps, aerial view and photos.

## 2.0 Proposed Development

- The proposed development is for a (i) farm roadway, (ii) slatted shed, (iii) crush yard and all associated site works.
- The proposed shed is stated as being 14.5m by 11.37m by 6.125m high at its apex. The roof overhangs the shed on the eastern façade. A tank is located below the shed and is stated as being 15.6m by 4m by 2.2m deep. The crush yard is located to the west of the shed (closest to the road).

### 3.0 Planning Authority Decision

#### 3.1. Decision

The Planning Authority decided to grant permission subject to 7 standard conditions including condition no.7 which states that *“Prior to commencement of development a revised site layout shall be submitted to, and agreed in writing with the Planning Authority, indicating a clay bund to the south of the proposed building with a drainage channel to the drain to the east of the site. Reason: In the interests of Environmental Protection and the proper planning and sustainable development of the area.”*

#### 3.2. Planning Authority Reports

The Planner’s Report is the basis for the Planning Authority decision. It includes:

- Site is outside of any settlement boundary designated in the Waterford County Development Plan 2011 – 2017, and is zoned agricultural; Considered proposal is acceptable in principle.
- Site forms part of larger landholding split into three areas and is served by a narrow country road.
- Reference to submissions from neighbouring residences that highlight issue of proximity, negative impact on their amenities and flooding.
- Notes photo from objector shows water flowing from the site onto the public road.
- Requests that Further Information is sought for a number of items, including i) provide justification for this chosen site having regard to the extent of the landholding, ii) identify the Glennanore stream and other finished floor level details and provide an assessment of the flooding of the site, iii) provide details of flooding from photo provided by objectors, iv) provide details that the proposal is in compliance with the *Guidelines and Recommendations on Control of Pollution from Farmyard Waste*, issued by the Dept. of Agriculture, Food and Forestry, v)

provide proof of neighbour consent, and vi) revised site layout including dwelling to the west of the site.

- Following receipt of the response to FI, the Planner recommends a request for Clarification of FI (CFI), with respect to the watercourse identified as the Glennanore Stream. Opinion of the Authority is that the building is at an insufficient distance from the watercourse. Requests information demonstrating that the site is bound by a land drain and not a watercourse or proposals to address potential flooding of the site.
- The response from the applicant's Agricultural Consultant states that the shed is located adjacent to a stream, and that Farm Building Specification S.123 states as a general rule a storage facility shall not be situated within 50m of a stream for a new farmyard structure. The proposed structure will be 12.4m from the stream to the north. However, it is stated that neither drain holds water for the entire year and are a conduit for water from the adjoining mountain. The applicant intends to place a clay bank between the drain/stream and the new building, which will divert any overflow away from the building. A drawing accompanies the response which illustrates the shed being moved further to the south, to provide a 12.43m distance between the shed and the stream.
- The Planner recommends a grant of permission subject to conditions.
- The decision was in accordance with the Planner's recommendation.

### **3.3. Other Technical Reports**

There is no reference to the application being referred to any other department.

### **3.4. Third Party Observations**

There were three submissions made by the neighbours in the vicinity: Patrick Whelan, Catherine and Larry Sheehan and Paul Proudfoot and Maura Noonan. They express concerns in relation to flooding - a photo of flooding in 2008 at the proposed

entrance is provided, and it is also stated that the stream came within centimetres of flooding in January 2016. They also express concerns with: slurry run off in the event of a flood; concern with well water contamination – the site lies 100m uphill from the well of the dwelling to the west; notes errors on the drawings; state two streams join at the north-west point of the site – risk to pollution of streams and ground water; query why this site was chosen when the applicant has hundreds of other potential suitable locations within the confines of his farm without being close to residential dwellings; concerns about smells from slurry and resulting impact on residential amenities; and query if applicant is the actual owner.

#### 4.0 **Planning History**

There is no recent planning history associated with this site or in the vicinity.

#### 5.0 **Policy Context**

##### 5.1. Waterford County Development Plan 2011 – 2017.

Chapter 6 refers to Economic Development including Agricultural Development Policy. Chapter 8 refers to Environment and Conservation, including water, waste, and flooding, and Chapter 10 refers to Development Management Standards including Rural Development.

Section 6.7.1 refers to the Agricultural Development Policy. It states:

*“The Planning Authority will support and facilitate sustainable agricultural developments and improvements where the developments are considered in relation to their likely impact on the environment, landscape, character and amenity of the surrounding area..... The Council will normally permit development proposals for agricultural development where:*

*(a) They are appropriate in nature and scale to the area in which they are located;*

*(b) The proposal is necessary for the efficient use of the agricultural holding or enterprise;*

*(c) Where the proposal involves the erection of buildings, there are no suitable redundant buildings on the farm holding which would accommodate the development;*

*(d) The development is not visually intrusive in the local landscape and, where the proposal is for a new building(s) and there are no suitable redundant buildings, the proposal is sited adjacent to existing buildings and suitably visually integrated in the holding; and*

*(e) The proposal demonstrates that it has taken into account traffic, environmental and amenity considerations and is in accordance with the policies, requirements and guidance contained in this Plan.”*

Chapter 8 notes that the Comeragh Mountains and the Nire Valley Woods are Special Areas of Conservation.

Section 10.36 refers to Agricultural Developments. It states: *“Any proposals for farm yard development must make provision for runoff and where there is a danger of groundwater or surface water contamination the Council will require appropriate treatment of runoff. The Council shall have regard to the Protection of Groundwater for the Land Spreading of Organic Wastes, EPA, 2003 and the BAT Guidance Note for the Dairy Sector, EPA, 2008”*. Table 10.10 is the Land Use Zoning Matrix. Zoning “A” for agriculture has an objective to *“provide for the development of agriculture and to protect and improve rural amenity”*.

## 5.2. Natural Heritage Designations

The Nire Valley Woodlands SAC (Site Code 000668) is c.250m north-west of the site and the Comeragh Mountains SAC (Site Code 001952) is c.1km to the east.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The three objectors submitted a single appeal to the proposed development. The grounds of appeal can be summarised as follows:

- Queries conditions of planning permission, in particular how the applicant or Council will ensure that the storage tanks will never overflow.
- States that at least twice in the last ten years, one of the small streams in the field has overflowed. Houses of two appellants are downstream and both houses have bore-wells. Siting of shed poses an additional risk to pollution of wells. Photographic evidence of flooding is provided on the two occasions referred – 2008 and 2016.
- The other appellants house is less than 50m away from the proposed shed to the north. His amenities will be affected by noise and smell.
- An area of land on the applicant's farm is a bog that overflows for 9 months of the year filling the streams to the north and the west, which then overflow onto the road. The proposed development is less than 7m away from the stream when it is Council policy to build at least 60m away from streams.
- Farmers should be able to build a shed to house cattle but not in his neighbours back yard, nor on a site prone to flooding, nor on a site which poses a substantial risk to pollution of two bore-wells. The site of the development should have been moved much further back up the field away from their houses or elsewhere on the 215ha farm.

### 6.2. Planning Authority Response

The Planning Authority consider that the issues have been dealt with in the reports and recommendations.

### 6.3. First Party Response

The First Party responded to the appeal stating:

- The main drain crossing the public road gets blocked with debris occasionally but the applicant now regularly cleans this drain.
- The site where the shed is to be located is above the flooded area and extremely unlikely to ever flood. The shed is proposed to be 2m above the point that water is flowing.
- Notes there are mature evergreen trees between the location of the proposed shed and Mr. Whelan's dwelling which will block any view to the north.
- States that there are three boundary ditches between the proposed shed and Mr. Proudfoot's dwelling.
- In relation to noise, the shed will only be used for 5 months of the year. There will be very little smell released to the locality.
- Parts of the applicant's farm is rough mountain grazing but would not be considered a bog. The area is wet in winter but dry during summer.
- The farm is 215Ha but 85% of the farm is commonage (rough mountain grazing) which is totally unsuitable for building. The proposed site is the best suited for construction – located close to the road and the surrounding land is the best land. An OSI map accompanies the response illustrating the applicant's land, including highlighted areas that are commonage.
- A drawing is also provided demonstrating compliance with Condition no.7 of the Planning Authority's decision to grant permission. This drawing illustrates the proposed location of the clay bunds and drainage channels.



## 6.4. Observations

None

## 7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Residential Amenity
- Proposed location of development
- Flooding issues
- Appropriate Assessment

## 7.2. Residential Amenities

The proposed location of the facility is adjacent to three dwellings. I note that agricultural developments of this nature (less than 200sq.m) are normally exempt from the requirement for planning permission, except when it is proposed to locate the structure within 100m of dwellings. The proposed shed is c.80m from the dwelling to the west and c.60m from the dwelling to the north.

There will be an increase in noise and odours as a result of the proposed development. The applicant has an extensive landholding of 215Ha in which there could be an alternative location at some remove from residential dwellings. I am not satisfied that other alternatives have been considered, including locating the development further back into the same field, which may have a reduced impact on residential amenities.

The Department of Agriculture, Food and the Marine has published a number of guidelines *Farm Building and Structures Specifications*. Specification 123 is “*Minimum Specification for Bovine Livestock Units and Reinforced tanks*” published in November 2015. The applicant’s Agricultural Consultant refers to this Specification in the response to the appeal. Section 5.1 of the Specification refers to Sites<sup>1</sup>. The minimum distance between a storage facility and a public/private water supply source, either surface or ground, should be 60m for new farmyards. The wells of the surrounding dwellings are not identified on the drawings. However, the appellants to the west provide information indicating that their well is located less than 60m from the edge of the proposed shed and tank.

Having regard to the fact that the applicant has access to a large landholding, I am of the opinion that the proposed shed and tank could be facilitated much further back in the field, if not on another part of the landholding, thereby reducing the potential impact on residential amenities of the neighbouring dwellings.

### 7.3. Proposed Location of Development.

The site is located in an area zoned for agriculture in the Waterford County Development Plan. The zoning objective is “*To provide for the development of agriculture and to protect and improve rural amenity*”. The proposed development will provide for the applicants continued use of the lands for agriculture. However, the protection and improvement of rural amenities must be considered also.

Chapter 6 of the Development Plan includes specific policies with respect to Agricultural Development, as outlined in Section 5.1 on Planning Policy above. It is stated that the Council will normally permit development proposals, if the proposal is in accordance with a number of conditions.

Having regard to the conditions of the policy, I am not satisfied that the subject proposal complies.

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<sup>1</sup> Specification 123, p.21

The conditions require applicants to consider if there are suitable alternative redundant buildings located within the farm holding which would accommodate the development. The applicant has not provided any information in relation to the potential reuse of suitable redundant buildings.

The conditions state that if there are no suitable redundant buildings, the proposal should be sited adjacent to existing buildings and suitably visually integrated in the holding. The proposed development clearly does not comply with this condition.

With respect to traffic, environmental and amenity considerations, I am satisfied that while the road is narrow, there will be limited traffic issues. I have addressed amenity considerations in Section 7.2 above.

The applicant has not provided an assessment of alternative options which may be available to him. The applicant has not provided sufficient information to demonstrate that the subject site is the only suitable site on the landholding, or whether or not there are redundant buildings available, or if it can be visually integrated with other buildings on the landholding. I am therefore not satisfied that this site is the most suitable for the proposed development and conclude that it is not in accordance with the policies in the Plan for agricultural development.

#### 7.4. Flooding Issues

The two watercourses are identified on the OPW floodmap.ie website, but the area is not indicated on the website as prone to flooding. The appellants provide photographic evidence of flooding around the location of the entrance to the proposed development. The applicant contends that this was the result of debris blocking the drainage under the road and that this is now being kept clear of debris and should not cause any further issues. The applicant has also put forward proposals to develop a clay bund and drainage channel, in accordance with condition no.7 of the Planning Authority grant of permission, to prevent any possible pollution incidents.

There would appear to be conflicting evidence provided regarding the flooding. During my site inspection, I noted that the watercourse to the north of the development contained relatively fast flowing water. The drain to the west was completely dry.

Farm Specification Section 123 states that storage facilities for silage, effluent/slurry/soiled water should be located not less than 50m from any waterbody in the case of new farmyards. The revised proposal is sited 12.43m away from the watercourse. However, I am satisfied that due to the proposed mitigation measures of the clay bunds, flooding of the shed or tank is unlikely to occur.

#### 7.5. Appropriate Assessment

The subject proposal is located c. 250m south of the Nire Wood Valley SAC and within 1km of the Comeragh Mountains SAC. The features of interest of the Nire Valley SAC are *Old sessile oak woods with Ilex and Blechnum in the British Isles*.

It is noted that there are a number of watercourses in the vicinity of the proposed development which may provide a pathway to the SAC.

The applicant did not submit a screening for Appropriate Assessment with the application.

Should the Board consider granting permission, it may be appropriate to seek a Screening Statement and if necessary, a Natura Impact Statement from the applicant.

#### 8.0 Recommendation

- 8.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

## **8.2. Reasons and Considerations**

Having regard to the policies and objectives of the Waterford County Development Plan 2011 - 2017 in relation to agricultural development, and the residential development in the vicinity of the site, it is considered that the proposed development in the proposed location would injure the amenities of the said properties by reason of noise and odour nuisance. The proposed development would therefore not be in accordance with the proper planning and sustainable development of the area.

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**Ciara Kellett  
Inspectorate**

**17<sup>th</sup> October 2016**