



An
Bord
Pleanála

Inspector's Report PL93.247354.

Development	Poultry house with office and wash area, feed bins, concrete yard.
Location	Ballyea East, Lismore, Co. Waterford.
Planning Authority	Waterford City and County Council.
Planning Authority Reg. Ref.	16/241.
Applicant(s)	Bryan Dooley.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	First / Third Party
Appellant(s)	Michael O'Brien.
Observer(s)	None.
Date of Site Inspection	8 th February 2017.
Inspector	Philip Davis.

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1.0 Introduction

- 1.1. This appeal is by a neighbouring landowner against the decision of the planning authority to grant permission for a poultry house in a rural area east of the town of Lismore in north-west County Waterford. The grounds of appeal relate mainly to the impact on a disused dwelling on the appellant's land.

2.0 Site Location and Description

- 2.1. The appeal site is in Ballyea East townland, in a rural area just under 2 km east of the town of Lismore in County Waterford, on the southern side of the River Blackwater. The area is rolling countryside characterised by open fields in both pasture and arable use on free-draining sandy soils, with a 40 metre high scarp slope running parallel to the Blackwater and its floodplain. The area is served by two country roads running east from Lismore, eventually connecting to Cappoquin via a single bridge over the Blackwater at the Blackwater Bend, the point where the river makes an abrupt 90 degree turn to the south. To the west is a conical wooded hill with a motte and bailey. A riverside walk runs along the river from the motte to Lismore. The partial remnants of the old Dungarvan to Mallow railway line, 50 years closed, runs through the townland along the side of the scarp slope. The area is sparsely settled, with a number of farms and a few scattered dwellings along the road network. A single farm track runs from a junction with one country road east for about 600 metres, before turning south to join the other local road. This track runs under an abandoned overpass on the railway line, now standing alone like a triumphant arch for the townland, past a large farm complex, serving one single empty cottage with farm buildings.
- 2.2. The appeal site, with an area given as 2.163 hectares, is an elongated rectangular area of land straddling two fields on the north side of the track running through the townland roughly equidistant between the two farm complexes. It is part of a larger landholding associated with the farm to the west. The land is largely flat and well drained grassland, with a hedgerow intersecting it, and a ditch and hedgerow between it and the track. There is one small concrete building on the site, possibly enclosing a well. North of the site are open fields, flat for around 50 metres, before dipping steeply down the scarp slope to the Blackwater valley. To the east is grazing

land, with about 60 metres distant between a farm complex which includes an empty thatched cottage. 150 metres to the west, across more fields, and on lower lying land is the farm house and farming complex of the landowners. To the south is the track, and about 300 metres of grazing land between it and a third class road.

3.0 Proposed Development

The appeal site is described on the site notice as follows:

Construction of a poultry house with an office and wash area, feed bins, concrete yard, wash tank and associated works.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to 6 standard conditions.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The first planners report stated that in design and form it was acceptable in the landscape, but concerns were outlined about possible odour issues. A response to this from the applicant (12th August 2016) outlined further details stating that the chickens will be housed at all times in the shed and will not have access to the fields. Cleaning out of the house will take place annually. All waste will be landspread on the farm. Revised plans slightly reducing the size of the proposed house. Additional information was submitted on traffic rates. The application was readvertised on the basis of the revised drawings and information.

The second and final planners report states that they are satisfied that the nature of the proposed development would not give rise to disturbing odours and there are no other suitable locations for the poultry house within the landholding, and in other respects was considered acceptable. A grant of permission was recommended.

4.2.2. Other Technical Reports

A Habitats Directive Project Screening Assessment notes that the site is c.310 metre from the Blackwater SAC. This concludes that ‘significant impacts can be ruled out’ and so no NIS is required. I note that one of the ticked questions on the screening assessment form appears to have been incorrectly marked as N/A (question 1.3) – the proposed development includes a significant increase in water abstraction within 1km of a freshwater SAC.

4.3. Prescribed Bodies

None on file

4.4. Third Party Observations

The appellant to this appeal submitted an objection to the application and revised application.

5.0 Planning History

There are no records of relevant planning applications or appeals on or close to the site. There is a current appeal for a proposed solar farm on a site about 1-km south-west of the appeal site (PL93.247677).

6.0 Policy Context

6.1. Development Plan

The site is in open countryside with an Agricultural zoning designation.

6.2. Natural Heritage Designations

The site is just south of and overlooking the River Blackwater SAC site code 002170. The Blackwater Callows SPA site code 004094 is about 2km west of the site and upriver. The Blackwater Estuary SPA site code 004028 is about 15 km south near Youghal.

7.0 The Appeal

7.1. Grounds of Appeal

Appeal on behalf of Michael O'Brien, neighbouring farmer.

- It is argued that it is inappropriate to locate the poultry house so close to a habitable house (the appellants thatched cottage) due to possible odours.
- It is submitted that there is insufficient water supply for a development of this type.
- It is argued that no account has been taken of noise from mechanical fans for the poultry house.

7.2. Applicant Response

- It is noted that the County Council has no issue with the application
- It is submitted that there is no other reasonable site within his landholding to construct the poultry house due to access constraints and landscape issues.
- It is claimed that the thatched cottage has not been lived in for over 20 years – the appellants dwelling is 700 metres from the site.
- It is noted that the appellant operates a beef finishing house just 20-30 metres from the thatched cottage / shed, which it is submitted would cause significantly worse amenity issues.

7.3. Planning Authority Response

- It is submitted that the planning authority addressed all concerns in the application.
- It is noted that the thatched cottage is not used for residential purposes, but notwithstanding this the proposed development would not adversely impact on the residential amenity of the property if it were to be utilised as a residential property in the future.

- It is the opinion of the planning authority that there are no additional grounds for overturning the Councils decision to grant permission.

8.0 Assessment

8.1. Principle of Development

The site is zoned Agricultural, and as such I would consider the proposed use to be in accordance with the zoning designation. Policy on agriculture development is set out in Chapter 6 of the Waterford County Development Plan:

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 (Refer to Section 10.2 Access). 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; (etc)

There is little guidance either in the Development Plan or in national guidance on the locational aspects of poultry farms. The EPA document **Batneec Guidance Note for the Poultry Sector (IPPC)** Feb.1998 (section 4.3) states the following:

Poultry units should be sited a distance of preferably not less than 400 metres from the nearest neighbouring dwelling and all operations on site shall be carried out in a manner such that air emissions and/or odours do not result in

significant impairment of or significant interference with amenities or the environment beyond the site boundary.

Poultry units should be sited such that in the event of an outbreak of disease requiring de-stocking there is an appropriate site available for the construction of a lined carcass disposal site for the disposal of all carcasses. The carcass disposal site shall be appropriately constructed in order to avoid any detrimental impacts on both surface and groundwater quality in accordance with the provisions contained in 'Class A disease outbreak - a multi-disciplinary approach', (Duggan, O'Laoide and Finn, 1995.)

The site is of a scale that it does not require IPPC licensing, but I would consider this a good general guide to the location of such facilities. In this regard, the site would not appear to be suitable – it is well within 400 metres of the applicants dwelling and the appellants house. I further note that there is no information on file about the suitability of the area for disposing of diseased carcasses, but from my knowledge of the area it is most likely on deep free draining sandstone tills over an L1 locally important aquifer, either in the tills or in the limestone rock beneath. I further note the proximity of the site to the freshwater SAC.

I would note that a key issue in assessing this appeal is the status of the farmyard within 100 metres to the east (I estimate it to be 95 metres). This dwelling is vacant and in a partially derelict condition and has clearly not been inhabited for some time. It is, however, still in reasonable structural condition and would be suitable for restoration as a dwelling or holiday cottage – at present only the outbuildings are used.

I would further note that the applicants overall landholding is relatively modest – 55 acres. It is submitted that the poultry house is necessary to make the landholding viable, and as such I would consider that it is broadly supported in Development Plan policy to facilitate the agriculture industry.

8.2. Locational aspects

As the use is consistent with the zoning designation, I would consider that the key issue in this appeal is whether the chosen site is suitable, or indeed if the overall landholding is appropriate for a poultry house on this scale. I note that much of the landholding is visually sensitive, being located along a road running past the Blackwater, not far from the local tourism hotspot of Lismore, and across the river

from the N72 in the very scenic Blackwater Valley. The immediate area has few dwellings apart from the applicants and the empty cottage belonging to the appellant, who apparently lives on the local road to the south, several hundred metres from the site. These appear to be the only dwellings within the 400 metres limit recommended by the EPA in its 1998 Guidance. I would accept that there are few alternative sites reasonably available to the applicant, although it is not clear to me as to why it could not be located further west along this track, but closer to the applicants existing farm complex.

The thatched cottage is clearly vacant and has been so for a long time – at least 5 years and I would find the appellants claim of 20 years to be credible. It is now used for farm and general storage with what appears to be an intensive beef rearing shed to the rear. During my site visit it was apparent that the older outbuildings were used for calf rearing and for stabling a single pony. The house appears to be used for casual storage. I note that it appears to still be connected to the electricity network. The house itself is an unusually intact example of a vernacular thatched cottage, quite rare in the area, although it is not a protected structure – neither is it on the NIAH list, although I would consider this an oversight as judging from the older OS plans it is at least early 19th Century in origin so would be considered of at least local if not regional conservation importance. While the situation is not legally clearcut, I would consider it reasonable to assess the proposed development on the basis of this cottage being habitable.

8.3. Amenity

The appellant submitted reports with the application that satisfied the planning authority that there would not be unacceptable levels of odour from the poultry house. I further note that the appellant has a beef house close by which would create some odour and other issues, although likely significantly less than the possible emissions from a poultry house. Given the lack of clear information on file it is difficult to make a definitive judgement on the amenity impacts, but having regard to the EPA Guidance document I would have considerable misgivings about locating a poultry house within several hundred metres of any habitable dwelling. I would consider that the separation distance, at less than 120 metres, is too close to the cottage and on this basis I would recommend a refusal.

8.4. Visual impacts

The landholding is within the very scenic Blackwater Valley and close to the small historic town of Lismore. There is a public walkway from Lismore terminating where the road turns to run parallel to the Blackwater some 400 metres from the site. The former Dungavan to Mallow railway line runs about 170 metres north of the site, through the landholding, but there do not appear to be any proposals to upgrade this for tourism use, and several sections have been removed or incorporated into farm use, so it would seem unlikely this could occur. The site is about 30 metres from the scarp slope over the main road. I could not identify any clear views from important landmarks such as Lismore Castle. As the proposed poultry house is quite low I would consider that with appropriate landscaping it would not be visible from public areas and so would be acceptable in terms of its impact on the landscape and local views.

8.5. Access

The site is accessed via a private track which runs more or less directly east from a junction with the main road. The track splits into two, one section going through an arch of the former railway, the other, apparently more recent, runs past this, where the former embankment has been removed at some time since the line was abandoned in the mid 1960's. The track runs past the applicant's farmyard, up a distinct slope. This then joins the yard of the thatched cottage, which in turn leads, via a 90 degree turn, south to again join the main road. It is unclear from the documents, but it would seem that this track (which exists in the oldest available OS plans), is for the landowners use only, with no public access. It does appear to provide adequate access for construction and operational needs from the west, and sightlines at the existing junction are adequate.

8.6. Heritage

There are no indications of any archaeology on the site. The site is, however, within 300 metres of the very large and prominent wooded hill with a Motte and Bailey, possibly the original Norman castle before the 12th Century stone castle built by King John which is now a private house and garden within Lismore. The former Railway, built in the 1880's, is closer, with a prominent overbridge arch 250 metres to the west (this is not a protected structure or a recorded ancient monument). The

road 300 metres to the south is a recorded ancient monument, part of a long distance pilgrimage route, although it does not appear to be used as such, and is now part of the general road network. As noted above, I would consider the nearby thatched cottage to be a good example of vernacular architecture which appears to have been overlooked by the NIAH and in other circumstances would be considered of local or regional importance.

As noted above, I consider that the site can be well concealed through landscaping and as far as I could establish is not clearly visible from the Motte (mostly due to the woodland on the hill), so I do not consider that it would have significant impacts on cultural heritage.

8.7. Water issues

The proposal is to serve the site with an existing private well. The indication is that this would increase the use from 8,500 litres per day by another 1,500 litres. The information is not provided, but it would seem from the presence of a well house that the well is on the site itself, not elsewhere on the landholding. There is no information on hydrogeology, but the GIS website indicates that it is over a locally important aquifer, so I would assume there is no significant potential impact on local water resources as it is likely to be productive given the local geology, although there is no assessment on file to provide a definitive judgement on this.

8.8. Appropriate Assessment

The planning authority carried out a screening which concluded that no NIS was required. However, I note that in their own criteria, an NIS would likely be required under Table 3, paragraph 1.3 'Abstraction from surface water or groundwater within 1km of the boundary of an SAC whose qualifying features include freshwater habitats or species'. The site is just over 300 metres from the Blackwater SAC for which the qualifying interests include the protection of a range of freshwater species including the pearl mussel, lamprey, white-clawed crayfish, salmon and chad, in addition to otter. The site is elevated above the river on free draining gravels and the groundwater would appear to be in hydraulic continuity with the river. The proposed development would result in significant additional abstraction from an existing private farm well. I further note the possible requirement, as set out in the EPA guidance, for emergency burying of carcasses as close as possible to the site. Having regard to this, I do not consider that it can be ruled out that there could be a

significant impact on the Blackwater SAC. For this reason, I consider that the planning authority was in error in not seeking an NIS on the basis of their own checklist. As I will be recommending a refusal for other reasons, I would consider this an additional reason for refusal. If the Board is minded to grant permission, I would recommend that an NIS be submitted with specific regard to the additional water requirement from the well and for the possible need to dispose of chicken carcasses within the landholding in the event of a disease emergency.

9.0 Recommendation

I recommend that permission for the proposed poultry house be refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

The proposed development is located within 120 metres of a disused cottage on adjoining lands. It is considered that while disused, this cottage is potentially habitable. Having regard to the recommendations for a 400 metre separation distance set out in the EPA Guidance document 'Batneec Guidance Note for the Poultry Sector (IPPC)' Feb.1998, it is considered that the proposed development would potentially have adverse impacts on the residential amenities of this property and so would be contrary to the proper planning and sustainable development of the area.

Having regard to the requirement to abstract additional water from an aquifer within 1-km of an SAC designated on the basis of protecting the conservation status of freshwater species, and the requirement as set out in the EPA guidance document 'Batneec Guidance Note for the Poultry Sector (IPPC) Feb.1998' for possible emergency disposal of carcasses within the lands, the Board is not satisfied on the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site No. 002170 (Blackwater River SAC), in view of the site's

Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

Philip Davis
Planning Inspector

20th February 2017