



An
Bord
Pleanála

Inspector's Report PL17.247664

Development	Agricultural shed providing milking parlour, underground washing tanks, silage pit, cubicle shed and underground slatted tanks.
Location	Maperath, Kells, County Meath.
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	KA160819
Applicant(s)	John and Sean Gilsenan
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Desmond Lynch
Observer(s)	None
Date of Site Inspection	13 th March 2017
Inspector	Hugh Mannion

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1.0 Site Location and Description

1.1. The site has a stated area of 2.83ha and is part of a larger landholding of 152ha in Maperath, Kells, County Meath. The site may be accessed from the local road network at least two points. The more southerly of these leads initially to a quadrangle of farm buildings beside a structure marked as Maperath House. The more northerly access is beside a building marked as Maperath Cottage. The site is set back about 400m from the public road and accessed over a farm track. The site is in pasture, is undulating and is partially occupied by a disused quarry which is overgrown with trees. Just southeast of the site in the adjoining field the OS maps show a gravel pit but this is no longer visible on the ground. The farm track running along the southwest boundary of the site separates the site from a fast flowing stream which eventually joins the Blackwater just north of Kells.

2.0 Proposed Development

2.1. The proposed development comprises the construction of;

- (1) an agricultural building providing a milking parlour, waiting yard and livestock handling facilities,
- (2) underground parlour washing tank,
- (3) meal bin and water storage tank,
- (4) a silage pit,
- (5) an agricultural cubicle shed with underground slatted tanks and associated site works.

All at Maperath, Kells, County Meath.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 14 conditions.

Initially the planning authority sought further information in relation to;

- The provision of improved sightlines at the entrance to the public road.
- The inclusion of the access laneway within the red line boundary.
- Managing surface water from the silage pit when empty.
- A nutrient management plan demonstrating that the landholding can assimilate 250ksN/ha without giving rise to water pollution.
- Confirm that the submitted landholding map is correct.
- Confirm the location of the proposed well.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planner's report recommended requesting further information along the lines of the roads engineer and the environment section's reports.

The second planners report recommended a grant of permission as per the final manager's order.

3.2.2. Other Technical Reports

Road Design Office reported concerns in relation to sightlines at the site entrance.

The **Environment Section** raised questions in relation to surface water runoff from the silage pit when empty and the submission of a nutrient management plan demonstrating that the landholding can assimilate 250Kg N/ha without presenting a threat to surface water or ground water.

3.3. Prescribed Bodies

Inland Fisheries Ireland recorded no objection so long as slurry spreading is carried out in accordance with the application documents and that no surface water from the silage pit can enter water courses.

3.4. **Third Party Observations**

There was a submission from the appellant at application stage making, generally, the same points raised in the appeal.

4.0 **Planning History**

There is no relevant planning history.

5.0 **Policy Context**

5.1. **Development Plan**

5.2. The site is un-zoned in the Meath County Development Plan 2013-2019.

Policy WS POL19 is: To protect groundwater resources having regard to the County Meath.

Policy WS POL 24 is: To manage groundwater resources particularly having regard to the abstraction and recharge rates of ground-water.

Policy WS POL 25 is: To protect, maintain and improve the natural character of the watercourses and rivers in the county Meath.

5.3. **Natural Heritage Designations**

The site is not within any Natural Heritage Designations

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal may be summarised as follows;

- The site is close to a disused quarry and water course; water pollution may arise.

- The nitrate per ha only apply to farms that have a derogation from the nitrates directive. The application is deficient in not including a nitrates management plan dealing with organic and artificial fertiliser.
- The application has not properly considered the EU (Good Agricultural Practice for the Protection of Waters) Regulations 2014.

6.2. Applicant Response

The applicant did not respond to the appeal.

6.3. Planning Authority Response

The planning authority's response may be summarised as stating that the reports from the Environment Section of Meath County Council deal with the issues raised.

6.4. Observations

There are no observations.

6.5. Further Responses

There are no further responses.

7.0 Assessment

7.1. The site is in pasture, there is higher ground generally in the north western quadrant of the site from where the land drops away to the south east. The new buildings are located on this higher ground avoiding the wooded disused quarry on the southwest and the low laying land on the southeast. A stream flows southeast along the farm track which provides the south western boundary of the site. The planning authority requested further information as follows;

- The provision of improved sightlines at the entrance to the public road.
- The inclusion of the access laneway within the red line boundary.

- Managing surface water from the silage pit when empty.
- A nutrient management plan demonstrating that the landholding can assimilate 250ksN/ha without giving rise to water pollution.
- Confirm that the submitted landholding map is correct.
- Confirm the location of the proposed well.

7.2. The proposed access is through an existing farm access adjoining a structure marked as “Maperath Cottage” on the OS map. This access is to the northwest of the application site and is located close to a bend in the road. The applicant submitted revised plans relating to this access which demonstrated that 90m sightlines are available in both directions at the junction with the public road. Drawing number PL1 608 shows that the applicant will set back part of a hedge on land within his ownership to facilitate these sightlines. The Road Design Report (24th October 2016) refers to the drawings submitted as further information and concludes that there is no objection on traffic grounds. Having regard to the 80kph speed limit that applies to this stretch of road, the agricultural use of the proposed buildings, the material submitted as further information and the reports of the planning authority I conclude that the proposed development will not endanger public safety by reason of traffic hazard.

7.3. The appeal makes the case that the proposed development has the potential to give rise to water pollution, particularly of the watercourse along the southwestern boundary on the other side of the farm track. The planning authority raised the issue of water pollution arising from the silage pit when empty by way of point 3(a) of the request for further information. The applicant responded to the request for further information stating that all rain water coming off the silage pit would drain via a diversion chamber (shown on the bottom left corner of drawing 606 Rev PL1) to the slatted tank OT1 (shown on drawing 505 Rev PL1). The planning authority’s Environment Section was satisfied with this information and recommended a grant of permission. In my view these details are somewhat opaque but it appears that the silage pit would drain to an underground storage tank when in use and to the open field when empty. The diversion chamber would be manually operated to divert clean water to the open field when the silage pit is unused.

- 7.4. The appeal makes the case that the application did not include a nitrates management plan and may give rise to water pollution. The planning authority raised this issue at point 3(b) of the request for further information asking that the applicant to submit a nutrient management plan demonstrating that the landholding can assimilate 250ksN/ha without giving rise to ground or surface water pollution. The applicant makes the point that the farm comprises 152ha with a stocking rate of 180 cows, 30 cattle 0-1 years old, 30 cattle 1-2 years giving a total of 17,730kg/N for a loading of 117kg/N per ha.
- 7.5. The European Union (Good Agricultural Practice for Protection of Waters) Regulations 2014 seek give effect to the Nitrates Action Programme developed under the EU Nitrates Directive. These provide for a limit of 170kg/N/ha for farms and an absolute limit of 250kg/N/ha, between these limits a special derogation is required from the Department of Agricultural. The applicant makes the case and provides calculations (see table A) in the FI response that the 'ordinary' maximum of 170kg/N/ha will not be breached and therefore that there is no requirement for a derogation required for the 'absolute' maximum of 250kg/N/ha. The planning authority's Environment Section reviewed the FI submission and apart from requiring that run off from the silage pit be released to the field only when it the silage pit is empty the Environment Section recommended a grant of permission. Having regard to the material submitted with the application, the requirements set out in the Good Agricultural Practice for Protection of Waters Regulations, and the reports of the planning authority I conclude that the proposed development will not give rise to ground or surface water pollution arising from the release of excessive N.
- 7.6. The appeal makes the case that the application did not properly consider the requirements of the Good Agricultural Practice for Protection of Waters Regulations. The key points of these regulations is that not more that 170kg/N/ha should be spread on land in a year and that sufficient effluent storage capacity be provided on the farm between the permitted spreading periods. As stated above I am satisfied that the figures for N/ha provided in the application are acceptable.
- 7.7. The second issue therefore is if the about effluent storage facilities meet the standards required by the Good Agricultural Practice for Protection of Waters Regulations? For the purposes of the regulations County Meath is in zone B whereby land spreading of effluent is prohibited for 18 weeks of the year. The

regulations at Schedule 2 Table 2 set out the effluent storage capacity required for various types of animals. Dairy cows require 0.33m³/week, cattle under two years require 0.26m³/week and cattle under a year require 0.15m³/week. The applicant's response to the request for further information provides calculations to demonstrate that, relying on a proposed stocking rate of 180 cows, 30 1-2-year-old cattle and 30 0-1 year-old cattle the effluent storage capacity requirement is 1,290m³. The total capacity proposed in this application is 1588m³. Having regard to the Good Agricultural Practice for Protection of Waters Regulations, the material lodged with the application and the reports of the planning authority I consider that the effluent storage capacity proposed in the application is adequate to ensure that that effluent may be stored in the periods where spreading is prohibited.

7.8. The application (see farmyard waste calculations in the response to FI) also gives calculations for soiled water runoff from hard surfaces including the milking parlour and the empty silage pit apron. The soiled water calculations incorporate the rainfall rate predicted in table 4 of the Regulations with stocking rates and hard surfaced area to determine the capacity of the holding tanks. The application concludes that there is a surplus storage capacity of 110m³ provided for which may accommodate additional livestock.

7.9. **Appropriate Assessment (AA).**

7.10. The application did not include a screening for appropriate assessment. The planning authority carried out an AA screening exercise and concluded that the proposed development would not give rise to impacts on any European Site. The Inland Fisheries Ireland (IFI) states that it does not object to the proposed development subject to conditions to ensure that water pollution does not occur.

7.11. The site is within the catchment of the Boyne and therefore has the potential to impact on the River Boyne and River Blackwater SAC (002299). The NPWS has published generic conservation objectives for this SAC which are "to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected". The habitats are; Alkaline fens, Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, *Alnion incanae*, *Salicion albae* – these are priority habitats). The species are river lamprey, salmon and otter. I consider that there is a potential source of

contamination from slurry and soiled surface water run-off and, furthermore, that there is a pathway to the SAC provided by the stream along the farm track on the southwestern boundary of the site. The preferable method to interrupt the source pathway receptor system in the present application is to ensure that effluent does not escape the site especially to the stream. I am satisfied that the measures designed into the application and the material submitted by way of further information are sufficient to prevent escape of slurry effluent or soiled surface water into the river system or to ground water.

- 7.12. It is reasonable to conclude that on the basis of the information on the file, the material published by the NPWS, and my site inspection which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the River Boyne and River Blackwater SAC (002299), or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. Having regard to the foregoing I recommend a grant of permission for the reasons and considerations and subject to the conditions set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the existing agricultural use of the site and of the landholding of which it forms part, to the material set out in the application in relation to the treatment of slurry effluent and soiled waters, to the remoteness of the site from residential uses and subject to compliance with the conditions set out below it is considered that the proposed development will not give rise to surface or ground water pollution, traffic hazard or injury to the amenity of property and would accord with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 5th day of October 2016 and on the 12th day of October 2016, 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. 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 tanks. 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.

3. 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.

4. 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.

5. Waste water and 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, 2014 (SI no. 31 of 2014).

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

6. A minimum of 18 weeks' storage shall be provided in the underground slurry storage tanks. 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.

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of

the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Hugh Mannion
Planning Inspector

21st March 2017