



An  
Bord  
Pleanála

## Inspector's Report

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<b>Development</b>	Retention of underground soil water/effluent storage tank in farmyard at Ballyadam, Killincooly, Co. Wexford.
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20161171
<b>Applicant</b>	Peter Doran
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Appellant</b>	Brian Cosgrave
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. Grant
<b>Observer(s)</b>	None
<b>Inspector</b>	Colin McBride
<b>Date of Site Inspection</b>	24 <sup>th</sup> March 2017

## **1.0 Site Location and Description**

1.1 The appeal site, which has a stated area of 0.183 hectares, is located 1.2km to the south west of Kilmuckridge, Co. Wexford in a rural area. The appeal site is occupied by an existing farmyard consisting of a shed and two silage pits. There are existing dwellings located to the east and west of the site. To the north is field.

## **2.0 Proposed Development**

2.1 Permission is sought for retention of existing underground soil water/effluent storage tank in an existing farmyard.

## **3.0 Planning Authority Decision**

### **3.1 Decision**

3.1.1 Permission granted subject to 2 conditions. Conditions are standard in nature.

### **3.2 Planning Authority Reports**

#### **3.2.1**

(a) Environment section (22/11/16): No objection subject to conditions.

(b) Planning Report (08/12/16): The proposal was considered acceptable in regards to its location within an existing farmyard and in the context of the amenities of adjoining properties. A grant of permission was recommended subject to the conditions outlined above.

## **4.0 Planning History**

4.1 No planning history.

4.2 20110805: Permission granted for a dwelling house on an adjacent site to the north. Yet to be constructed.

## **5.0 Development Plan**

5.1 The relevant plan is the Wexford County Development Plan 2013-2019.

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

6.1.1 A third party appeal has been lodged by Brain Cosgrave, No. 4, the Cottage, Ballygarrett, Gorey Co. Wexford. The grounds of appeal are as follows...

- The appellant owns a site adjacent the appeal site on which he has permission granted for a dwelling under ref no. 20110805. It is noted that when permission was granted the farmyard was dormant and the appellant now has concerns regarding the impact of the proposed development in terms of odour as well as noting that the tank overflows after rainfall and that there is an overflow pipe underground and into a ditch on the appellant's site. The appellant has noted that they have made numerous complaints to the Council.
- The appellant notes that there is no reason the applicant cannot use the alternative and more up to date practice of wrapping silage which does not produce any effluent or run-off.
- The appellant notes that the proposal would result in diminished amenity due to proximity to his proposed dwelling due to odour.

## **7.0 Planning Authority Response**

### 7.1 Response by Wexford County Council.

- It is noted that the tank was installed as result of enforcement action by the Environment Section and that the proposal is considered satisfactory by the Environment Section.
- It is noted a watercourse separates the site from the appellant's property and as a precautionary measure a condition is attached preventing overflow onto adjoining properties and the watercourse.

### 7.2 Response by Seamus O'Hagan, Graphic Concepts on behalf of the applicant Peter Doran.

- The applicant outlines the background to the proposal including enforcement notices and reports from the Environment Section and An Teagasc.
- It is noted the proposal is located in a long established farmyard that is being leased by another farmer who is making silage on site but not storing livestock. It is noted that given the established use on site that there is an expectation of some level of odour from the farmyard.
- It is noted that the effluent tank must be operated and managed in accordance with SI No 610 of the 2010 European Communities (Good agricultural practice from Protection of Waters). The grant of permission includes a condition that requires compliance with such and includes a requirement for a system of collection of soil water run-off from the farmyard.
- The applicant notes that the appellant's argument regarding alternative methods of silage production are not correct.
- The applicant notes that the appellant is objecting to a farming practice carried out in a long established farmyard that preexists the permission granted on the appellant's site for a dwelling and does not accept the appellants arguments that the proposal would impact adversely on amenity or devalue his property.

## 8.0 Assessment

8.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development/adjoining amenity

Other Issues

### 8.2 **Principle of the proposed development/adjoining amenity:**

8.2.1 The proposal is for retention of an underground soil water/effluent storage tank. This tank is located in an existing farmyard and is connected to two existing silage pits on site. The existing operation on site had been subject to enforcement action by Wexford County Council and the tank subject to retention was installed to address concerns regarding effluent storage on site. The tank was subject to a Section 5 declaration but was not deemed to be exempted development and is now subject of an application for retention that has been appealed.

8.2.2 The proposed development is located in a long established farmyard and is an ancillary proposal to deal with existing activities carried out on site. The appellant who has been granted permission for dwelling on an adjacent site to the north notes that when he got permission for a dwelling the farmyard was dormant and he has concerns regarding the impact of the proposal on his amenities through odours. In this regard, whether the farmyard was dormant for a period or not is not relevant, the farmyard is a long established use at this location and the silage pits on site appear to have been long established feature of the farmyard. The proposed tank is an ancillary piece of infrastructure that has been required to improve the environmental impact of the existing operation of the farmyard (storage of soil water and effluent). This aspect of the proposal is clear from the historical reports on file from the Environment Section and An Teagasc. In this regard the proposal represents

an improvement in the operation of an existing farmyard/use at this location. It is clear from the historical Environmental reports including those from An Teagasc as well as the Local Authority reports attached to the appeal/application, that the design and standard of the tank is considered satisfactory.

8.2.3 As noted above, the appellant has permission from a dwelling on the site immediately to the north of the appeal site and has concerns regard impact on amenity thorough odours and devaluation of property. The appellant's site is adjacent an existing long established farmyard. As noted above the proposal is an ancillary element to the use of the existing farmyard and is a development that is necessary to improvement the environmental management of the existing farmyard. I do not consider that the amenities of appellant's property would be diminished as a result of the proposed development. I would consider that and improved arrangement for effluent storage would be beneficial to the amenities of the adjoining properties. In this regard I do not consider that the proposal would be have any adverse impact on adjoining amenity or devalue property and in regards odours the proposal is not likely to generate any significant odours over and above the operation of the existing farmyard.

8.2.4 In regards to surface water drainage, soil water and effluent storage the proposed tank is considered to be up to standard as evidenced by the An Teagsac report connected to the enforcement action on site. In I would note that appropriate conditions requiring compliance with best practice agricultural guidelines and to prevent discharge or effluent or soiled water onto adjoining properties or watercourses are appropriate.

### **8.3 Other Issues:**

8.3.1 The application includes an Appropriate Assessment Screening report indicating all Natura 2000 site within 15km of the site. The proposal and appeal site is considered to have no direct, indirect or cumulative effects on

any designated Natura 2000 sites and it was concluded that a Stage 2 Appropriate Assessment was not required.

8.3.2 I would concur with the assessment of the Screening report and note that having regard to the nature and scale of the proposed development and its 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.

## **9.0 Recommendation**

9.1 I recommend a grant of permission subject to the following conditions.

## **10.0 Reasons and Considerations**

10.1 Having regard to the nature and scale of the proposed development which is ancillary to the existing established agricultural use on site, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms both of the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **11.0 Conditions**

1. The development shall be 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. 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 shall discharge or be allowed to discharge to any stream, river or watercourse, to any adjoining site or to the public road.

**Reason:** In the interest of public health.

3. The proposed development shall be in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations, 2014, as amended.

**Reason:** In order to avoid pollution and to protect residential amenity.

Colin McBride

24<sup>th</sup> March 2017