



An
Bord
Pleanála

Inspector's Report PL27.247845

Development

Demolition of derelict milking parlour, extension to shed, roof to collecting yard, silage slab, livestock underpass, slurry tank, washing tanks, 2 no. agricultural entrances.

Location

Knockeen, Co. Wicklow.

Planning Authority

Wicklow Co. Council

Planning Authority Reg. Ref.

16/348

Applicant

Thomas Burgess

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellants

Anthony & Caroline Keogh

Observers

None

Date of Site Inspection

20/4/17

Inspector

Siobhan Carroll

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Knockeen, Co. Wicklow. It is situated circa 10km to the north-west of Shillelagh and 6km to the east of Tullow. The site is located on lands above the 100m contour which lies to the west of the upland areas adjacent to Tinahely and Shillelagh which includes Seskin and Lakeen.
- 1.2. The River Derneen which is a tributary of the Slaney River is situated circa 1.7km to the north-west. The closest residential properties are located circa 55m and 93m to the south of the site and 215m to the north-west on the local road (L3253).
- 1.3. The site as revised has an area of 2.64 hectares which includes the farmyard, outbuildings, cattle shed and milking parlour on the western side of the road, a section across the L3253 where it is proposed to construct the underpass and an area of land to the eastern side of the L3253 and along the cul-de-sac road.
- 1.4. The roadside boundaries comprised mature native hedgerow. There are two vehicular entrances onto the farm from the western side of the L3253.

2.0 Proposed Development

- 2.1.
 - Demolition of derelict milking parlour
 - Extensions to existing cubicle shed to accommodate additional cubicle and feeding area with underground slatted tanks
 - Construction of roof over existing collecting yard
 - Construction of silage slab
 - Construction of a livestock underpass along with associated soiled water storage facilities
 - Construction of dairy washings tank
 - Construction of 2 no. agricultural vehicular entrance and all associated site works
 - Construction of overground slurry store

3.0 Planning Authority Decision

3.1. Decision

Following the submission of further information including Permission was granted subject to 13 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports –

3.2.2. Report dated 16/5/17 – Further information was sought to address the following – to revise the design of the underpass to ensure that it commences and terminates outside the road corridor, that a crash barrier is constructed at the parapet wall at the underpass and that the design incorporate suitable drainage. In relation to the proposed 2 no. agricultural entrances the applicant was required to provide justification for the new entrances and subject to adequate justification submit revised proposal indicating adequate sightlines at the proposed entrances, appropriate drainage proposals and details of tree removal. Details of how milk collection lorries would be routed through the site and details of surface finishes to proposed farm road were also required.

3.2.3. Report dated 5/12/16 – the Planning Authority received revised proposals for the underpass and they were satisfied that the applicant had justified the need for the new entrances onto the cul-de-sac. A revised layout was submitted which indicated sightlines of 90m in both directions along with proposed tree planting and removal. Details of the proposed milk truck route and finishes to the farm road were provided and the applicant proposed to construct an overground slurry store. The Planning Authority was satisfied with the details provided and permission was granted

3.2.4. Other Technical Reports

3.2.5. Municipal District Engineer – no objection subject to conditions

3.2.6. Environmental Health Officer – no objection subject to conditions

3.2.7. Water & Environmental Services – no objection subject to conditions

3.3. **Prescribed Bodies**

- 3.3.1. Department of Arts, Heritage and Gaeltacht – no objection subject to a condition requiring pre-development archaeological testing.

3.4. **Third Party Observations**

- 3.4.1. The Planning Authority received 2 no. submissions/observations in relation to the proposed development. The main issues raised are similar to those set out in the appeal.

4.0 **Planning History**

Reg. Ref. 07/2354 – Permission was granted for the demolition of dairy and existing milking parlour and the construction of new milking parlour, dairy facilities, offices, collection yard, 2 no. soiled water tanks, 2 no. agricultural entrances and extension of slatted cubicle shed. Permission was refused for the construction of an underpass for livestock.

5.0 **Policy Context**

5.1. **Development Plan**

- 5.1.1. Wicklow County Development Plan 2016-2022
- 5.1.2. Chapter 12 refers to Economic Development

Agriculture

- 5.1.3. AGR1 – To facilitate the development of environmentally sustainable agricultural activities, whereby watercourses, wildlife habitats, areas of ecological importance and other environmental assets are protected from the threat of pollution, and where development does not impinge on the visual amenity of the countryside.
Developments shall not be detrimental to archaeological and heritage features of importance.
- 5.1.4. AGR4 – To ensure that agricultural developments do not cause increased pollution to watercourses. Developments will be required to adhere to the Nitrates Directive

(91/676/EC), and the EC (Good Agricultural Practice for Protection of Waters) Regulations 2009, with regard to storage facilities, concerning the protection of waters against pollution caused or induced by nitrates from agricultural sources. Developments will be required to comply with relevant measures, which operate to protect water quality from pollution by agricultural sources. The disposal and storage of agricultural waste shall comply with the standards required by Council.

AGR5 – To permit the development of new, appropriately located and designed agricultural buildings, which are necessary for the efficient and environmentally sound use of the agricultural practice. New buildings will generally only be permitted in cases where there are no suitable redundant buildings on the farm holding which would accommodate the development and where the Council is satisfied that the proposal is necessary for the efficient operation of the farm. Developments shall be compatible with the protection of rural amenities, and should not create a visual intrusion in the landscape or be the cause of an environmental nuisance.

5.2. Natural Heritage Designations

- 5.2.1. Slaney River Valley SAC is situated 1.76km to the west of the appeal site at the closest point.
- 5.2.2. Wicklow Mountains SAC is situated 18km to the north-east of the appeal site.
- 5.2.3. Blackstairs Mountains SAC is situated 19km to the south of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

A Third party appeal was lodged by Anthony & Caroline Keogh on the 13th of January 2017. The main issues raised are as follows;

- The appellants state that they are specifically objecting to the two proposed agricultural vehicular entrances proposed to be located on the lane which serves their property.

- There are existing entrances further along the lane which serve the applicant's lands. Therefore, the appellants question the requirement for additional entrances. They are not satisfied that adequate justification has been provided.
- The location of the proposed entrances is at a point on the lane where there is a steep slope and where there would be a blind spot for approaching vehicles.
- It is stated that there is no human supervision of the cattle after milking when they cross the lane back to the pasture field and that cattle can wander on the lane which is a hazard.
- The lane is relatively steep and there is potential for effluent run-off.
- The lane provides access for three residential properties and the crossing of the lane by cattle results in effluent and muck being left on the lane which is detrimental to the amenities of the area.

6.2. Applicant Response

A response to the appeal was received from the applicant Tomas Burgess on the 9th of February 2017. The main issues raised are as follows;

- The applicant states that his land holding is divided into parts by the public road the L3253 and a cul-de-sac which serves three houses. The cattle which graze on his lands must cross the road at milking times to access the milking parlour and return to the fields and this causes delays to traffic.
- The applicant proposes to install a livestock underpass to cross the L3253 and 2 no. agricultural entrances are proposed to provide a crossing on the cul-de-sac. These proposals will remove all obstructions to passing traffic and will be carried out in accordance with the requirements of the Local Authority at the applicant's expense.

- The access across the cul-de-sac will be used infrequently at milking time as it has a negligible impact upon the three residential properties located on the cul-de-sac.
- If permission is refused it would result in the cattle having to cross the main road the L3253 which would cause inconvenience to all passing traffic.
- Surface water drainage will be facilitated at the 2 no. agricultural entrances on the lane. The existing trees can be retained if required.

6.3. Planning Authority Response

- None received Assessment

7.0 Assessment

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Principle of Development
- Impact on Roads and Traffic
- Drainage and effluent
- Appropriate Assessment

7.1. Principle of Development

- 7.1.1. The appeal site is located at a dairy farm at Knockeen, Co. Wicklow, which is in current use. The proposed scheme comprises the demolition of the existing derelict milking parlour and the construction of extension to existing cattle shed, roof over existing collecting yard, a silage slab, and dairy washing tanks. The scheme includes the construction of a livestock underpass which would join the western side of the landholding where the farm buildings are located with the eastern side of the landholding where the pasture fields are located on the opposite side of the L3253. It is also proposed to construct two agricultural entrances onto a cul-de-sac road to facilitate the movement of cattle within the landholding. The revised proposals submitted on the 26th of October 2016 included the construction of an overground

slurry tank and amendments to the design of the underpass and two agricultural entrances. The site area was revised to include the location of the proposed slurry tank and the area along both sides of the cul-de-sac road where the two agricultural entrances are proposed to facilitate the provision of sightlines.

7.1.2. The proposed development would support the operation of a dairy farm in the countryside. This would be in keeping with objectives AGR1 and AGR5 of the development plan which refer to agricultural development, and with the general concepts of sustainable planning. The principle of the proposed development is therefore accepted.

7.2. Access proposals

7.2.1. The proposed cattle underpass would be located 70m to the north-east of the existing milking parlour and it would facilitate the movement of cattle within the overall landholding. The underpass would cross the local road (L3253). The L3253 links the R725 and the R727 and is a relatively busy road. The provision of an underpass will help to improve road safety at this location, as there is presently a constant need to move machinery and animals across the road. The new underpass will avoid conflicts between traffic and crossing livestock.

7.2.2. Vehicular access to the farm buildings including the milking parlour is via the existing entrance off the L3253 which is located to the south of the farm buildings. The revised site layout plan Drawing no: 201 Rev PL2 indicates the route of milk tankers within the complex and illustrates that turning manoeuvres can be carried out in the area to the north of the milking parlour.

7.2.3. It is also proposed to close off the existing vehicular access from the L3253 to the north of the milking parlour. A farm roadway is proposed from the eastern side of the underpass across a field to the south-east. At the field boundary with the cul-de-sac road it is proposed to construct an agricultural entrance and a second agricultural entrance is proposed on to the opposite side of the lane to facilitate the movement of cattle to and from the pasture field.

7.2.4. The appellants have queried the justification for the proposed agricultural entrances onto the cul-de-sac road and stated that are existing entrances further along the lane which serve the applicant's lands. They also suggest that the entrances would be located at a relatively steep point on the lane where visibility is restricted. In

response to the matter raised as part of the further information the applicant stated that the creation of the new entrances would reduce the distance which the cattle would have to travel on the roadway and therefore improve road safety.

- 7.2.5. Drawing no: 204 Rev A submitted with the further information response indicates sightlines of 90m to the east and west at the proposed entrances with a setback of 2.5m. In order to achieve the necessary sightlines a section of ditch will be removed for a distance of 20m to the east and 15m to the west on the northern side of the lane and for a distance of 25m to the east and 30m to the west on the southern side of the lane. While I note that the proposed development would involve the removal of 11 no. trees and the setting back of the ditches it would be necessary to provide adequate sightlines.
- 7.2.6. The cul-de-sac road serves three residential properties, therefore it accommodates relatively low levels of vehicular traffic. The construction of the 2 no. agricultural entrances which are directly opposite each other, in conjunction with the creation of the underpass crossing the L3253 will significantly reduce the distance which the cattle would travel on the local roads from a distance of circa 300m to circa 7m across the cul-de-sac road.
- 7.2.7. Overall, I consider the proposed development will provide for a more efficient and safe movement of cattle within the landholding and it will limit their usage of public roads. Accordingly, I am satisfied that the proposed development would not give rise to an undue traffic hazard or obstruction of road users, and would be acceptable in terms of traffic safety and convenience.

7.3. Drainage and effluent

- 7.3.1. The appellants also raised concerns in relation to the matter of drainage and the generation of effluent by cattle. In relation to drainage at the proposed underpass as indicated on Drawing No: 201 Rev PL2 the provision of a 1500mm ramp will ensure that surface water is retained within the applicant's boundaries. Regarding surface water drainage at the proposed new agricultural entrances the applicant proposes to install a concrete paving slab across the road and pipe the existing roadside drain under the concrete slab to prevent the run-off of surface water. As indicated on Drawing No: 205 Rev A, all surface water run-off will be diverted from crossing point to the fields on either side of the road.

7.3.2. The revised proposals submitted on the 26th of October 2016 include the construction of a slurry tank with a capacity of 2,177 cubic metres (479,000 Gallons). The applicant has proposed the slurry tank to provide additional slurry storage in the event of poor weather conditions when there may be a delay in suitable times to spread slurry or to facilitate an increase in the herd size should more lands become available. The addition of the slurry tank will improve the overall operation of the dairy farm. It has a height of 4.27m and a circumference of 25.6m. It would be located in the north-western corner of the field and it would be built at 2m below existing ground level, therefore I am satisfied that it could be reasonably assimilated into the landscape.

7.4. Appropriate Assessment

7.4.1. The site located at is situated 1.7km from the River Derneen. The River Derneen is a tributary of the River Slaney their confluence is situated 5km to the south of Tullow. The River Derneen forms part of the Slaney River Valley SAC (Site Code: 000781).

7.4.2. In relation to determining the effects of a development on a European site are likely and whether or not the effects are significant in light of the Conservation Objectives for the site. It should also be determined if there are cumulative effects with other projects.

7.4.3. The conservation and qualifying interests and species and features of interest of the Slaney River Valley SAC include freshwater pearl mussel (*Margaritifera margaritifera*), sea lamprey (*Petromyzon marinus*), brook lamprey (*Lampetra planeri*), river lamprey (*Lampetra fluviatilis*), allis shad (*Alosa alosa*), twaite shad (*Alosa fallax fallax*), salmon (*Salmo salar*), estuaries, mudflats and sandflats not covered by seawater at low tide, Otter (*Lutra lutra*), water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation, old sessile oak woods with *Ilex* and *blechnum* in British Isles, alluvial forests with *alnus glutinosa* and *fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*).

7.4.4. Having regard to the nature of the proposed development which involves extensions to farm buildings and the modernisation of facilities at an existing dairy farm, any potential impacts would be likely to arise from the construction phase and/or the operational phase. In relation to the proposed construction and demolition works on site I do not consider that these works are of a nature or scale which would result

any significant level of impact to surface water and groundwater drainage system in the area or the wider catchment of the river Slaney.

- 7.4.5. In relation to the operation phase the slurry produced within the farm buildings will be collected from the internal slatted tanks and storage will be provided for 2,177 cubic metres in the proposed new slurry tank. As indicated in the report of the Water and Environmental Services dated the 28th of April 2016 the slurry produced would require an area of 88.4 hectares to be spread at a rate of 170kgs per hectare per year.
- 7.4.6. In relation to this practice, I note that slurry spreading on individual farms is a matter for each farmer's nutrient management plans. As the slurry management system on site is controlled by guidelines and best practice, I would be satisfied that the impact of slurry spreading will have no impact on the European Site if managed in accordance with regulatory requirements. Accordingly, the slurry produced on site will be stored on site and disposed of in accordance with the storage requirements of SI 610 of 2010 (EC Good Agricultural Practice for Protection of Waters Regulations).
- 7.4.7. In conclusion, in relation to potential impacts of the site having regard to the nature and scale of the proposed development and the separation distance between the appeal site and the Natura site and characteristics of the Slaney River Valley Special Area of Conservation. No Appropriate Assessment issues arise and that on the basis of the information available, that the application for consent for proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on the European site and in particular specific site number 0781.

8.0 Recommendation

- 8.1. I have read the submissions on file, visited the site, and had due regard to the provisions of the Development Plan and all other matters arising. In the light of this and the assessment above, I recommend that permission be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the nature and scale of the development, the history of on-site agricultural activity and to the existing character and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be prejudicial to public health would not seriously injure the residential or visual amenities of the area or the amenities of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The development proposed to be retained and constructed would, therefore, be in accordance 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 on the 26th 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 retained, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to the commencement of development, the developer shall agree in writing with the Planning Authority arrangements for a Traffic Management Plan.

Reason: In the interests of public safety and traffic safety.

3. 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.

4. 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.

5. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

Siobhan Carroll
Planning Inspector

26th April 2017