



An
Bord
Pleanála

Inspector's Report PL07.247986

Development	To erect a serviced slatted shed, with cubicles, of 200-sq.m gross floor space.
Location	Tonemace, Corrandulla, Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	16/1347
Applicant(s)	B. Warde
Type of Application	Application for permission
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant(s)	Mr Jesse Murphy
Observer(s)	None
Date of Site Inspection	11/05/17
Inspector	John Desmond

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1.0 Site Location and Description

- 1.1. The application site is located c.11km due north of Galway City, c.1.5km west of the N84 (Castlebar Road) and c.2.3km northwest of the settlement of Cloonboo / Castlequarter on the N84. Lough Corrib is located to the west, with the shore being within c.1.5km at the nearest distance (to the north of the site).
- 1.2. The land in this area is generally flat, level and low lying, with widespread one-off housing distributed along the rural road network between the N84 and Lough Corrib. The application site is located on lands that are slightly elevated above the surroundings, at between 10-15m OD, within an older settlement cluster. The immediately surrounding lands appear to be reasonably good pastures. The rural road network is of poor horizontal alignment, of narrow width and is generally without road markings, as is typical for such rural areas.
- 1.3. The application site is a roughly rectangular area of 0.5ha stated area, bounded by the public road to the north, by agricultural lands to the south and west and by a residential property to the east. It contains a bungalow-type dwelling at the north of the site, with agricultural sheds south of the dwelling, at the centre, western and southern side, which surround a hardstanding area, ostensibly a cattle pen. There are four agricultural entrances to the site. Two adjoining entrance to the west of the dwelling house, and a third adjacent the east side of the house, providing access the farmyard and buildings and a through-route within the site. The fourth is to the northeast and is an old agricultural field entrance. The dwelling has its own separate residential vehicular entrance to the western end of the roadside boundary.
- 1.4. There is a row of dwellings lining the road to the north, opposite the site. These include older dwellings (cottages and 2-storey), later 20th century bungalows and more recent dwellings. There is an agricultural entrance between two dwelling sites, through which the applicant would appear to gain access to agricultural lands to the north of those dwellings.

2.0 Proposed Development

It is proposed to erect a slatted shed of 200-sq.m stated area, with slurry tank beneath of 14.6m(L) X 3.5m(W) X 2.4m(D) internal dimensions. Two soakaways for

drainage of uncontaminated surface water from roof of the proposed shed are also proposed.

3.0 **Planning Authority Decision**

3.1. **Decision**

To **GRANT** permission subject to 7no. standard type conditions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The initial report (28/11/16) of the Council's Planning Officer recommended that further information be sought on 7no. points concerning: i) nutrient management plan; ii) map of lands available for spreading of effluent, with stage 2 AA required if spreading lands are within a European site; iii) plan for disposal of surface water runoff; iv) landscape screening scheme; v) reason for shed; vi) capacity of slurry tank; and vii) map of proposed traffic route from proposed structure to public road.

The final report (16/11/16) consider the applicant's response to appear to have adequately addressed the request for further information and recommended a grant of permission subject to 7no. conditions consistent with the decision of the Planning Authority.

3.2.2. Other Technical Reports

None.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

A letter of observation as received from Jesse Murphy on 26/10/16. The main points raised relate to:

- Proximity is less than 100m legally required

- Impact of noise from milking parlour
- Impact on property value of the observer's house

4.0 Planning History

Reg.ref.15/541: Permission **GRANTED** by Galway County Council (03/08/15) to B. Ward to erect an agricultural shed (96-sq.m GFA) with milking facilities on existing farmyard, subject to 10no. conditions. The site layout plan shows the northeast entrance (see condition 3, below) upgraded as per permission reg.ref.14/525.

Condition no.3 - All farm vehicles / machinery shall use the entrance at the northeastern site boundary which is subject of the upgrade. Reason: In the interest of road safety.

Reg.ref.14/525: Permission **GRANTED** by Galway County Council (13/10/14) to B. Warde to upgrade existing entrance at Farmyard and construct shed/store (60-sq.m GFA) subject to 4no. conditions. The upgrade to entrance had not been carried out at time of inspection.

Reg.ref.13/244: Permission **GRANTED** by Galway County Council (22/07/13) to B. Warde to erect a slatted shed (190-sq.m GFA) subject to 7no. conditions.

Reg.ref.09/289: Permission **GRANTED** by Galway County Council (22/07/13) to B. Warde for the construction of an agricultural shed (142-sq.m GFA) and associated services.

Reg.ref.08/2991: Permission **GRANTED** by Galway County Council (12/01/09) to B. Ward for the construction of an extension (80-sq.m GFA) to an existing dwelling, subject to four conditions (three standard) including the replacement of proposed dormers by roof lights (condition 3).

Reg.ref.06/2082: Permission **GRANTED** by Galway County Council (02/01/07) to B. Warde for the construction of a slatted cattle shed (130-sq.m GFA) with services, subject to 13 standard type conditions for such structures, pertaining to containment, disposal and land-spreading of waste effluent arising.

Reg.ref.04/1804: Permission **GRANTED** by Galway County Council (02/01/07) to B. Warde for the construction of a slatted cattle shed (130-sq.m GFA) with services,

subject to 13 standard type conditions for such structures, pertaining to containment, disposal and land-spreading of waste effluent arising.

PL07.128682 / Reg.ref.01/4756: Permission **GRANTED** by the Board (16/09/02) and by Galway County Council in the first instance, to Brian Warde for the retention of existing stores/slurry tank subject to five standard type conditions.

5.0 Policy Context

5.1. Development Plan

Chapter 9 Heritage, Landscape & Environmental Management

s.9.10 Landscape Conservation and Management: Landscape Value rating - Class 1 Outstanding; Landscape Sensitivity - Class 2 Special

Chapter 11 Agriculture, Fishing, Marine Resources & Forestry

S.11.1.1 Agriculture: ... *The future of the family farm is at the core of Food Harvest Strategy 2020 and in ensuring that small farmers in vulnerable areas are provided with opportunities to continue farming in the way their families have for generations.*

S.11.2 Strategic Aims: [include]... *To support existing local rural economies, promote diversification, improve conditions of local farms and rural enterprises and to help develop local markets within the County;*

S.11.3 Agriculture and Food: *Agriculture is an integral part of the EU, Irish economy and society and any reductions in farming activity could lead to an increase in the depopulation of rural areas and losses within rural activities including tourism. The EU Common Agricultural Policy Reform (CAP Towards 2020) promotes a more sustainable, smarter and more inclusive growth for rural areas across Europe. ...*

According to the *Food Harvest 2020 Strategy* changes in livestock numbers will see: An increase in dairy cow numbers by 24%; Suckler cow numbers are expected to decrease by 13%; Total cattle count is expected to be 6.82 million by 2020. This represents a reduction in total cattle numbers of 2% as compared with the average cattle count over the period of 2007-2009; ...Overall the move towards increased production efficiency systems for ruminant livestock will further enhance the environment while achieving the targets set in *Food Harvest 2020*.

Policy AFF 2 – Sustainable Management of Natural Resources: Support the Department of Agriculture, Fisheries and Food Report titled Food Harvest: A Vision for Agri-Food and Fisheries 2020.

Policy AFF 3 – Sustainable Development of the Countryside: Facilitate the sustainable development of the countryside. The Council recognises that the diversification of appropriate uses on rural landholdings may be necessary in order to ensure the continued viability of agriculture.

Objective AFF 4 – Intensive Agriculture Developments: Have regard to S.256 of the Planning and Development Act 2000 (as amended) which amends the EPA Act 1992 regarding the control of emissions when assessing intensive agricultural developments.

Objective AFF 5 – Compliance with the EU Habitats Directive: New agricultural projects that may potentially affect Natura 2000 Sites, individually or in combination with other plans and projects shall be subject to Appropriate Assessment to ensure that there are no likely significant effects on the integrity of any Natura 2000 Sites in the County.

Chapter 13 Development Management

S.13.10 Guidelines for Agriculture, Mariculture, Forestry and Extractive Development: DM Standard 33 Agricultural Buildings; DM34 Agricultural Effluent.

5.2. Natural Heritage Designations

Special Protection Areas

Inner Galway Bay SPA site no.004031

Lough Corrib SPA site no.004042

Special Conservation Areas

Galway Bay Complex site no.000268

Lough Corrib SAC site no.000297

Cloughmoyne SAC site no.000479

Gorthandarragh Limestone Pavement SAC site no.001271

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of appeal set out by Mr Jesse Murphy may be summarised as follows:

- Increased intensity of usage results in significant dis-amenity for residents within the village – change of operations from suckler herd of 20 cows and their 20 calves (1-2 years) housed within the farmyard, to dairy farm of over 40 cows, necessitating twice daily movements over the village roads to and from pasture lands. It is significantly more inputs and is labour intensive, requiring two full time workers.
- Noise – noise from cattle movements and from milking machinery within 30m of the public road from 5.30am in summer disrupts the appellant's sleep, which is deleterious to his health.
- Unauthorised development – the construction of paved parking area, two new entrances to the public road and a new access route to the side of the appellant's house to access leased land are unauthorised and specifically contravene conditions of permission for the milking parlour reg.ref.15/541.
- Dirt and waste from cows on public road from twice daily cattle movements in spring, summer and autumn.
- Should the Board decide to grant permission conditions should be attached limiting access to that granted under permission reg.ref.14/525, requiring access opposite appellant's house and to the side of the appellant's property to be closed off and cattle moved via land entrance and public road to the west, with milking parlour related to the rear of the site, which should be accessed via either of the two aforementioned entrances, with noise suppressors fitted or machinery enclosed to reduce noise to 40dB as measured from the public road and milking not commencing until 7.30am.

- The appellant sets out the planning history for the site (which I refer to above), including enforcement action carried out by the Planning Authority under no. EN16/171, which is purported to have included a Warning Letter concerning non-compliance with conditions nos.1 and 2 of permission reg.ref.15/541, construction of two unauthorised entrances to the public roadway, development of unauthorised hardcore area and the construction of a new roadway into agricultural land.
- Contextual photographs and key map are attached in support of the appeal.

6.2. Applicant Response

First party response from Brendan Warde c/o Patrick J. Newell Consulting Engineers (13/03/17). The main points of the response, including specific response to the grounds of appeal may be summarised as follows:

General

- The access for cattle between the existing farmyard and farmlands to the north is described under s.4 - animals travel along a private farm lane opposite and to the north of the existing farmyard, with animals using a separate gated entrance to the farmyard and collection yard.
- The rationale for the proposed development is explained under s.5 as to allow easier and quicker cleaning of the collection area yard and a safer and cleaner environment for the farmer and animals, with collected waste land-spread in accordance with the specific nutrients management plan submitted as further information. The location of the proposed structure allows cattle to access and egress the milking parlour with least stress (and increased productivity), in accordance with s.3, Ch.22 Milking Facilities of Teagasc Dairy Manual.
- The planning history (s.6.1) shows that the applicant has proceeded through the appropriate channels in seeking and receiving planning permission for various changes to the farmyard over the last 17 years, including the erection of an agricultural shed with milking facilities in the current location. The Council determined that there was no unauthorised development on this site

after carrying out a site inspection on 4th January 2017 (EN16/17 – letter 18/01/17, attached).

- The applicant explains that the proposed development (s.6.2) is a collection yard for a pre-existing milking parlour (granted permission by Galway County Council, with no observations or objections) to provide a cleaner, safer, healthier environment in compliance with animal welfare guidance. It is wholly untrue and misleading that the response to further information request shows ‘a major change in the nature of the farming enterprise’. No permanent housing will be provided or milking activities undertaken in the new shed. Letter from former chairman of Galway Milk Producers, Mr James Davoren, peace commissioner, indicates that Mr John Levelle supplied milk from this farm to that company in the 60’s, 70’s, 80’s and 90’s, which highlights that it is not a new activity or venture at the farm.
- The proposal is in line with the proper planning and sustainable development of the area and, in particular, s.11.1.1 of the Galway County Development Plan 2015-2021 concerning Agriculture.

Addressing grounds of appeal

Issue of increased intensity of usage

- The applicant has been operating this farm since inheriting it from his uncle, John Levelle.
- Farming requires adaption to changing economic markets to ensure profitability.
- It is a rural area with four other farmyards in the vicinity.
- Four letters of support from local residents / farmers are attached.
- A letter from Teagasc Advisor, Ivan Kelly, confirms that Mr Ward’s 2016 stocking rate (146/kg/N/ha) would be in the non-intensive dairy enterprise category.
- The structure proposed is not a milking parlour but an ancillary shed required for safety, health and welfare of the farmer and animals and is not represent a change of usage.

Issue of noise

- Noise is not a planning issue and should be dealt with through the environment section of the County Council. See DoECLG's '*A Guide to Noise Regulations*' attached.
- No additional noise will arise and noise may in fact be reduced as animals will be within the shed awaiting milking or awaiting return to pasture post milking.
- The route cattle travel to/from milking is outside the scope of this application and would have been addressed under decision reg.ref.15/541 pertaining to the application for the milking parlour.
- A refusal of permission would have no effect on noise at the site as milking times and animal transit routes will be unaffected.

Issue of significant unauthorised development

- Galway County Council investigated and have determined that no action needs to be taken regarding alleged unauthorised development, highlighting that there is currently no unauthorised development on the site.
- Conditions to permission reg.ref.15/541 stipulate that the east entrance is to be used by farm vehicles / machinery.
- A separate entrance that was already in existence is used by animals to prevent cross contamination and spread of diseases between farms, as is recommended by Teagasc. The response quotes the *Farmyard Design Guidelines* (Teagasc).
- Separate animal and vehicle entrance is integral to compliance with hygiene guidelines, essential in the production of a foodstuff.

Issue of animal dirt left on road and resultant smells

- A photograph of the road on 08/03/17 is attached.
- A complaint in relation to dirt on a public road should be directed to the Environmental Section of the local authority in accordance with EPA guidance.

- The shed will reduce risk of dirt being transferred to the public road as it will provide a cleaner collection area for animals by collecting waste generated into the slatted tank.

Addressing conditions proposed by the appellant

- Confining access for animals and vehicles / machinery to single entrance permitted under reg.ref.14/525 would be contrary to Teagasc guidance.
- The 'new' entrance the appellant wants closed off by condition was shown in further information submission to be in existence since 1983 and Galway County Council determined that there was no unauthorised development in relation to it.
- The 'new' gate to north adjacent appellant's dwelling has been in existence since at least 2005 (OSI aerial photography) and no claim of unauthorised development has been made to Galway County Council. The rerouting of access to grazing lands proposed by the appellant would be through Mr Murphy's land, along a laneway not in the applicant's ownership, entail 110m walk along the public road and through a field with no direct access to the farmyard. It makes no common sense, is not a usable suggestion and would direct impacts on the appellant's neighbours that he objects to for himself. The grazing lands are owned by the applicant, not leased.
- The existing milking parlour is constructed in accordance with a grant of permission and there is no requirement to relocate it. The proposed shed is ancillary thereto and the milking parlour cannot be reasonably access from another location.
- Any noise complaints should be made to Galway County Council Environment Section. The parlour was granted under reg.ref.15/541 and, in regarding the requirement to implement noise suppression to that facility by way of condition suggested by the applicant, is beyond the scope of the application.
- Any suggested operating hour restrictions on the milking parlour should have been addressed on the application for same.

Attachments

- Letter from Teagasc Advisor, Ivan Kelly (06/03/17), concerning nutrient management plan at this farm.
- Letter from John Cunningham, Bord Bia (21/07/16) indicating 18-month certification of applicant's herd as in compliance with the requirements of the Sustainable Dairy Assurance Scheme.
- Letter from John Cunningham, Bord Bia (21/07/16) indicating certification of applicant's farm for the scope of beef.
- Site Layout Map.
- Letter from Galway County Council indicating it will not be taking any further action in relation to the matters under EN16/171 comprising alleged unlawful entrance onto public roadway with heavy machinery crossing.
- Further information request letter from Galway County Council (28/11/17).
- Letter from James Davoren concerning former milk production at this farm.
- 'Guidelines to the Noise Regulations' (DoECLG).
- Four letters of support from local residents and / or farmers.
- Copy of newspaper article concerning this appeal in the Connaught Tribune (24/02/17)

6.3. Planning Authority Response

No comments received.

6.4. Observations

No observations received.

6.5. Further Responses

No further responses received.

7.0 Assessment

I consider that the main issues arising under this appeal may be addressed under the following headings:

1. Policy
2. Residential amenities
3. Design and visual impact
4. Roads and traffic issues
5. Waste effluent and water issues
6. Appropriate Assessment

7.1. Policy

7.1.1 The Council's Planner's report made no reference to any policies, objectives or development management standards that might be considered relevant to the proposed development.

7.1.2 The subject lands are not zoned under the County Development Plan 2015-2021 and is not contained with any Local Area Plan. Whilst the site can be considered to be located within a clustered, long term settlement of residences, the area is rural in character, is not identified as a settlement under the County Plan and is within a Rural Area under Strong Urban Pressure (GTPS) as defined under the Development Plan (Map – Rural Area Types RHO1). The site is also within an area rated as class 1 outstanding landscape value and of class 2 special landscape sensitivity under chapter 9 of the Plan, *Heritage, Landscape and Environmental Management*.

7.1.3 The County Development Plan (s.11.1) acknowledges the core role of the family farm within Ireland's 'Food Harvest Strategy 2020' and (under s.11.3) projected increase in dairy cattle numbers (24%) and suckler cow numbers (13%) under the strategy by 2020. It is a strategic aim under the Plan (s.11.1.2) to support existing rural economies, promote diversification and improve conditions of local farms and rural enterprises. It is the policy of the Council (AFF 2) to support the 2020 strategy, (AFF 3) to facilitate sustainable development of the countryside and recognises that farm diversification may be necessary to ensure continued viability of agriculture.

Objectives relating to control of emissions (AFF 4) and to compliance with EU Habitats Directive (AFF 5) are also included in the Plan.

7.1.4 I am satisfied that the principle of the proposed agricultural development is acceptable under the provisions of the County Development Plan 2015-2021, subject to other considerations under the Council's Development Management standards.

7.2. Residential amenities

7.2.1 The application site is located within an area of significant one-off type rural housing. Whilst many of the dwellings appear to be of recent or relatively recent construction, a review of the historic maps for the area indicate that this rural cluster of dwellings has been in existence for a considerable period of time.

7.2.2 Based on the aerial photography available for this area, and having regard to the planning history for this site, it would appear that the existing farmyard is of recent construction, with the majority carried out from 2006 onwards.

7.2.3 The Development Plan includes development management standard for agricultural development. DM Standard 34 Agricultural Buildings provides that the Planning Authority, in considering applications, will have regard to, inter alia, residential amenity (proximity to any existing dwelling house).

7.2.4 The report of the Council's Planning Officer summarises the observations submitted by Jesse Murphy (Third Party Appellant) but does not include any actual assessment of the potential impact on the residential amenities of residential dwelling houses in the vicinity and only refers to the existing dwelling within the site. It is possible that RFI item no.4, which required screening along the northern site boundary (to the public road) may have been included to address the potential visual impacts on the residential amenity of the observer's dwelling, but this is not clear from the report.

7.2.5 I consider the main potential impact on residential amenity to arise from cattle noise. The proposed structure is located c.45m south of the appellant's dwelling house, c.42m from the nearest off-site dwelling house (to northwest) and c.11m from the dwelling house within the application site. It can therefore be expected that the operation of the proposed facility will impact on the neighbouring dwellings in terms of noise from cattle.

7.2.6 The existing yard is currently used for cattle accessing and egressing the milking parlour (permitted under reg.ref.15/541) adjacent to the west. It would seem likely that the shape of the yard directs noise northward due to sound reflecting off the surrounding agricultural sheds. I would agree with the applicant that the structure would be likely to reduce the noise relatively to the current situation, although this will depend on the design of the proposed structure. The details of the structure are somewhat vague and it is not clear that the lower section of the structure (northern façade) is open or solid, although I assume it is a solid wall. In order to protect the amenities of the residential dwellings to the north from noise, the Board should attach a condition to ensure that the northern elevation has no voids other than the proposed sliding door and that the lower section is constructed of solid blockwork or similar.

7.2.7 Whilst the neighbouring dwellings may experience adverse noise impacts from the driving of cattle to the site from the lands to the north along the agricultural access lane adjoining the appellant's residential property, that impact is not and would not be dependent on a decision to grant permission on this current application and I consider it to be outside the scope of consideration on this appeal.

7.3. Design and visual impact

7.3.1 DM Standard 34 Agricultural Buildings provides that the Planning Authority, in considering applications, will have regard to, inter alia, a) design and layout and d) rural landscape.

7.3.2 In terms of design and layout, the Planning Authority will consider the quality of design and layout of the farm complex, with new buildings to be located within or adjoining the existing farmyard complex where possible, and encouraging the minimising of scale and use of muted coloured materials. Having regard to the proposed planting scheme submitted as further information (13/12/16), excepting concerns regarding the hedgerow species proposed (addressed below), I am satisfied that the proposed development is acceptable in this regard and will not unduly impact on the visual amenities of residential dwellings in the vicinity.

7.3.3 Regarding rural landscape, the Planning Authority will consider the assimilation of the buildings into the rural landscape by means of appropriate siting, external

colouring, screening and shelter belting. Having regard to the proposed planting scheme submitted as further information (13/12/16), excepting concerns regarding the hedgerow species proposed (addressed below), I have no concerns about the visual impact of the proposed agricultural shed within the context of development within the farmyard on site, or within the wider rural landscape, notwithstanding the landscape value (class 1 outstanding) and sensitivity rating (class 2 special) of the site under the County Development Plan.

7.3.4 In response to the further information request, the applicant submitted a proposed planting scheme stated as comprising *local indigenous hedge*. The evergreen species proposed, Laurel (*Prunus Laurocerasus*) species is not indigenous to Ireland but to southeastern Europe through to Asia. It is an objective under the Development Plan (NHB 11 – Trees, Parkland / woodland, Stonewalls and Hedgerows) to ensure that all planting schemes use suitable native variety of trees of Irish provenance. The Plan does not specify a list of appropriate native hedgerow species. This issue may be addressed by condition.

7.4. **Roads and traffic issues:**

7.4.1 DM Standard 34 Agricultural Buildings provides that the Planning Authority, in considering applications, will have regard to, inter alia, c) public road access (safe access).

7.4.2 The proposed development site accesses onto a rural third class road of relatively narrow width, without road markings and of varying horizontal alignment. There are four vehicular entrances: two adjoining entrances at the western section of the site (separated by a steel post), comprising an open entrance of c.10m and a gated cattle entrance of c.2.5m. There is a vehicular entrance to the front boundary of the dwelling house (western side), serving only the residential dwelling. And there is an open vehicular entrance to the east of the site (where site notice is indicated on site layout plan), providing access to the farmyard via an access lane running along the eastern side of the dwelling, which allows through access to the western side of the site – there is no existing boundary wall blocking this access contrary to that indicated on the site layout plans. The easternmost access indicated on the northern boundary on the site layout plans (authorised under reg.ref.14/525 and subject of

condition 3 reg.ref.15/541) has not been developed and the old agricultural access to a field remains in place.

- 7.4.3 The third party questioned the planning status of the site entrance and also the opening of a vehicular access and agricultural access lane to the north (adjacent the east of his dwelling, but outside of the application site redline boundary and not contained within any blue line boundary) to provide connectivity between the farmyard to the south and agricultural lands to the north.
- 7.4.4 The Council's Planning Officer notes that there is an existing entrance on site and that the applicant proposes to use the existing entrance only. The Council requested the applicant to clarify this issue by way of further information (FI 7). In response the applicant clarified that the only traffic from the proposed development will be cows coming to be milked and the milk collection lorry, as there is no adequate place for it to turn on the public road. The applicant also submitted a copy of an old OS map to support the claim that the existing entrances were pre-existing. There is no report from the Council's Area Engineer or Roads Section concerning traffic safety and design issues.
- 7.4.5 I am not satisfied that the entrances to the western yard can be considered a pre-existing entrance based solely on the historic OIS maps (produced between 1897 and 1913¹) and I note that the more recent aerial photographs (OSI and Google Earth) would suggest to the contrary. Nothing in the planning history cases forwarded by the Council (reg.refs.13/244,14/525 and 15/541) authorised the opening access to the farmyard areas west of the residential dwelling.
- 7.4.6 The appellant refers to enforcement action carried out by the Planning Authority under ref. EN16/171 concerning an alleged unlawful entrance onto a public roadway with heavy machinery crossing. A warning letter issued on 23/06/16 concerning non-compliance with condition nos.1 and 2 of reg.ref.15/541, construction of two unauthorised to the public roadway, the development of an unauthorised hardcore area and the construction of a new roadway into agricultural land, but having inspected the site and measured the public road at c.3.04m width, the Council determined that it did not fall within the restrictions on development in Part 2 Exempted Development 9(ii) Restrictions on Development (Planning and

¹ <https://www.osi.ie/products/professional-mapping/historical-mapping/> accessed 18/05/17.

Development Regulations, 2001, as amended), and decided that no action would be taken. In this regard, it is not the purpose of this assessment or of the Board in consideration of this appeal, to make a determination on the exempted status, or otherwise, of development carried out on site, which would properly be considered under a S.5 Declaration by the Planning Authority, or a S.5 Referral to the Board.

7.4.7 I note the restrictions on site access to the milking parlour under permission reg.ref.15/541, which is to be via the upgrade entrance to the northeast of the site (as was permitted under reg.ref.14/525). As the proposed agricultural shed is stated to be ancillary to the operating of the milking parlour, it would clearly be feasible to access the proposed shed structure via the permitted entrance. This application does not include the proposed provision of or the retention of existing entrances² which are subject of third party grounds of appeal. Given that the principle of proposed agricultural shed and slurry tank is acceptable, in the event of a decision to grant permission it would be reasonable to limit the nature and extent of development permitted to that applied for and to exclude the entrances to the public road which do not form part of the application by way of condition in the interest of clarity.

7.5. Waste effluent and water issues

7.5.1 It is proposed to provide a slatted tank (internal measurements - c.14.6m (L) X 3.5m (W) X 2.4m (D)) beneath the proposed shed to accommodate animal effluent, as it standard for such facilities. The report from Teagasc submitted as further information, but dated September 2016, indicates that the cattle (42no. dairy cows plus 4no. 1-2-year-old calves) will produce c.268.2m³ over the appropriate 18-week period and that existing tanks (3no. referred to) have capacity of 368m³, which, it is submitted is in line with the Nitrates Regulations. No reference is made to the proposed tank. The proposed tank would increase slurry storage capacity by c.122m³.

7.5.2 In response to the appeal, the applicant submits that the proposed development does not represent a change in usage at the farm, that the proposed shed is an

² In this regard I note that the applicant has not indicated in blue any lands which adjoin, abut or are adjacent to the applicant site and which is under the control of the applicant, or any wayleaves in yellow on the site location map, as required under a.22(2)(b) of the Planning and Development Regulations, 2001, as amended.

ancillary facility to the milking parlour to improve the welfare of his cattle and is not an additional milking parlour, and that farm is categorised as a non-intensive dairy enterprise (Teagasc letter September 2016). There is no indication that the proposed development is to facilitate an increase in cattle number and intensification of usage above that currently existing, therefore it can reasonably be assumed that the slurry storage capacity on site will be more than adequate.

7.5.3 The intended lands for spreading of slurry are indicated on maps accompanying the Teagasc report, comprising 25.67ha. The majority of the lands are located to the north and are indicated to exclude land parcels within the drained bogland at Tonemace to the northwest and would appear to be confined to pastureland. The buffer zones from surface watercourses, lakes, karstic features and abstraction sources are stated. It is indicated that the farmer has an average stocking rate of 98kgs organic Nitrogen per hectare (170kg p.a. is the maximum allowed under the Regulations³ arising from the Nitrates Directive and consequent 2nd National Action Plan Programme). DAFM guidance indicates that failure to follow the Regulations would be breaking the law and also would put Single Payment, Disadvantaged Area, REPS, AEOS, and other co-funded scheme payments at risk.

7.5.4 Separate disposal of clean surface water runoff from the roof of the shed structure is provided for (Site Layout Plan).

7.5.5 The appellant raises concern about the depositing of dirt and animal effluent on the public road by cattle being led to the site, and the consequential smell, etc. This would seem to be an unavoidable issue in rural areas where cattle have to travel between pastures and farmyards via the rural road network.

7.5.6 The proposed slurry tank and drainage proposal are acceptable.

7.6. **Appropriate Assessment**

7.6.1. Stage 1 AA - Legal protection is provided for habitats and species of European importance under the Habitats Directive 92/43/EEC, which established a network of designated conservation areas known as Natura 2000 or European sites, which

³ *Explanatory Handbook for Good Agricultural Practice for the Protection of Waters Regulations 2014* (DAFN, 2014)
<https://www.agriculture.gov.ie/media/migration/ruralenvironment/environment/nitrates/NitratesExplanatoryHandbook14Mar2014.pdf> accessed 18/05/17.

include Special Areas of Conservation (SAC) under the Habitats Directive and Special Protection Areas (SPA) under the Birds Directive (Directive 2009/147/EC). Article 6(3) of the Habitats Directive requires Appropriate Assessment to be carried out for any plan or project not directly connected with or necessary to the management of a European site (or sites) concerned, but that it likely to have a significant effect thereon, on its own or in combination with other plans or project, in view of its conservation objectives.

- 7.6.2. I note the relevant guidance published by the European Commission, 'Assessment of Plans and Projects Significantly Affecting Natura 200 Sites: Methodological Guidance on the Provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC' (2001) and by the NPWS, 'Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities' (2009, revised 2010), both of which are purported to have been taken into account by the applicant (p.6 NIS).
- 7.6.3. The proposed development is not directly connected with or necessary to the management of any European site. The initial Planner's Report included a stage 1 (screening) appropriate assessment and concluded that significant adverse impacts could not be ruled out within Lough Corrib cSAC site no.0000297 due to the nature of the project and the absence of a nutrient management plan, and the conservation objectives and vulnerabilities of the Natura site and that further assessment was required. A nutrient management plan was submitted as further information and the applicant indicated that none of the lands for spreading of effluent were located within a European site (response to items 1 and 2). The Planning Authority was satisfied that the applicant had adequately addressed the request for further information but did not formally complete the stage 1 appropriate assessment or carry out a stage 2 Appropriate Assessment.
- 7.6.4. **Stage 1 screening** – I have noted the seven European sites (two Special Protection Areas and five Special Areas of Conservation) under s.5.2 of this report. Given the nature and scale of the proposed development and the absence of source-receptor pathways, I consider that likely significant effects cannot be ruled out from the project, alone or in combination with other plans or projects, on Lough Corrib SAC site no.000297 and Lough Corrib SPA site no.0004042.

7.6.5. Lough Corrib SAC site no.000297 – the qualifying interests for this European site are set out below in three groups relating to their conservation objectives.

It is the conservation objective to restore to favourable conservation condition:

- Freshwater Pearl Mussel *Margaritifera margaritifera*
- Sea Lamprey *Petromyzon marinus*
- Lesser Horseshoe Bat *Rhinolophus hipposideros*
- Slender Naiad *Najas flexilis*
- Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*)
- Oligotrophic to mesotrophic standing waters with vegetation of the *Littorelletea uniflorae* and/or *Isoeto-Nanojuncetea*
- Hard oligo-mesotrophic waters with benthic vegetation of *Chara* spp.
- Active raised bogs (priority habitat)

No separate conservation objective is set for the following as the long term aims for these qualifying interests are inherently linked to that of Active raised bogs:

- Degraded raised bogs still capable of natural regeneration
- Depressions on peat substrates of the *Rhynchosporion*

It is the conservation objective to maintain the favourable conservation condition of:

- White-clawed Crayfish *Austropotamobius pallipes*
- Brook Lamprey *Lampetra planeri*
- Salmon *Salmo salar*
- Otter *Lutra lutra*
- Slender Green Feather-moss *Drepanocladus vernicosus*
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation
- Semi-natural dry grasslands and scrubland facies on calcareous substrates (*Festuco-Brometalia*) (* important orchid sites)

- Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae)
- Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae* (priority habitat)
- Petrifying springs with tufa formation (Cratoneurion) (priority habitat)
- Alkaline fens
- Limestone pavements (priority habitat)
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles
- Bog woodland (priority habitat)

The most important impacts and activities with high effect (negative except where otherwise indicated) on the site, external to the site are: agricultural intensification (High rank), diffuse pollution to surface water due to household sewage and waste waters (High rank negative and positive), forest planting on open ground (native trees) (Medium rank), other human induced changes in hydraulic conditions (Medium rank), sand and gravel extraction (Low rank), fertilisation (Medium rank), continuous urbanisation (Medium rank)

7.6.6 Lough Corrib SPA site no.004042 - the qualifying interests for this European site comprise:

- Gadwall (*Anas strepera*)
- Shoveler (*Anas clypeata*)
- Pochard (*Aythya ferina*)
- Tufted Duck (*Aythya fuligula*)
- Common Scoter (*Melanitta nigra*)
- Hen Harrier (*Circus cyaneus*)
- Coot (*Fulica atra*)
- Golden Plover (*Pluvialis apricaria*)
- Black-headed Gull (*Chroicocephalus ridibundus*)
- Common Gull (*Larus canus*)
- Common Tern (*Sterna hirundo*)

- Arctic Tern (*Sterna paradisaea*)
- Greenland White-fronted Goose (*Anser albifrons flavirostris*)
- Wetland and Waterbirds

It is the conservation objective to maintain or restore the favourable conservation condition of the wetland habitat at Lough Corrib SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

The most important impacts and activities with high effect (negative except where otherwise stated) on the site, external to the site are: grazing (Low rank, negative and positive), fertilisation (Low rank), urbanised areas, human habitation (High rank, negative and positive) and silviculture (M).

- 7.6.7 The proposed development, at operational stage, includes the spreading of slurry as a fertiliser on lands outside of, but within proximity to and hydrologically connected to Lough Corrib SPA and Lough Corrib SAC, which is noted as an activity with high effect on those European sites (Medium rank for the SAC and High rank for the SPA). However, the spreading of effluent is proposed to follow a Nutrient Management Plan, the details of which were submitted as further information and, furthermore, the storage and spreading of that effluent is regulated under the Regulations S.I. No.31 of 2014. Consequential indirect significant operational effects and in combinations effects with other such projects can therefore reasonably be ruled out.
- 7.6.8 Given the separation distance between the proposed development site and the relevant European sites there will be no direct impacts from construction. Given the scale and nature of the proposed development and separation distance to the relevant European sites I consider it reasonable to conclude that no significant indirect effects on European sites are likely during construction.
- 7.6.9 Stage 1 appropriate assessment screening conclusion – It is reasonable to conclude that on the basis of the information on file, 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 European site no.00297 - Lough Corrib SAC and European site no.0004042 - Lough Corrib SPA., or any other European site, in view of the sites'

Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. I recommend that permission be **GRANTED** for the proposed development subject to the conditions set out under section 10.0

9.0 Reasons and Considerations

Having regard to the nature and extent of the development proposed, to the history of the on-site agricultural activity and to the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the development proposed would not seriously injure the amenities of property in the vicinity, would not seriously affect the integrity of a European site having regard to its conservation objectives and would be consistent with the proper planning and sustainable development of the area, would consistent with the provisions for such development under the Galway County Development Plan 2015-2021 and 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 13th day of December 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. This decision to grant permission shall be in respect of the construction of the proposed agricultural shed and associated slurry pit and drainage

works only. Nothing in this decision shall be taken to authorise the carrying out or retention of vehicular and / or agricultural accesses to the application site or to any other lands, or any works affecting road surface drainage.

Reason: In the interest of clarity.

3. a) The north elevation of the proposed shed shall be of solid construction and contain no open sections, gaps, voids or opening sections other than the proposed sliding entrance door which shall also be of solid construction and with gaps or voids.

b) The sliding door to the north elevation of the proposed shed and the openings within the northern elevation of the milking parlour shall be kept closed during milking operations, except as necessary to provide access and egress.

Reason: In the interest of minimising the noise impact arising from operations, having regard to the close proximity of residential dwellings to the north.

4. All surface water generated within the site shall be disposed on within the site and shall not be discharged to the public road.

Reason: In the interest of proper planning and development.

5. a) The proposed planting indicated along the south, west and north boundaries of the site, on Site Layout Plan received to the Planning Authority as Further Information on 13/12/16, shall be carried out within the first planting season following the commencement of the proposed development.

b) The planting shall be confined to traditional native Irish hedgerow species only.

c) Any planting that dies within the first three years of planting shall be replaced with a similar species within the following planting season.

Reason: In the interest of visual amenities of this rural settlement.

. John Desmond
Planning Inspector

19th May 2017