



An  
Bord  
Pleanála

## Inspector's Report PL91.248829

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<b>Development</b>	Change of use of grain store and machinery shed to be used for storage of organic material and to include other activities eg. grain store, machinery store, livestock shed and other agricultural activities within curtilage of protected structure.
<b>Location</b>	Mounthenry, Coolcappa, Ardagh, Co.Limerick
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	16/958
<b>Applicant</b>	Michael J. Reidy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	1 <sup>st</sup> Party against refusal
<b>Appellant</b>	Michael J. Reidy
<b>Observers</b>	None
<b>Date of Site Inspection</b>	23/10/17
<b>Inspector</b>	Pauline Fitzpatrick

## **1.0 Site Location and Description**

- 1.1. The site, which forms part of a larger agricultural holding, is accessed from local road L-1218 within the village of Coolcappagh which is approx. 5.5km north east of Ardagh and approx. 5.1km to the west of Rathkeale in west County Limerick. The village comprises of a primary school which is opposite the site entrance, a church to the north-east and housing.
- 1.2. The farmyard comprises of a number of buildings including slatted sheds, haybarn, food store in addition to silage pits, slurry pit and concrete yards. The yard is to the rear of Mounthenry House which is a protected structure and which is currently being renovated.
- 1.3. The structure to which this appeal refers is located in the north-western most corner of the yard. It has a stated floor area of 465 sq.m. and height of 9.431m and is of concrete construction, enclosed on two sides (south and west) with metal cladding. There are concrete aprons to the north and south, the latter with a grid connecting to the tank within the shed. On day of inspection the building was being used for storage of farm materials and equipment and was not being used for storage of organic material.

## **2.0 Proposed Development**

- 2.1. The application was lodged with the planning authority on 17/10/16 with unsolicited details received 21/12/16, 06/02/17 & 06/06/17 following a grant of a time extension.
- 2.2. As amended the proposal entails the change of use of part of the 465 sq.m. building for storage of organic material – paunch and dewatered sludge fertilisers, with the remainder to continue to be used as a grain store, machinery store, livestock shed and other agricultural activities.
- 2.3. The applicant owns and leases 202.07 hectares and is a suckler beef producer. The activity has been undertaken for the last two years and the organic materials play an important role in grass production and organic matter build up within the soil. The slurry storage requirements of the existing suckler beef production operation is 1182m<sup>3</sup> with 1226m<sup>3</sup> available storage.

#### 2.4. Details:

- 2300m<sup>3</sup> organic material per annum comprising of approx. 1000m<sup>3</sup> paunch and 1300m<sup>3</sup> of dewatered sludge to be delivered to site. This would equate to approx. 50m<sup>3</sup> per week.
- The capacity of the underground tank is 392m<sup>3</sup> with the shed having a total capacity of 1702m<sup>3</sup>.
- The shed has in excess of 34 weeks storage capacity providing a large window for land spreading which exceeds the 13 week regulatory requirement.
- The organic material is tipped off into a grid on the southern end of the site which, due to the site falls, flows northwards into the underground tank and walled silage pit.
- There is a certain amount of leachate from the dewatered sludge. As per the details provided in the structural engineer's report it is proposed to hold back the paunch/sludge with concrete lego blocks along the northern end of the shed which are removed to allow access for loaders. This differs from the details on the plans received 21/12/17 which propose a 3 metre high wall of sealed sleepers. An open drainage channel along the northern end of the shed is proposed which will collect the leachate and discharge to an underground storage tank.
- Any leachate arising from the storage material is to be directed and collected in a storage tank to the west of the shed. It will be land spread as required.
- Storm water from the roof is to be collected in a suitable storage tank and pumped to a watercourse.

#### 2.5. The application is accompanied by:

- EPA confirmation that the organic materials (paunch and dewatered sludge) are not wastes.
- Copy of EPA licence for ABP Rathkeale

- EPA amendments to ABP Rathkeale Licence
- ABP Rathkeale Nutrient Management Plans for 2015/2016 (Section 4.3 pertains to Farm 1 – Michael Reidy)
- Odour Management Plan

2.6. Structural details of the shed are provided which concludes that there is no evidence to suggest that the storage of the material to date has resulted in the structural capacity of the walls being exceeded.

2.7. In terms of odour control the shed is 6.70m<sup>2</sup> at the eaves. The western side of the shed has cladding overlapping the walled silage pit by 0.3m. All trailers are covered and neutralising liquids are sprayed to the wheels and back door of spreading machinery. Odour from the farmyard has not been an issue.

2.8. Spreading is carried out in full compliance with the relevant EPA legislation and Department of Agriculture requirements.

2.9. The building is within the curtilage of Mount Henry House which is a protected structure.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Refuse Permission for the following reason:

*The proposed change of use of existing grain store and machinery shed to be used for the storage of organic material (paunch and dewatered sludge fertilisers) by reason of its unsuitable construction, lack of adequate effluent management facilities, potential for odour nuisance and health and safety concerns, is considered to be contrary to proper planning and sustainable development of the area*

#### 3.2. Planning Authority Reports

The **1<sup>st</sup> Planning** report dated **05/12/16** notes the comments of the Environment Section and recommends a refusal of permission for one reason. The **2<sup>nd</sup> report** dated **07/06/17** considers that the information provided does not address the

concerns of the Environment Department. A refusal of permission for one reason is recommended.

#### 3.2.1. Other Technical Reports

**Environmental Services** in an email dated **30/11/16** requires further information to clarify if the organic material is to be biologically treated on site.

**Environment (Agriculture)** in a memo dated **01/12/16** considers that the shed is not appropriate for the proposed use in that the northern wall of the building is constructed from bales and storage containers. The sludge/paunch builds up behind this wall. This would not be structurally sound and could pose a significant danger in the event of catastrophic failure. Seepage from the shed flows through the wall to a small sump. This is pumped back into the shed and flows continuously back from the shed. There is no tank or place to store the seepage arising. The material to be stored gives rise/has the potential to give rise to odour nuisance. In the absence of an appropriate odour extraction system the potential to cause significant odour continues to be a concern. In order to empty the tank, it will be necessary to drive into it using farm machinery giving rise to unacceptable health and safety risk to the machine operator. Should the shed be used for such storage it will preclude its use as a grain store and machinery shed. The effluent collection and storage facilities for overwintered animals appears satisfactory. A **2<sup>nd</sup> report** dated **07/06/17** following unsolicited details received 21/12/16, 06/02/17 & 06/06/17 recommends refusal due to the potential for the development to give rise to significant odour nuisance having regard to the nature of the material to be stored (putrescible and odorous), the proximity of sensitive receptors and absence of negative pressure ventilation within the building.

#### 3.3. Prescribed Bodies

None

#### 3.4. Third Party Observations

None

## 4.0 Planning History

16/224 – permission granted in May 2016 for construction of calving and loose pens.

14/253 – permission granted in March 2014 for grain store/machinery shed and a soiled water tank subject to 4 conditions.

DC-076-16 – enforcement notice for non-compliance with planning permission.

## 5.0 Policy Context

### 5.1. Limerick County Development Plan 2010-2016

Objective ED O18 – the Council will normally permit development proposals for agricultural development where:

- (a) They are appropriate in nature and scale to the area in which they are located;
- (b) The proposal is necessary for the efficient use of the agricultural holding or enterprise;
- (c) Where the proposal involves the erection of buildings, there are no suitable redundant buildings on the farm holding which would accommodate the development;
- (d) The development is not visually intrusive in the local landscape and, where the proposal is for a new building(s) and there are no suitable redundant buildings, the proposal is sited adjacent to existing buildings and suitably visually integrated in the holding; and
- (e) The proposal demonstrates that it has taken into account traffic, environmental and amenity considerations and is in accordance with the policies, requirements and guidance contained in this Plan.

### 5.2. Natural Heritage Designations

The site is c.4.5km to the east of Stack's to Mullaghareirk, West Limerick Hills and Mount Eagle SPA site code. 004161.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The 1<sup>st</sup> party appeal against the planning authority's notification of decision to refuse permission which is accompanied by supporting detail can be summarised as follows:

- Correspondence from the EPA states that sludge produced from ABP Rathkeale waste water treatment plant is classified as a by-product while paunch is classified as a fertiliser (copy attached). Both products are organic materials and are utilised as fertilisers. The materials have significant benefits to his farming enterprise.
- Paunch and dewatered sludge storage has been undertaken successfully throughout Ireland without any adverse environmental or health and safety issues.
- The storage of the materials is not a commercial activity in itself in that the financial value arising from their use as a nutrient sources adds value to his farm in terms of crop growth. The farm comprises of land devoted to cattle fattening.
- The application of agricultural fertiliser in the form of organic matter is no different than applying slurry. It has a shorter odour length and intensity. The materials are semi-solid in nature.
- All material received and stored is done under specific requirements so as not to cause environmental damage and not cause nuisance to local residents. There are Nutrient Management and Odour Management Plans in place for the processes involved with storage and application of the materials. The EPA and Limerick County Council have approved the land spreading of these materials on a yearly basis.
- The proximity principle applies. ABP Rathkeale is c. 5 miles from the site.
- Limerick County Council previously permitted the storage of the materials in the building in question. Its main issue was with respect to odour from spreading. Actions have been taken to reduce potential odour issues

including spreading once a year on each land bank, only, and the storage of the material indoors. A counteractant is added. These materials are being land spread with local authority knowledge and approval. Currently the material is temporarily stored prior to land spreading.

- The Odour Management Plan (copy attached) as approved by the County Council details the methodology for the storage of the materials and measures to be taken to minimise odours. The plan notes the sensitive receptors. The appellant is not aware of any odour complaints.
- The store is located adjacent to a large fattening cattle unit alongside other agricultural units. It is located at the back of the site as far as possible from any sensitive receptors.
- The building has been used for storage of the materials for two years with no evidence of structural defect. The building is fit for purpose (copy of report from structural engineer attached). It meets agricultural specifications for the storage of semi-solid fertilisers.
- The materials are dewatered at ABP Rathkeale and are deemed suitable for bulk storage. Often these materials are stored on open concrete without any retaining walls. The installation greatly surpasses this standard with walls on three sides.
- Any leachate arising is to be collected as per the application drawings. It can be collected in a separate tank which has adequate capacity.

## 6.2. **Planning Authority Response**

None

## 6.3. **Observations**

None



## 7.0 Assessment

- 7.1. The agricultural building subject of this appeal is located in the north-western most corner of an existing farmyard which also comprises of slatted sheds, a haybarn, fodder stores, silage pits, silos and a slurry pit. The applicant is involved in suckler beef production.
- 7.2. The building as permitted under planning ref.14/253 has a floor area of approx.465 sq.m. with concrete walls on three sides and a concrete floor that slopes to the north towards a concrete yard area. This elevation forms the entrance and is open. Along the eastern side of the shed there is a 392 m<sup>3</sup> storage tank with the shed having a total capacity of 1702m<sup>3</sup>. There is a further concrete yard with grid access to the said underground tank to the south separating the shed from a slatted shed.
- 7.3. Whilst it would appear from the details accompanying the application that the building may have been used in the past for the storage of organic fertilisers I can confirm following my site inspection that this is not currently the case, with part of the shed being used for storage of agricultural machinery, only. As per the details provided in the appeal submission the organic fertilisers continue to be land spread with the material being delivered and stored temporarily on each land parcel prior to spreading.
- 7.4. The proposal entails the use of part of the grain store for storage of organic fertilisers comprising of sludge and paunch sourced from ABP Rathkeale for land spreading. Evidence to the fact that the said materials are classified as organic fertilisers is provided with the application. ABP Rathkeale is subject of an Industrial Emissions Licence (licence register number PP0191-02) and the lands subject of the land spreading are covered by the Nutrient Management Plan prepared by ABP Rathkeale as required by the licence. A copy of the relevant licence and nutrient management plan accompany the application. In addition, evidence of the EPA's agreement of the inclusion of the lands to the land bank for land spreading of materials from ABP as required by condition 8.15.5 of the IE licence is provided.
- 7.5. The organic material is tipped onto the grid on the southern concrete apron which, in view of the site falls will flow northwards to the underground tank. When the tank fills the material slumps onto the floor area of the shed. The intake is stated to 50m<sup>3</sup> per week (2.5 loads) which could increase to 4 load maximum over a busy period with

land spreading approx. 4 times a year with the process taking 3-4 days in each instance.

- 7.6. In view of the established agricultural activity and farmyard the principle of the development is acceptable. The substantive issues arising pertain to the suitability of the existing building to accommodate the identified material and potential for odour nuisance.
- 7.7. At the outset I note that there will be an onus on the landowner to ensure compliance with the statutory requirements as set out in the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2014 in terms of organic fertiliser storage and farmyard management including disposal of soiled water.
- 7.8. In response to the planning authority's concerns a structural engineer's report was commissioned as to the suitability of the construction. It concludes that without the benefit of knowing the exact dimensions of the foundations to the walls and the steel reinforcement used, it was not possible to carry out a meaningful design on the structural capacity of the wall but, on the basis that the shed has been used for storage of paunch and sludge on an ongoing basis, there is no evidence of structural cracking or deformation of walls that would suggest that the storage of the material to date has resulted in the structural capacity of the walls being exceeded. In conclusion it is considered that there is no evidence to suggest that the structure is not fit for purpose. The amended plans received by the planning authority on the 21/12/16 propose to replace the temporary barrier and rows of straw bales along the northern elevation with a wall of sleepers laid on edge 3 metres high. The sleepers can be removed to allow access for loaders and heavy machinery. This solution differs from that as detailed in the Structural Engineer's report received 06/06/17 which details the use of concrete lego blocks. I note that the Environment Section in its 2nd report following the provision of this unsolicited information, whilst maintaining that permission should be refused, did not repeat its initial concerns regarding the building's structural integrity. On balance, therefore, I consider that the applicant has provided sufficient detail and I accept that there is no evidence to suggest that the building is not capable of housing the materials in question. A condition requiring clarification of the barrier to be used along the northern end of the shed would be appropriate in the interests of clarity.

- 7.9. As noted above the shed is within an existing farmyard with a number of slatted sheds and an open slurry pit evident. The slurry arising from the cattle rearing also requires land spreading. From the details provided the materials to be stored are comparable to slurry in that they are semi-solid but are stated to have a shorter odour length and intensity. The shed is enclosed on two sides with metal cladding; to the west and south. Taking into consideration the prevailing westerly wind and the location of the sensitive receptors within the village to the east, the enclosure along the western elevation against the wind would assist in reducing odour nuisance at the said sensitive receptors. I would also note that the shed is located at the north-western most position within an existing farmyard at the furthest point from 3rd party properties. An Odour Management Plan for the lands has been produced and addresses both the transport and spreading of the materials. An odour masking agent is to be applied to the material prior to land spreading although its efficacy cannot be guaranteed as the materials are semi-solid. Neighbours and the Local Authority are to be notified prior to spreading.
- 7.10. I submit that with the application of best practice coupled with the said Odour Management Plan, odour can be appropriately managed without giving rise to nuisance of nearby properties. I would also submit that as land spreading is an integral part of farming activity associated with the rural environment, I do not consider that it would be reasonable to refuse permission on this basis provided the facility is well managed. As noted a registered contractor oversees the management of the loading, hauling and spreading of the material. I note that no objections to the proposal were received by the planning authority during its assessment of the application.
- 7.11. In conclusion I consider that the proposed development is acceptable and accords with objective ED O18 of the Limerick County Development Plan in that it is appropriate in nature and scale to the area in which it is located and that it is necessary for the efficient use of the agricultural holding.

#### AA – Screening

- 7.12. The site is c.4.5km to the east of the nearest point of Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161) the qualifying interest for same being the Hen Harrier. To date generic conservation

objectives apply namely to maintain or restore the favourable conservation status of habitats and species of community interest so as to contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.

- 7.13. Having regard to the nature and extent of the development within an existing farm complex within the village of Coolcappagh 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.

## **8.0 Recommendation**

- 8.1. Having regard to the documentation on file, the grounds of appeal, the responses thereto, a site inspection and the assessment above I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

## **9.0 Reasons and Considerations**

Having regard to the established use of the site for agricultural purposes and the nature and extent of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

1. The development completed in accordance with the plans and particulars lodged with the application as amended by the plans and details received by the planning authority on the 21<sup>st</sup> day of December 2016, 6<sup>th</sup> day of February, 2017, and 6<sup>th</sup> day of June 2017, 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. The development to which this permission refers is as detailed on the plans and details accompanying the application, only, and does not refer to any other structure or works on the overall site.

**Reason:** In the interest of clarity.

3. Revised plans and details delineating the proposed barrier to be installed along the northern end of the shed shall be submitted for the written agreement of the planning authority prior to commencement of development.

**Reason:** In the interest of clarity and to prevent pollution.

4. The agricultural building shall be used only in strict accordance with a management schedule to be submitted to and agreed in writing with the planning authority, prior to commencement of development. The management schedule shall be in accordance with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2010 (S.I. No. 610 of 2010), as amended

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

5. All soiled water generated by the proposed development shall be conveyed through properly constructed channels to the existing storage facilities and shall not discharge or be allowed to discharge to any stream, river or watercourse, or to the public road

**Reason:** In the interest of public health and to prevent pollution.

6. All uncontaminated roof water from the building 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 the seepage tank is reserved for its specific purpose.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**October, 2017**