



An  
Bord  
Pleanála

## Inspector's Report ABP-300315-17

<b>Development</b>	Retention and completion of slatted tank, animal housing, office, milking parlour, dairy plant room, collecting area, slatted feeding area and associated works, and  Permission to cut back steel uprights at slatted feeding area and construction of crush in collection yard.
<b>Location</b>	Grennan, Attanagh, Co. Laois
<b>Planning Authority</b>	Laois County Council
<b>Planning Authority Reg. Ref.</b>	17/218
<b>Applicant(s)</b>	Patrick Lalor.
<b>Type of Application</b>	Retention, completion & permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Jacinta & Ned Brennan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	22 <sup>nd</sup> February, 2018
<b>Inspector</b>	A. Considine

## **1.0 Site Location and Description**

- 1.1. The subject is located within the rural area of Co. Laois to the east of the town of Durrow. The site is in the townland of Grennan, Attanagh and access to the site is via a cul-de-sac road. This road serves the subject site and a separate small farm holding with family home.
- 1.2. The surrounding area is in agricultural use and within the subject site, there is a collection of existing farm buildings. The site has a stated area of 0.95ha and includes a disused farm house and original stone built farm buildings to the east of the site. These elements front onto the top of the cul-de-sac road and the adjoining neighbouring house. To the rear of these buildings, and towards the west of the site, there are a number of farm buildings which were occupied by livestock on the date of my inspection.
- 1.3. To the west of the identified application site, a large building has been erected which has a stated floor area of 1,266sq.m. This building is the subject of this retention application. The other farm buildings within this farm yard are indicated as having a combined floor area of 708sq.m.

## **2.0 Proposed Development**

The proposed development seeks permission for the retention and completion of slatted tank, animal housing, office, milking parlour, dairy plant room, collecting area, slatted feeding area and associated works, and for permission to cut back steel uprights at slatted feeding area and construction of crush in collection yard all at Grennan, Attanagh, Co. Laois.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to grant permission for the proposed development subject to 13 standard conditions.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The initial planning report considered the proposed development and the submission made in relation to it and concluded that further information was required in relation to the number of animals to be accommodated within the building for retention. In addition, traffic issues, surface water issues and issues raised in the third party submission were also addressed in the further information request.

Following receipt of the response to the further information request, the planning officer was satisfied that the development was acceptable and recommended that permission be granted, subject to conditions. This recommendation formed the basis of the Planning Authority's decision. No Appropriate Assessment was carried out in either planning reports.

### 3.2.2. Other Technical Reports:

Environment Section: The Waste Enforcement engineer submitted a report advising no objection to the proposed development subject to compliance with three conditions.

Area Engineer: No objection to the proposed development.

### 3.2.3. Third Party Objections:

One third party objection was submitted from Jacinta & Ned Brennan. The issues raised in this submission are summarised as follows:

- Works have continued since the Warning Letter and Enforcement Notice issued. The applicant has not had regard to the planning authority.
- The applicant is using the lane purely as his agricultural access and the development is devaluing the objectors property due to the intensification of the farmyard, and causing damage to the lane.
- The intensification of the farmyard is unacceptable in terms of noise, vermin, agricultural traffic, cattle movements within 4m of the third party house, dirt and odours.
- Flooding is also a concern as the applicant has no way of discharging surface water.

- Beet is piled just 30m from the objectors home and attracts rats and other vermin.
- The safety of the Brennan family, including children and elderly lady, is compromised.
- The privacy of the neighbours has been destroyed due to the location of the centre of the applicants agricultural enterprise. If permission is granted, then the milking parlour will be in use from 6am to 11pm every day.
- Silage is drawn up to 11pm at night.
- The ESB connection was made after the Enforcement Notice was served.
- Deliveries to the site are being made via the lane very early in the morning including pig slurry and meal deliveries.
- There is the option to provide an alternative access lane to the site and allow for a concrete wall to be constructed to separate both farm yards. If this was accepted, the matter could be resolved.

There are a number of enclosures with the objection.

#### 4.0 Planning History

**PA ref 02/721:** Permission was granted to Mr. Patrick Lalor for the construction of a livestock accommodation over existing slats

**UD Ref 16/76:** A warning letter issued to the owners on the 17<sup>th</sup> October, 2016, and an Enforcement Notice issued on the 7<sup>th</sup> March, 2017 to cease all development and demolish the unauthorised structure, disposing of the waste material generated to an authorised facility by 5pm on 3<sup>rd</sup> May, 2017.

The Board will note that the retention application was lodged with Laois County Council on the 2<sup>nd</sup> May, 2017.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The Laois County Development Plan, 2017-2023 is the relevant policy document applicable to the subject site. The site is located within Zone C in terms of the Core Strategy Map and states that Zone C is made up of lowland mixed farmland and settlements with links to Strategic Transportation Corridors and key development areas. It is envisaged that there will be continued growth in the rural economy through specialist agriculture, diversification into complementary food production, rural tourism development opportunities. These stronger rural areas will prosper with intensifications in areas of specialist tillage – especially near major settlements and transportation corridors.

5.1.2. Chapter 5 of the Plan deals with Economic Development and Section 5.10 deals with Rural Economic Activities and the following policies are considered relevant:

- RUR1 Support the expansion, diversification and intensification of agriculture and the agri-food sector by facilitating appropriate related development subject to environmental and planning considerations
- RUR6 Reconcile the need for resource-based economic activities to conduct a reasonable operation and the needs of residents in rural areas to access a good quality of life and access to rural areas;

5.1.3. Chapter 8 of the Plan deals with General Location and Pattern of Development. Section 5.5, and Table 32, deal with Development Management Standards, including for Agricultural Development under DM 33. DM 33 states as follows:

General Consideration for agricultural buildings:

Agricultural developments have the potential to impact on the environment and the landscape. The traditional form of agricultural buildings is disappearing with the onset of advanced construction methods and wider range of materials. Some new farm buildings have the appearance of industrial buildings and due to their scale and mass can have serious major visual impacts.

In dealing with applications for agricultural developments the Planning Authority will have regard to the following:

- 1) Require that buildings be sited as unobtrusively as possible and that the finishes and colour used will blend the development into its surroundings.
- 2) The proposed developments shall meet with the requirements of the Department of Agriculture with regard to storage and disposal of waste.
- 3) The Council accepts the need for agricultural buildings and associated works (walls, fences, gates, entrances, yards) to be functional but they will be required to be sympathetic to their surroundings in scale, material and finishes.
- 4) Buildings should relate to the landscape. Traditionally this was achieved through having the roof a darker colour than the walls.
- 5) Appropriate roof colours are dark grey, dark reddish brown or a very dark green. Where cladding is used on the exterior of the farm buildings dark colours should be used.
- 6) All agricultural buildings should be located an adequate distance from any watercourse to reduce the risk of contamination.

## **5.2. Natural Heritage Designations**

The subject is not located within a designated site. The site is, however, within 700m of the River Barrow And River Nore SAC, Site Code 002162, and 1km from the River Nore SPA, Site Code 004233.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

This is a third party appeal against the decision of the Planning Authority to grant permission for the retention of the agricultural development. The submission provides a background to the context of the site and the proposed development. The

issues raised are similar to those submitted to the Planning Authority and are summarised as follows:

- Residential amenity will be impacted upon given the scale of the development, which is a purely commercial entity, and the largest such facility possibly in the County.
- The appellants are fully exposed to noise and disturbance associated with the traffic arising.
- There is precedent for refusals by the Board in terms of the scale of agricultural developments and the impact on residential amenity. The subject application did not include any assessment of alternative locations on his large farmholding.
- It is requested that the development be refused but in the event that the Board does not agree, it is requested that an alternative access be provided at a 40m distance from the residence and with screen planting. Such an alternative would also require that the existing lane is not used.
- Issues raised in relation to the lack of Appropriate Assessment. The existing drain along the laneway connects to a small stream which then flows into the Owenbeg River.
- No details of soiled surface water arrangements accompany the application and no nutrient / fertiliser management is provided.
- The location of the proposed soakpit is waterlogged. The site is located on the border of a Regionally Important Aquifer with an extreme vulnerability.
- Impact on the road surface of the laneway.
- Issues raised in relation to the conditions attached to the grant of permission.

There are enclosures with the appeal including a letter from the appellants and all necessary documents.

## 6.2. Applicant Response

None

### 6.3. Planning Authority Response

None

## 7.0 Assessment

7.1. Having regard to the nature of the appeal before the Board, together with the information presented in support of the development, technical reports and third party submission, I consider it appropriate to assess the development under the following headings:

- Scale of development & Impacts on Residential Amenity
- Other Issues
- Appropriate Assessment

7.2. Scale of development & Impacts on Residential Amenity

7.2.1. The subject site is located within a rural area of Co. Laois where the land use in the surrounding area is predominantly agricultural. The original farm comprised a small yard in proximity to the farmhouse, and included a couple of small sheds. This yard was extended to the south west where a straw shed and slatted house, identified as buildings no. 4 on submitted plans, was developed. In addition, a larger, slatted house was constructed to the west which included two slatted tanks, identified as building 5, and a further slatted tank, building no 9, to the north of this building. This additional slatted tank is the subject of this retention application.

7.2.2. On the date of my inspection, the Board will note that all slatted houses were filled with animals. It is clear that the figures provided by the applicant in this instance do not include all the animals housed within the yard. The floor area of the existing buildings on the site is indicated as 708m<sup>2</sup> while the building to be retained has a stated floor area of 1266m<sup>2</sup>. The slatted tanks to be retained are indicated as having a capacity of 439.69m<sup>3</sup>. A separate dairy washing tank with a capacity of 155.12m<sup>3</sup> is also proposed. A planning history search for the site indicates that permission exists for the following:

Animal Housing: 429m<sup>2</sup>

Slatted tank capacity: 133.75m<sup>3</sup>



Silos / Soiled Yards / Dairy:	333m <sup>2</sup>
Storage buildings	136.23m <sup>2</sup>

In terms of the proposed development, there is no doubt that the building the subject of this retention application is significantly larger than the original established and permitted farming enterprise at this location. Overall, the scale of the farming enterprise at this site has dramatically increased in my opinion, with the erection of the building, the subject of this retention application.

7.2.3. The application indicates that 110 animals can be accommodated within the building the subject of this retention application. The application form indicated that the development will accommodate 55 dairy cows and 55 young cattle. This is not actually the case however as it is further indicated that the calving boxes can accommodate a further 38 livestock units. Livestock units equates to 38 animals over 2 years old or upto 63 animals under 2 years old. As indicated above, I am concerned the existing numbers of animals have not been included in the figures, and in this regard, I consider that the scale of the operation at this location gives rise to significant concerns, and in particular, how it impacts on the existing residential amenity of the residents in the immediate area.

7.2.4. The location of the farmyard is at the end of a cul-de-sac road, which is used by two families, the applicant and the appellants who also are residents at this location. The appellants have a smaller landholding to the north east of the subject appeal site and this farmstead includes a collection of agricultural buildings, yard and family home. The access to the subject site runs immediately adjacent to the appellants family home. Given the scale of the current operation on the subject site, there is no doubt but that there is potential for impacts arising on the existing residential amenities of the home, notably in terms of noise and traffic, together with the operational hours that arise in a farming enterprise.

7.2.5. Overall, and having regard to the lack of any real detail in the submitted planning application documents, I would not be satisfied that the development, if permitted, would adequately protect the existing residential amenities of the residents living immediately adjacent to the site. While I acknowledge the separation distance between the building and the residential property, having regard to the access arrangements, together with the scale and intensification of use at the farm

yard, I am not satisfied that the development can be accommodated without serious injury to the existing residential amenities of the area. In addition, I note the scale of the landholding available to the applicant and consider that a more appropriate location within the landholding could reasonably be identified.

### 7.3. Other Issues

The Board will note that the appellants have requested, should the Board be minded to grant permission in this instance, that consideration be given to the provision of an alternative access to the site over lands in the applicants ownership, eliminating the need to pass directly adjacent to the appellants home. This matter might be considered by the Board. However, the intensification of use at the site is significant, in my opinion, and I do not consider that such a proposal would eliminate the impacts on the residential amenity of the property due to the scale of the development for retention.

### 7.4. Appropriate Assessment:

7.4.1. The subject is not located within a designated site. The site is, however, within 700m of the River Barrow And River Nore SAC, Site Code 002162, and 1km from the River Nore SPA, Site Code 004233. The Board will note that neither the applicant nor the Planning Authority considered matters of AA other than to state within the Planning Report that the subject site is not located within or adjacent to a European designated site. This is clearly not the case having regard to the proximity of the site to the SAC as indicated above, and the presence of a small watercourse in the vicinity of the site.

7.4.2. Through the PAs assessment of the proposed development, an issue in relation to the management of surface waters arising at the site was raised. I would note that there are discrepancies and omissions in the plans and particulars submitted in support of the proposed development. Notably, the concrete and hard core areas are not clearly identified. In addition, the Board will note that the original proposal to deal with surface water was to discharge to a watercourse. It was at the request of the Planning Authority, that the applicant proposed a soakway. Access to the area of the proposed soakway was restricted on the date of my inspection.

7.4.3. In terms of the potential impacts of the development on the integrity of the Natura 2000 site, the Board will note that a number of the conservation objectives for

the site relate to the chemistry and mineral content of the groundwater necessary to support the qualifying interests of the European Site. The subject site is located within an area which has been identified as a Regionally Important Aquifer - Karstified (diffuse) which has an extreme groundwater vulnerability. Having regard to the location of the site, together with the topography of the area, and the lack of clarity in terms of the management of surface water disposal, I have serious concerns that the development has the potential to have a significant effect on the European site, in view of the sites conservation objectives.

7.4.4. Proposals for the management of surface water arising on the site were amended following a request for further information, however, I am not satisfied that the matter has been appropriately addressed. Using the Source-Pathway-Receptor model, it is clear that the site drains in two directions, east and west, and towards rivers which comprise part of the Natura 2000 site, including the River Nore to the West. In addition, reference was made by the applicant to a watercourse into which it was proposed to discharge surface waters. This watercourse is located along the northern side of the access laneway and it is advised that it ultimately flows into the Owenbeg River. On the basis of the information provided with the application and appeal, I cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European sites, the River Barrow And River Nore SAC, Site Code 002162, and River Nore SPA, Site Code 004233, or any other European site, in view of the site's Conservation Objectives.

## **8.0 Recommendation**

8.1. It is recommended that permission be refused for the following stated reasons.

## 9.0 Reasons and Considerations

1. Having regard to the scale and intensive nature of the proposed development to be retained and completed, and the proximity to the adjoining residential property, it is considered that the proposed development would seriously injure the residential amenities of this property due to noise, traffic and odour. Furthermore, the Board is not satisfied on the basis of the submissions made in relation to the planning application and the appeal that the proposed location of the large structure has been adequately justified. The retention and completion of the development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. On the basis of the information provided with the application and appeal and in the absence of any appropriate assessment, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European sites, the River Barrow And River Nore SAC, Site Code 002162, and River Nore SPA, Site Code 004233, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

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A. Considine  
Planning Inspector

8<sup>th</sup> March, 2018