



An
Bord
Pleanála

Inspector's Report ABP-300338-17

Development	Retention of a Slatted Shed (Gross Floor Space to be Retained 151 Sqm).
Location	Carrowkeel Townland, Clonbur, County Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	17/1317
Applicant(s)	Andrew & Damien Holleran.
Type of Application	Permission.
Planning Authority Decision	Grant Permission with conditions
Type of Appeal	First / Third Party
Appellant(s)	Riona and Monica Canney.
Observer(s)	None.
Date of Site Inspection	21 st February 2018.
Inspector	Bríd Maxwell

1.0 Site Location and Description

1.1. The appeal site refers to an area of .5664 hectares within the townland of Carrowkeel, approximately 1.6km to the southwest of Clonbur Village, in Co Galway. The appeal site is located off a local cul de sac road which serves a number of farm dwellings and farm holdings. The area is remote and sparsely populated. The site is occupied by a number of agricultural and shed structures and is located adjacent to an established farm dwelling house, owned by the applicant's mother. There is another dwelling, the family home of the objectors, located approximately 38m to the north west of the appeal site. There are a number of agricultural sheds in the vicinity.

2.0 Proposed Development

2.1. The proposal seeks permission for the retention of a slatted shed of 151m² incorporating a slurry tank with a capacity of 89.67m³. The application details indicate that initially it was thought that the slatted shed was exempt from planning permission. The slatted shed is located approximately 27.5m from the north-western boundary of the appeal site is a lean to structure with mass concrete lower wall and metal cladding to upper wall and roof.

3.0 Planning Authority Decision

3.1. Decision

By order dated 4/9/2017. Galway County Council decided to grant permission and 9 conditions were attached including:

- Condition 4. All uncontaminated surface water to be disposed of on site to appropriately sized soakaways.
- Condition 6. Foul effluent to be conveyed through properly constructed channels to appropriate storage facilities and no effluent or slurry to discharge to stream, river watercourse or the public road.
- Condition 8. Development in accordance with the European Union Good Agricultural Practice for Protection of Waters.

- Condition 9. No land spreading preceding during or immediately after periods of unusual heavy rainfall on frozen ground on lands subject to flooding or at any time during which there would be heavy run-off surface water.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

Planner's report notes that the site is located in an area designated as landscape sensitivity class 4 and within the Gaeltacht. Permission recommended subject to conditions.

3.2.2. Other Technical Reports

Environment Section report expressed indicates satisfaction that there is adequate storage and management of farm effluent for the closed period. NMP is provided indicating land banks for landspreading.

3.3. **Third Party Observations**

Submission from CMH Architectural Design and Technology on behalf of the appellants, Riona and Monica Canney whose family home is the dwelling immediately northwest of the site. Grounds of objection are outlined as follows:

- Application should be deemed invalid given failure to reference the slurry tank in the description, absence of dimensions on elevations and sections, lack of topographical survey. Copyright infringement and inaccuracies on map.
- Previous commitments to screening and pollution prevention not adhered to.
- 16/1133 previously refused principally due to size of slurry tank.
- Building is within 50m of the Canney home and concerns arise regarding slurry leakage, fumes, odour and non-compliance with environmental guidelines. Note reliance on a second unauthorised shed for slurry storage.

- Potential for ponding giving rise to pollution arising from discharge of non contaminated water to a soakpit.
- Inaccuracies of nutrient management plan.
- Water supply inadequate.
- No detail of surface of access road. Potential for debris on the public road.
- Landscaping scheme including evergreen leylandii inappropriate.

4.0 Planning History

161133 Refusal of permission for retention of a slatted shed, (Gross floor space 151 sq.m) for the following reason:

“It is considered that the development due to the insufficient capacity within the slurry tank (manure storage area) to serve the development, and the proximity to existing residential properties, would seriously injure the residential amenity of occupants and depreciate the value of property in the vicinity by way of odours and would be prejudicial to public health. Accordingly, to grant permission for the development here proposed would be contrary to the provisions of DM Standard 33 and Chapter 11 of the County Development Plan 2011-2021 and to the proper planning and sustainable development of the area.”

5.0 Policy Context

5.1 European Communities (Good Agricultural Practice For Protection of Water) Regulations 2017. SI No 605 of 2017.

5.1.1. The Regulations provide statutory support for good agricultural practice to protect waters against pollution. The Regulations place certain obligations on occupiers of agricultural holdings in relation to farmyard management, collection and storage of manures, slurry, soiled water etc. nutrient management and prevention of water pollution. They also set out minimum requirements for storage, set limits on the land

application of fertilisers and establish periods when land application of fertiliser (organic and chemical) is prohibited.

- 5.1.2. Under the Regulations, the country is divided into four areas with varying storage period requirements for livestock manure (Schedule 3). Prohibited spreading periods are set out in Schedule 4. The appeal site is within an area, which specifies a minimum storage period of 18 weeks. The land application of waste is prohibited between the period from October 15th to January 12th for organic fertiliser (other than farmyard manure) and from November 1st to January 12th for farmyard manure.

5.2. Development Plan

- 5.2.1 The Galway County Development Plan 2015-2021 refers.

Chapter 11 sets out agricultural policy

Objective AFF1 Sustainable Agriculture

Objective AFF4 Intensive Agriculture Developments

Objective AFF5 Compliance with EU Habitats Directive

Development Management Standards 33 and 34.

5.3. Natural Heritage Designations

There are a number of designated sites within 15km including:

- Lough Corrib SAC
- Kildun Souterrain SAC
- Clyard Kettle Holes SAC
- Nocorca Lough SAC
- Lough Carra / Masc Complex SAC
- Ballymaglancey Cave Cong SAC
- Cloughmoyne SAC
- Maumturk Mountains SAC
- Connemara Bog Complex SAC

- Lough Corrib SPA
- Lough Masc SPA

6.0 The Appeal

6.1. Grounds of Appeal

The appeal is submitted by Riona & Monica Canney, Carrowkeel, Clonbur. Grounds of appeal are summarised as follows:

- Appellants live with their elderly mother in the dwelling immediately to the northwest of the building proposed for retention.
- Application is invalid on basis of failure to include slurry tank in description, lack of dimensions on elevations and sections, inadequate description and misrepresentative site layout and copyright infringement.
- Proximity to Canney home with slurry tank on the end closest to the dwelling.
- Serious concerns regarding slurry leakages, foul odour and non-compliance with environmental guidelines.
- Discrepancy regarding animal numbers since previous application.
- Non contaminated water is proposed for discharge to soakpit. – No demonstration of site capacity. Potential for ponding, flooding and pollution.
- No record of planning permission for existing structures which are relied upon for slurry storage capacity. As unauthorised structures these should have been included in the application for retention also.
- Lack of clarity with regard to the nutrient management plan.
- Water supply inadequate.
- No details on surface of access road to the building.
- Landscaping proposal including evergreen leylandii is entirely inappropriate,

6.2. Applicant Response

6.2.1 The response to appeal is submitted by Tony Coyne, Planning and Building consultant on behalf of Andrew and Damien Holleran.

- Notes the shed initially understood to be exempt from planning permission given its area of less than 200m² and location within an existing farmyard.
- Farm of 36 hectares has been in the Holleran family holding for generations.
- Additional animal housing is required to ensure viability of the farm.
- Alterations were carried out to the intended design to mitigate negative visual impact from the Canney's home including alteration from 2 bay back to back shed to a 4 bay open shed incurring additional cost.
- Spreading of slurry is a normal occurrence in the countryside.
- Appellants do not reside at Carrowkeel.
- Application was deemed valid by Galway County Council.
- Building is 68m away from Canney home.
- Shed is built to the highest standards – no concern regarding leakage.
- Nutrient management plan provided.
- Surface water will be disposed to appropriately designed soakaway constructed in accordance with BRE Digest 365 as shown on site layout plan.
- Existing slatted shed was built by applicant's father approximately 10 years ago and does not form part of the application.
- Water supply is temporarily from applicant's mothers house and it is intended to set up water storage tanks to collect rainwater from the roofs of the sheds.
- Access to the sheds will be by way of solid surface of mix of hardcore and grass. Outside the gates is a concreted surface.
- Landscaping scheme proposes evergreen leylandii for screening purposes.

6.3. Planning Authority Response

The Planning Authority did not respond to the appeal.

7.0 **Assessment**

7.1 Having examined the file, considered the prevailing local and national policies, inspected the site and assessed the proposal and all submissions, I consider the key issues arising in this appeal for determination by the Board relates to the principle of the development proposed for retention and the impact on the residential and other amenities of the area.

7.2 The third party appellant has questioned the validity of the application citing the quality of the submitted drawings and failure to refer to the slurry tank within the description provided in the public notices. I note that the public notices refer to “retention of a slatted shed”. As would be the norm, storage structures would be required in conjunction with such a structure and in my view the third party appellants were not prejudiced in terms of their understanding of the nature of the development proposed for retention by the failure to refer specifically to the slurry tank within the development description. As regards the quality of the submitted drawings I note that the Planning Authority was satisfied that the drawings were in accordance with the requirements of Articles 22 and 23 of the Planning and Development Regulations 2001, as amended and therefore deemed the application to be valid. I note that the drawings are to scale and in my view are adequate for the purposes of assessment of the development proposed for retention. As regards allegations of copyright infringement such matters are not strictly matters for determination within the scope of planning and development legislation. The third party appellant party has questioned the status of the overall farm complex and asserts that permission for retention should be sought for the other shed slatted shed structure. I note that the applicant indicates that this structure was constructed by his father more than ten years ago and details provided on the appeal file are limited to the development proposed for retention and I consider that it is appropriate to determine the appeal case on its own merit.

7.3 The appeal site is part of a well-established overall farm holding of approximately 37 hectares. Application documentation indicates a herd in 2017 of 14 suckler cows, 6 cattle 0-6 months 3 cattle 6-12 months and 1 cattle 24 months+ giving a total of 24 animals. I note the inaccuracies within the submitted nutrient management plan and

as acknowledged by the first party this gave rise to an unfortunate degree of confusion. It is evident that the works subject of the application are for the purpose of improving the running of the farm and reducing the possibility of negative environmental effects. Having regard to the well-established nature of the farm complex, I consider it reasonable that there would be a presumption in favour of improving and upgrading farm buildings to meet current farming standards including provision for adequate slurry storage.

- 7.4 The circumstances of the appellant's family home which is located within approximately 67m to the northwest of the structure propose for retention are depicted on the site layout plan and in site maps and photos appended to this report. I note that the shed proposed for retention is to the rear and downslope of the established structures located towards the north western boundary and given its location, orientation and design is not visually prominent from the northwest nor indeed in the vicinity generally. As regards the proposed screening by way of leylandii I consider that native tree screen would indeed be more appropriate. I further note that there are trees within the appellant's site which provide a level of screening with further opportunities in this regard. As regards potential negative amenity impacts, I note the established nature of this farm complex and rural / agricultural character of the immediate area and I do not consider that any significant loss of residential amenity due to potential odour noise or other nuisance will arise. I consider that subject to ongoing good farm management and practice no significant negative amenity impacts are likely.
- 7.5 On the issues of proposed disposal of uncontaminated surface water to soakpit, I consider this to be appropriate. As regards to the water supply I note the current established connection to the domestic supply and intention to provide for rainwater harvesting which is considered to be reasonable.
- 7.6 On the issue of appropriate assessment under the Habitats Directive (92\43\EEC) having regard to the nature and scale of the development proposed for retention and nature of the receiving environment, 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 Recommendation

I have read the submissions on file, visited the site and had due regard to the provisions of the Development Plan and all other matters arising. I recommend that planning permission to retain the development be granted subject to the following conditions.

Reasons and Considerations

Having regard to the nature and extent of the development to be retained and to the history of on-site agricultural activity, to the existing character and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development to be retained would not seriously injure the amenities of the area or of property in the vicinity and would therefore be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. A minimum of 18 weeks storage shall be provided in the underground storage tank. Prior to commencement of development, details showing how it is

intended to comply with this requirement shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of environmental protection and public health.

3. *The slatted shed 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, 2017 (SI No 605 of 2017), and shall provide at least for the following:*

- (1) Details of the number and types of animals to be housed.
- (2) The arrangements for the collection, storage and disposal of slurry.
- (3) Arrangements for the cleansing of the buildings and structures.

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

4. Slurry generated by the proposed development shall be disposed of by spreading on land, or by other means acceptable in writing to the Planning Authority. The location, rate and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in accordance with the requirements of the European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2017 (SI No 605 of 2017).

Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of water courses.

5. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. In this regard-

- (a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and
- (b) all soiled waters, shall be directed to the slatted storage tank. Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of environmental protection, public health and to ensure a proper standard of development.

- 6. All foul effluent and slurry generated by the proposed development and in the farmyard shall be conveyed through properly constructed channels to the storage facilities and no effluent or slurry shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road.

Reason: In the interest of public health.

- 7. The landscaping of the development shall incorporate a continuous hedge of indigenous species eg holly, hawthorn or beech which shall be planted along the north-western boundary.

Reason: In the interest of visual and residential amenity.

Bríd Maxwell,

Planning Inspector

6th March 2018