



An  
Bord  
Pleanála

## Inspector's Report ABP300375-17

### Development

To retain existing cattle crush and concrete plinths and construction of extension to existing livestock slatted house, to accommodate calf pens for existing livestock together with ancillary works.

### Location

Moyasta, Kilrush, County Clare.

### Planning Authority

Clare County Council.

### Planning Authority Reg. Ref.

P17/705.

### Applicant

John Galvin.

### Type of Application

Permission and Retention of Permission.

### Planning Authority Decision

Grant.

### Type of Appeal

Third Party -v- Grant.

### Appellants

Christopher and Galina Heaney.

### Observers

None.

### Date of Site Inspection

7<sup>th</sup> March, 2018.

### Inspector

Paul Caprani.

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## **1.0 Introduction**

ABP300375-17 relates to a third party appeal against the decision of Clare County Council to issue notification to grant retention of planning permission for an existing cattle crush and concrete plinths and construction of an extension to an existing livestock slatted house. The grounds of appeal argue that the proposed development is located in too close a proximity to residential development, has been operating in an authorised manner and will continue to give rise to issues in respect of pollution and flooding as well as cause general noise nuisance disturbance and odour problems.

## **2.0 Site Location and Description**

The subject site is located on the northern environs of the small village of Moyasta in south County Clare. The N67 runs through the village and links the larger settlements of Kilrush and Kilkee in south-west Clare. The appeal site is located to the rear of a number of dwellinghouses which front directly onto the eastern side of the N67 in the northern environs of the village. The subject site is accessed via a small laneway which ends in a cul-de-sac parallel to the national secondary route. The site is roughly rectangular and has a stated area of 1.85 acres. Dwellinghouses are located to the immediate west and south-west of the subject site. The northern portion of the subject site comprises of an open yard together with a machinery store/isolation pen, a general store and an existing farmhouse. An existing cattle crush area is located adjacent to an existing linear cattle shed and slatted unit. The slatted unit and shed is located adjacent to and faces onto the access along the eastern boundary of the site. A small field separates the existing farmbuildings from the boundaries of the dwellinghouses to the south and west. A small stream runs south along the north-western boundary of the site to an inlet which forms part of the Poulnisherry Bay, part of the wider Shannon Estuary. This inlet forms part of the River Shannon and River Fergus Estuaries SPA and Lower River Shannon SAC. The European site designation does not encroach on the boundary of the site. The western boundary of the site is located adjacent to the boundary of the Lower River

Shannon SAC (circa 3 to 4 metres from the boundary of the SAC). A series of drainage channels are also located along the field boundaries within lands to the east of the SAC.

### **3.0 Proposed Development**

- 3.1. Planning permission is sought for the retention of the existing cattle crush and concrete plinths as constructed on site to the immediate south of the existing livestock shed and slatted house (which was granted planning permission under Planning Ref. P10/176). The cattle crush comprises of a series of gates and pens together with concrete type pillars which is used to corral and hold livestock for health inspections and dosing etc. The agricultural gates to be retained are typical metal gate structures rising to a general height of 1.8 metres. The cattle crush area is located between the existing livestock shed and the southern boundary of the site.
- 3.2. Planning permission is also sought for the extension to the cattle shed to the south and west of the existing shed. The shed is to be extended to cover the existing cattle crush area and is also to be extended westwards to the rear of the existing shed. As in the case of the existing shed, the ridge height of the proposed shed is 4.85 metres in height so as to match the existing. It is approximately 38.7 metres in length and 16.2 metres in width. The proposed cattle shed will cover an area of 687 square metres including the cattle crush area to be retained (84 square metres).

### **4.0 Planning Authority's Decision**

- 4.1. On 9<sup>th</sup> November, 2017 Clare County Council issued notification to grant planning permission for the retention of the existing cattle crush together with concrete plinths and the new extension to the existing livestock slatted house.
- 4.2. **Planning Authority Assessment of the Proposed Development**
- 4.2.1. The planning application together with planning fee and public notices etc., was submitted to the Planning Authority on 15<sup>th</sup> September, 2017. A covering letter submitted with the application states that the proposed extension is for the purposes of wintering/housing existing stock and mainly calving pens. The purposes of the extension to the cattle shed is to provide better housekeeping of the farm. The

proposed extension is to accommodate existing livestock with no increase in numbers and no additional slurry pit area will be required.

#### 4.3. **Observations**

- 4.3.1. A letter of objection from the current applicants has been read and noted.

#### 4.4. **Internal Planning Reports**

- 4.4.1. **An Environment Report** states that an inspection of this farm took place in August, 2017 on foot of a complaint from a neighbouring property. A farm inspection was carried out where details of animal numbers, capacity, farm practices etc., were taken. The outcome of this survey concluded that the applicant has sufficient slurry storage capacity for the requiring 18 week storage period as prescribed in the Good Agricultural Practice Regulations. Grassland stock rates when assessed were found to be within prescribed limits for nitrogen and phosphorous. Any straw used in the calving pens can be piled on land in accordance with the Good Agricultural Practice Regulations therefore the Environment Department has no issues about the extension of the shed. There is no issue with regard to the cattle crush. The fact that the cattle crush is to be roofed and therefore eliminates rainwater mixing with manure deposited in this area will avoid further soiled water production. The report recommends three conditions.
- 4.4.2. The planner's report sets out details of the proposed development making reference to the report by the Environment Section contained on file. It also notes the third party observations. The assessment considers that the proposed development does not consist of a development which falls within the mandatory requirements for EIA. It is further considered that the proposed development does not give rise to any issues in respect of Appropriate Assessment. In terms of layout, siting design, and amenity, the report notes that the height of the extended structure will match the height of the existing structure and that the structure will be located 18 metres from the nearest point of the house to the south-west and 30 metres from the nearest point of the house directly west. It is also noted that there are existing mature trees along the boundary of the small field that adjoins the proposed extension. The relationship between the proposal and proximate structures is acceptable. In terms

of public health, it is noted that it is not proposed to increase the number of cattle and the farm and therefore no additional slurry storage is required. The proposed extension will not relieve the applicant of his obligations with regard to the avoidance of noise or odour nuisance under common law or other relevant statutory codes. It is therefore recommended that planning permission be granted for the proposed development.

- 4.4.3. In its decision dated 9<sup>th</sup> November, 2017 planning permission was granted subject to 9 conditions.

Condition No. 2 required the development to be constructed in accordance with the Department of Agriculture, Fisheries and Food “The minimum specification for a bovine and livestock housing”.

Condition No. 3 required that all effluents and farmyard manure shall be managed and disposed of in strict accordance with the Good Agricultural Practice for the Protection of Water Regulations 2014.

## **5.0 Planning History**

There is no planning history attached. Reference is made in the planner’s report to two previous applications on site.

Under Reg. Ref. 07/1324 permission was granted for a development of a livestock slatted unit and associated site works. The proposed unit was 175 square metres in area.

Under Reg. Ref. 10/176 permission was granted for the development of a livestock slatted unit. The proposed unit was 163 square metres in area and 33.6 metres in length. According to the report, the latter application represented an extension to the existing building which had been permitted under 07/1324.

## **6.0 Grounds of Appeal**

- 6.1. The decision of Clare was the subject of a third party appeal by Ger O’Keeffe Consulting Engineers Limited on behalf of Christopher and Galina Heaney. The grounds of appeal are outlined below.

The grounds of appeal comment on the various conditions attached to the decision of Clare County Council and suggest that Clare County Council do not appear to have addressed any of the concerns raised in the original observation to the County Council.

It is not agreed that no appropriate assessment issues arise in respect of the proposed development. It is also stated that this development is located in a designated Scenic Landscape Area.

The site is located in an area that is prone to flooding as part of Poulmasherry Bay.

It is stated that the appellant's property has been subject of pollution from the applicant's agricultural holding and drains contiguous to and within the development and conveying soiled water and farmyard effluent into the adjoining river.

The Planning Authority have not requested any further details in relation to the rainwater harvesting methods to be incorporated into the site.

The planner's report does not take into consideration the pollution arising from the contiguous agricultural facility which is resulting in soiled water being transported to the appellant's property.

The grounds of appeal also contend that previous applications on the subject site have not been carried out in accordance with the permissions issued.

The area is primarily residential and thus allowing such a large agricultural complex, some of which it is contended is unauthorised, together with on-going issues with regard to pollution and flooding will exacerbate problems in the area. It is contended that the development cannot and will not comply with Good Agricultural Practice for the Protection of Water Regulations 2014. It is stated that the proposal is quite a substantial farm development and if allowed, will have a detrimental impact on the appellant's quality of life and living standards.

It is stated that there is water entering Poulmasherry Bay from a drainage ditch on the southern side of the site and a river on the northern side of the site.

The grounds of appeal also include a series of photographs where it is argued that these photographs indicate pollution from the applicant's lands. The photographs also show flooding which occurred in the appellant's house and garden in September, 2015.

It is argued that there is a consistent issue with noise and malodours emanating from the development which is causing serious problems for residential amenity.

The fact that the applicant in this instance wants to construct such a large shed would not support the conclusion that there would be no increase in livestock at the facility.

- 6.2. An Bord Pleanála are therefore requested to overturn the decision of the Planning Authority and refuse planning permission for the development. A number of photographs and two CDs are attached to the grounds of appeal.
- 6.3. Also attached is a personal letter from the applicants expressing concerns in relation to the odour arising from the existing facility. It is also argued that drains from the subject site flow under the road and into the River Shannon immediately adjacent to the appellant's house. The noise from the livestock is unbearable and this will be exacerbated if the sheds are located closer to the appellant's house.

## **7.0 Appeal Responses**

### **7.1. Clare County Council's Response to the Grounds of Appeal**

The planning authority notes the established farm complex at this location and considers that the extension of the cattle shed is compatible with the existing use on site. With regard to environmental concerns, reference is made to the environmental sections report of the 1<sup>st</sup> November, 2017 and it is noted that the site was inspected by the Environment Section in August, 2017.

### **7.2. Applicant's Response to the Grounds of Appeal**

- 7.2.1. The response sets out details of the background to the current application together with the site history. It states that the applicant operates his farming activities in accordance with all Department of Agricultural Regulations. It is suggested that the appellant has raised non-planning related issues such as historical flooding on the site and is attributing this to the applicant. This is not a material planning consideration and therefore cannot be considered by An Bord Pleanála. The general area around Moyasta and the river is prone to flooding due to tidal conditions and this would affect many properties on such occasions including the applicant's own house. The applicant's site has a number of drains which takes rainwater and any



access groundwater from around the existing farmhouse and garden area and these are operating successfully with no history of pollution. The drains have been inspected by Council staff and have found to be not contributing to pollution in the area. In addition, 'Newfield Agricultural Advice and Services' provide regular farm inspections and a report is attached which outlines that the farm is currently operating within agricultural guidelines including Good Agricultural Practices for the Protection of Waters.

- 7.2.2. Details of the proposed rainwater harvesting system for the collection and use of water is set out in the response. The harvested water will be used to feed cattle.
- 7.2.3. The proposed extension will be a minimum of 24 metres away from a dividing boundary and over 33 metres away from the appellant's dwelling. There is ample screening between the appellant's house and the proposed agricultural shed. This is a rural location where farming and farming related enterprise contribute to local employment. The current proposal before the Board is simply to allow the appellant to better manage his existing farm stock and to keep his stock indoors during the winter which is in line with current best agricultural practice.
- 7.2.4. With regard to the issue of unauthorised development, it is stated that the applicant is fully compliant with all planning and Department of Agriculture Guidelines. What is proposed in this instance is an extension to a farm shed for calving pens and winter housing of existing stock. There will be no increase in stock numbers and there will be no proposal to provide additional slatted units under the proposed shed. Every effort has been made to reduce any potential negative impacts by way of shed design.
- 7.2.5. In terms of odour generation, it is stated that the winds for the most part are from the south/south-west and as a result any possible odours would be carried away from the appellant's site not back towards the neighbouring property. The response to the grounds of appeal go on to outline the various policies and statements contained in the development plan and it is contended that the proposal is fully in accordance with all statements in relation to agricultural development set out in the development plan. It is stated that the proposal is also fully in accordance with the Good Agricultural Practice for the Protection of Waters Regulations. A number of photographs are

attached to the applicant's response which it is contended support the applicant's case for the proposed development.

- 7.2.6. Also attached is a report from 'Newfield Agricultural Advice Services' where it is stated that the applicant's farm was visited on two occasions in the previous 7 months and no evidence of any pollution or run-off into watercourses or streams were found. It is stated that the current facilities on the farm are of a good standard and meet the requirements set out under the regulations. Better handling facilities are required in order to reduce accidents on the farm.

## **8.0 Development Plan Provision**

- 8.1. The site is governed by the policies and provisions contained in the Clare County Development Plan 2017 to 2023. Moyasta is designated as a small village in the town. The site is not located on a scenic route but lands on the south-western side of the N67 are designated as a heritage landscape.
- 8.2. Appendix 1 of the development plan sets out details in relation to Development Management Guidelines. Section A1.11 specifically relates to agricultural developments. It states the following: The rural countryside is a natural resource with agricultural activity being particularly important. In considering proposals for agricultural developments (walls, fences, yards, stables, sheds, slurry pits etc.) the Planning Authority will have regard to the Department of Agriculture document entitled 'Guidelines and Recommendations for the Control of Pollution from Farmyard Wastes' together with the following:
- Siting and design that is in keeping with the surrounding area.
  - The use of muted colours and materials.
  - Grouping of buildings will be encouraged.
  - Adequate effluent storage facilities.
- 8.3. The Planning Authority require adequate provision for the collection and storage of disposal of effluent produced from agricultural developments. The European Communities (Good Agricultural Practice for the Protection of Waters) Regulations 2014 set out the requirement for storage of farm effluents and the minimum holding periods for storage of farm wastes. In Clare the holding period required for the

purpose of calculating waste storage facilities is 18 weeks. It is permitted to spread soiled water all year round thus the minimum holding period is 10 days. For silage the short-term storage period is 3 days. All agricultural developments must be designed and constructed in accordance with the minimum specification as set out by the Department of Agriculture, Food and the Marine.

- 8.4. Section 14.3.2 of the Development Plan specifically relates to European sites. It is the objective of the development plan to afford the highest level of protection to all designated European sites in accordance with relevant Directives and legislation on such matters.
- 8.5. The Plan also requires that all applications for development that may have (or cannot rule out) likely significant effects on European sites in view of the site conservation objectives, either in isolation or combination with other plans or projects, to submit an NIS in accordance with the requirements of the EU Habitats Directive and the Planning and Development Act 2000 (as amended).

## **9.0 Planning Assessment**

I have read the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal. I consider the following issues to be critical in determining the current application and appeal before the Board.

- Water Pollution Issues.
- Flooding.
- Visual Impact.
- Residential Amenity Issues.
- Unauthorised Development.

### **9.1. Water Pollution Issues**

- 9.1.1. The grounds of appeal argue that the existing farmyard development is giving rise to water pollution issues on the grounds that polluted water is being discharged into the river which flows into Poulmasherry Bay and also discharges directly into the

confluence point between the river and the bay via a drain which discharges into the south-west of the site.

- 9.1.2. I note that Clare County Council Environment Department carried out a site inspection in August, 2017 and found no evidence of any such pollution and were generally of the view that the farm on site complied with best practice. Having inspected the site, I would form a similar conclusion. The drain that discharges into the river to the immediate west of the applicant's dwellinghouse appears to accommodate surface water drainage only. There was no evidence to suggest that it was discharging any foul or pollution water associated with the keeping of livestock on the subject farm. Traces of what appear to be iron oxide was discernible in the outlet pipe but this can be attributed to traces of iron ore in the underlying bedrock as opposed to any pollution from the farmyard. I cannot find any evidence of nutrient enrichment in the vicinity of the outfall pipe to the front of the appellant's dwelling that would be an indication of organic pollution in the discharge.
- 9.1.3. The grounds of appeal also express concerns that nutrient enrichment and general agricultural pollution is arising as a result of the farming activities along the ditch/stream which runs along the southern boundary of the subject site and the appellant's property. Again, I inspected the discharge in the vicinity of the outfall and I can find no evidence of any eutrophication, nutrient enrichment or general organic pollution that might be associated with farming activity. Furthermore, having inspected the site I note that there was no direct link between the farm area, cattle crush and slatted shed structure and the stream/ditch which runs along the southern boundary of the site. In fact the only evidence of discharge into the stream in question was noted from the appellant's site (see photograph 12 attached) and while there may be some surface water discharge from the appellant's site again I noted no evidence of any nutrient enrichment in the receiving waters.
- 9.1.4. The applicant's existing shed incorporates a slatted storage area and it appears that all farmyard effluent is collected within the underground storage tank. While the area surrounding the shed can be described as generally muddy due to cattle being led in and out of the slatted shed there is no evidence of any farmyard manure in the area surrounding the shed which could give rise to surface water run-off and pollution in adjoining streams and watercourses. Based on my site inspection therefore I found no evidence of the existing farmyard on site contributing to water pollution. I

inspected the cattle crush which is the subject of a permission for retention and I consider this to be a well-built structure which no voids or openings which would give rise to pollution of adjoining watercourses.

- 9.1.5. In respect of the proposed shed it is not proposed to incorporate a slatted shed beneath this structure and any such structure would have to be constructed in accordance with the requirements of S.I. 31 of 2014 - Good Agricultural Practice Regulations. In accordance with these regulations the applicant will be requested to submit evidence that there is adequate storage available for all agricultural effluent produced on the farm. The applicant will be required to comply with the requirements of Part 2 of the said Regulations in relation to farmyard management which include the provision of management of storage facilities and the minimisation of soiled water from such activities. I am satisfied that any shed extension to be built on the subject site notwithstanding the comments set out in the grounds of appeal, can readily comply with such requirements.

## **9.2. Flooding**

- 9.2.1. Notwithstanding the applicant's response to the grounds of appeal which suggests that flooding is not a planning matter, I would consider the issue of flooding to be a relevant and material issue for the purposes of determining the current application and appeal. The appellant has submitted several photographs which indicate that the appellant's site and house has been the subject of flooding the most recent of which occurred in 2014. The applicant acknowledges in his response to the grounds of appeal that the area does experience flooding on occasion and this is attributed to high tides within the bay. Notwithstanding the fact that evidence has been submitted which indicates flooding in the area, I note that the OPW Flood Hazard Mapping Survey does not indicate that the site or the area surrounding the site has been subject to historic flooding.
- 9.2.2. While evidence has been provided which indicates that the area has been subject to historic flooding there is nothing to suggest that the proposed development before the Board will accentuate or exacerbate flooding in the area. There is nothing to suggest that the existing farmyard and farming activities on the subject site contributes to flooding in the area. While the proposed development before the Board seeks permission to incorporate a large extension to the existing agricultural

shed, the proposal also seeks permission to incorporate rain harvesting in order to collect rainwater for use within the farm. This suggests that any additional surface water run-off from the extended roof area of the agricultural building will be collected, harvested and recycled as part of the farming activity on the subject site. The rain harvesting seeks to capture grey non-potable water from the roof area via sealed gutters. The flow will then be passed through a series of filters and stored in an underground concrete storage tank. Water will then be utilised when required. The appellant also expresses concerns that full details in relation to the rainwater harvesting system are not contained on file. I consider this issue can be adequately dealt with by way of condition and full details in relation to the collection and harvesting system can be agreed between the applicant and the Planning Authority. The applicant's response to the grounds of appeal indicates that the proposed harvested water will be used to feed cattle. Based on the above assessment therefore I do not consider that the proposed development before the Board will in any way contribute to or accentuate flooding in the area.

### **9.3. Visual Impact**

- 9.3.1. It is argued that the proposed development is in a 'scenic landscape' area. Having consulted the development plan I noted that the subject site is not located in an area designated as scenic landscape nor is it located adjacent to a designated scenic route in the county. Lands on the opposite side of the N67 to the south-west of the subject site are designated as a "heritage landscape". A heritage landscape is defined as an area "where natural and cultural heritage are given priority and where development is not precluded but happens more slowly and carefully". In designated heritage areas there is a requirement to ensure that every effort is being made to reduce the visual impact arising from the proposal. I refer the Board to the photographs attached - particularly photograph 1; it clearly indicates that the farmyards and general farming activity are well set back and adequately screened from the main road passing to the south-west of the site. Furthermore, what is proposed in this instance is an extension to an existing shed which is situated within the confines of the farmyard. The proposal in my view therefore will not result in a deterioration of the visual amenities of the area to any appreciable or material extent. It is reasonable that the applicant, being an owner/occupier of an existing working

farm should be permitted to provide additional sheds where such sheds do not have a material impact on the visual amenities of the area as in the case in question. The applicant has also indicated in his response to the grounds of appeal that the proposed shed will fully accord with development management guidelines A1.11 as set out in the development plan which requires that such sheds be sited and designed in sympathy with the surrounding area, incorporate the use of muted coloured materials and will adhere to the principle of clustering agricultural buildings. I therefore do not consider that the proposal in any way adversely affects the visual amenities of the area.

#### **9.4. Residential Amenity Issues**

- 9.4.1. The grounds of appeal express concerns that the proposed development is located in a 'primarily residential area' and as such the intensification of farm use is wholly unacceptable and will adversely impact on the residential amenities of the area. The Board are requested to note that both the subject site and the appellant's site are located outside the designated boundary for the village of Moyasta. As a result, neither the subject site nor the appellant's site are governed by the residential zoning objective. The grounds of appeal express concerns in relation to noise and odours. I would reiterate my opinion that the appeal site is located contiguous to a working farm located in a rural area which will give rise to some levels of odour and noise. Having inspected the site and its surroundings and having particular regard to the fact that the cattle were located in the slatted shed at the time of site inspection, I do not consider that the farming activity undertaken on the subject site give rise to noise or odour levels which could be considered 'atypical' for a working farm in a rural area. While the proposed shed will bring the housing of livestock closer to the appellant's boundary, the proposed shed is still located in excess of 30 metres from the appellant's boundary and the manure pit is located in the north-eastern part of the farmyard c.80 metres from the appellant's house.
- 9.4.2. Furthermore in relation to this issue, the applicant states in his response to the grounds of appeal that there will be no increase in existing stock numbers and there is no proposal to provide additional slatted units under the proposed sheds. What is proposed in this instance therefore is not an intensification of use and therefore it

can be reasonably anticipated that levels of odour and noise associated with the existing operations on site will remain the same and will not increase as a result of the proposed development.

- 9.4.3. In conclusion therefore, I consider that the proposed development will not result in a material adverse impact on residential amenity through increased levels of noise and odour associated with the farming activity.

## **9.5. Unauthorised Development**

- 9.5.1. The grounds of appeal suggest that unauthorised development has taken place on the subject site and that previous permissions relating to works carried out on the subject site have not been carried out in accordance with the permissions granted. The Board will note that any issues in relation to unauthorised development are a matter for the Planning Authority as the competent authority in respect of planning enforcement. If the Planning Authority consider that unauthorised development has taken place on the subject site, it can, should it deem it appropriate, initiate enforcement proceedings. I do note however that the Planning Authority did not refer to any alleged unauthorised development in the planning report prepared on foot of the current application.

## **10.0 Appropriate Assessment**

- 10.1. The Poulnasherry Bay forms part of the River Shannon and River Fergus Estuary SPA (Site Code: 004077) and Lower River Shannon SAC (Site Code: 002165). At its closest point to the proposed shed is located just over 50 metres from the SAC and just less than 60 metres from the boundary of the SPA. The features of interest associated with the Lower Shannon and River Fergus Estuary SPA are as follows:

- The Cormorant
- The Whooper Swan
- The Light Bellied Brent Goose
- The Shelduck
- The Wigeon



- The Teal
- The Pintail
- The Shoveler
- The Scaup
- The Ringed Plover
- The Golden Plover
- The Grey Plover
- The Lapwing
- The Knot
- The Dunlin
- The Blackpaled Godwit
- The Bartailed Godwit
- The Curlew
- The Redshank
- The Greenshank
- Black Headed Gull
- Wetland and Waterbirds.

10.2. The features of interest associated with the Lower Shannon SAC include the following:

- Sandbanks which are slightly covered by sea water all the time.
- Estuaries.
- Mudflats and sandflats not covered by sea water at low tide.
- Coastal lagoons.
- Large shallow inlets and bays.
- Reefs.
- Perennial vegetation of stony banks.

- Vegetated sea cliffs of the Atlantic and Baltic coasts.
- Salicornia and other annuals colonising mud and sand.
- Atlantic salt meadows.
- Mediterranean salt meadows.
- Watercourses of plain to montane levels with ranunculion fluitantis and callitricho-batrachion vegetation.
- Molinia meadows of calcareous, peaty or clay silt laden soils.
- Alluvial forests with alnus glutinosa and fraxinus excelsior.
- Freshwater pearl mussel.
- Sea lamprey.
- Brook lamprey.
- River lamprey.
- Salmon.
- Common bottlenose dolphin.
- Otter.

10.3. There are a large number of qualifying interests associated with both Natura 2000 site designations. There is an apparent hydrological connection between the subject site and the designated Natura 2000 sites in question. Notwithstanding the hydrological connection together with the close proximity between the subject site and the designated Natura 2000 sites, I have argued in my assessment above that evidence from my site inspection indicates that the existing farmyard activity is not giving rise to any pollution of adjoining watercourses which feed into the Natura 2000 sites in question. The drain which directly discharges into the river which feeds into the designated Natura 2000 site does not appear to accommodate or discharge or any soiled water associated with the farming activities. Furthermore, I am satisfied that the existing cattle crush and slatted shed is not resulting in any discharges of soiled or polluted water into the stream which runs along the southern boundary of the site and discharges directly into the Natura 2000 sites in question. I am also satisfied that the cattle crush which was constructed to the south of the existing

slatted shed is of sufficient structural integrity to ensure that no surface water run-off will contaminate surrounding watercourses. With regard to the proposed new shed to be constructed on site, I note that any surface water run-off from the roof will be directed into a water harvesting tank to be used as part of the farming activities. The proposed new shed therefore will not give rise to any potential water pollution or contaminated surface water run-off which could affect the qualifying interests associated with the Natura 2000 sites.

- 10.4. As the surface water run-off associated with the existing farming enterprise on the subject site will remain relatively clean and uncontaminated, the proposed development will not have any indirect effects in terms of impacting on feeding grounds associated with either the avian species associated with the SPA or the aquatic species associated with the SAC. Furthermore, there is no evidence to suggest that there would be any cumulative impacts arising from other plans or projects in the area. It is reasonable to conclude on the basis of the information on file, which are considered 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. 004077 or 002165 or any other European site in view of the site's conservation objectives and a Stage 2 Appropriate Assessment and the submission of an NIS is therefore not required.

## **11.0 Conclusions and Recommendation**

Arising from my assessment above therefore I recommend that the decision of Clare County Council be upheld in this instance and that retention of planning permission be granted for the cattle crush and that planning permission be granted for the proposed extension to the agricultural shed and all ancillary works.

## **12.0 Decision**

Grant planning permission in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

### 13.0 Reasons and Considerations

It is considered that the proposal to retain the existing cattle crush and concrete plinths together with the construction of a new extension to the existing livestock shed subject to conditions below would not seriously injure the visual amenities of the area or of property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### 14.0 Conditions

1. The developer 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 details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the 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 shall be constructed in accordance with the Department of Agriculture, Food and the Marine S124 “Minimal Specification for Calf Housing” – July 2016.

**Reason:** In the interest of public health.

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

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

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

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

**Reason:** In the interest of public health.

- 5. All uncontaminated roof water from the proposed agricultural building shall be separately collected and shall be incorporated into a rainwater harvesting system details of which shall be subject of written agreement with the planning authority prior to the commencement of development.

**Reason:** In the interest of public health.

- 6. 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, 2014 (SI No. 31 of 2014).

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

7. Details of the finish of the proposed calf shed, the location of fencing of paddocks and other areas and the design shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The finished floor area of the building shall not be more than 300 millimetres above the existing ground level.

**Reason:** To allow the planning authority to assess the impact of these matters on the visual amenity of the area before development commences and in the interest of orderly development.

8. Stock numbers shall be managed in such a manner that the amount of livestock manure applied in any year to the eligible area of the landholding, together with that deposited to the land by livestock shall not exceed an amount containing 170kg of nitrogen per hectare per annum as outlined in the European Communities (Code of Good Agricultural Practice for the Protection of Waters) Regulations 2014.

**Reason:** In the interest of public health.

9. The field to the immediate west of the proposed extension and within the application site shall be landscaped in accordance with the requirements of the planning authority. Details of the proposed landscaping shall be submitted for written agreement prior to the commencement of development.

**Reason:** In the interest of visual amenity and to protect the rural character of the area.

10. The developer shall pay to the planning authority a financial contribution of €1,070 (one thousand and seventy euros) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Paul Caprani,  
Senior Planning Inspector.

26th March, 2018.