



An  
Bord  
Pleanála

## Inspector's Report ABP300848-18

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<b>Development</b>	Retain shed and erect a new shed.
<b>Location</b>	Bayland, Kilnora, County Wexford
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20171472
<b>Applicant(s)</b>	O'Sullivan Agricultural Services
<b>Type of Application</b>	Retention/Permission
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	1. David Lane 2. Ronan Pelow
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	14 <sup>th</sup> May 2018
<b>Inspector</b>	Hugh Mannion

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	3
4.0 Planning History.....	4
5.0 Policy Context.....	4
5.1. Development Plan.....	4
5.3. Natural Heritage Designations .....	5
6.0 The Appeal .....	5
6.1. Grounds of Appeal .....	5
6.2. Applicant Response .....	5
6.3. Planning Authority Response.....	5
6.4. Observations .....	5
6.5. Further Responses.....	6
7.0 Assessment.....	6
8.0 Recommendation.....	11
9.0 Reasons and Considerations.....	11
10.0 Conditions .....	11

## 1.0 Site Location and Description

- 1.1. The application site has a stated area of 1.685ha and is located about 1km southwest of Camolin village in north County Wexford. The site comprises two elements. First, an existing agricultural supplies business with three large shed structures (one lean-to roofed shed is the subject to this application for retention) and a large concrete/hardcore forecourt which provides a turning area and open storage for agricultural fertilizer. Second, an area of open agricultural field which runs along the south-eastern boundary. This second area will accommodate a new shed, a septic tank and surface water attenuation/treatment works.
- 1.2. The area is generally rural and the land use predominantly agriculture. Access to the N11 is about 200m to the east via a local level road fronting the site.

## 2.0 Proposed Development

- 2.1. The proposed development comprises
- 1) the retention of an existing lean-to shed 784m<sup>2</sup> on the north-western boundary used as a loading area,
  - 2) erect a new shed 2,713m<sup>2</sup> for use as a grain, fertilizer and general store,
  - 3) relocation and upgrading of the WWTP.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to grant permission with conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The planner's report recommended a grant of permission as set out in the manager's order.

3.2.2. Other Technical Reports:

3.2.3. The **Roads Inspection Report** recommended a grant of permission with conditions.

3.2.4. The **Environment Section** recommended a grant of permission with conditions.

## 4.0 Planning History

Permission was previously refused for a similar development under reference 20170125 because of traffic hazard and lack of car parking spaces.

## 5.0 Policy Context

### 5.1. Development Plan

5.2. The Wexford County Development Plan 2013-2019 is the relevant development plan for the area. Section 18.15.2 sets out criteria for the assessment of industrial and enterprise developments. These are;

- The existing road network can safely handle any extra vehicular traffic generated by the proposed development or suitable developer-led improvements are identified and delivered to overcome any road problems.
- Adequate access arrangements, parking, manoeuvring and servicing areas are provided.
- The development incorporates safe and direct access routes for pedestrians and cyclists and suitably designed cycle parking areas.
- The site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity.
- Appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view.
- In the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.

### 5.3. **Natural Heritage Designations**

See AA section below.

## 6.0 **The Appeal**

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

- The proposed development is intensification of use on the site and will endanger public safety due to traffic hazard.
- The proposed development will give rise to dust and noise.
- Opening hours should be regulated.
- The site is in a rural area remote from appropriately zoned lands.
- The site is too restricted to accommodate the proposed development and 75% will be covered with building or hard surface.

### 6.2. **Applicant Response**

- The proposed development will not give rise to traffic hazard.
- The storage of chemicals will not give rise to water pollution.
- Dust dispersal from the site will be mitigated by measures set out in the application.
- No additional noise impact will arise from the proposed development.
- Limiting operational hours would impact negatively especially at harvest time.

### 6.3. **Planning Authority Response**

None

### 6.4. **Observations**

None

## 6.5. Further Responses

None

## 7.0 Assessment

### 7.1. Road Safety

- 7.2. The County Development Plan includes as a criterion for the assessment of applications for commercial/enterprise development that the road network should have capacity to accommodate additional traffic arising from the proposed development. The appeal makes the point that the proposed development will give rise to traffic hazard.
- 7.3. The proposed development has access to a local road (L5071) which is without a central median line or footpaths. There is a rising gradient north-westwards in the local road from the site entrance; on the other side of the entrance the road slopes down towards its junction with the N11 about 200m to the southeast. There is a significant agricultural enterprise opposite the application site with extensive buildings, two access points to the same local road and an associated house. There is another dwelling house at the junction of the local road and the N11 with access to the same local road. The planning authority's Roads Report raised no traffic safety issues in this case and recommended a grant of permission with conditions.
- 7.4. It is significant that this is an enterprise which serves the predominant land use in the area which is agriculture. The access is onto a local road where the 80kms/hour speed limit applies but given the nature of the business as the sale of agriculture related goods including fertilizer most purchasers will arrive by car/truck/tractor. The business is unlikely to attract pedestrians. The sight lines at the entrance to the local road are 60m and adequate (see site layout map – vehicle movements) and the junction of the local road with the N11 is at a point where the general speed limit of 100kms/hour applies and sightlines in both directions are also adequate. Traffic on the N11 will be reduced in the future because this stretch of N11, including Camolin village, will be by-passed by the M11 which is currently under construction.
- 7.5. Having regard to the foregoing I conclude that the proposed development will not endanger public safety due to traffic hazard.

## 7.6. Intensification of Use

- 7.7. The site is not zoned for commercial development and the appeal makes the point that the proposed development would be more appropriately located on zoned land. This point would have greater merit but for the fact that the enterprise the subject of this application serves the needs of agriculture which is the dominant land use in the area.
- 7.8. The appeal makes the point that the proposal is an unreasonable intensification of use and that the site is too restricted. The County Development Plan makes the point (see Section 18.15.2) that adequate parking, manoeuvring and servicing areas must be provided for commercial developments.
- 7.9. Although not explicit on the site layout plan (see site layout submitted to the planning authority on 14<sup>th</sup> November 2017) the application site is being extended by about 50% or 0.8ha to accommodate the proposed development. At present the south-eastern boundary runs from close to the entrance gate along a line of trees to the corner of the main existing grain store (the largest building shown on the site layout map) and then along the side wall of the existing grain store. The new boundary will move about 60m to the southeast thereby significantly increasing the area for customer parking and delivery vehicular movement/circulation. The additional area will also accommodate revised surface water and foul water management systems. The new vehicular circulation arrangements are illustrated on the see site layout map – vehicle movements.
- 7.10. An associated point arises from the previous refusal on the issue of inadequate customer parking. This issue was not raised in the road's report in the present case. Table 39 Car Parking Standards in the county development plan requires 1 space per 100m<sup>2</sup> of warehouse and 1 space per 50m<sup>2</sup> for retail warehouse/bulky goods. Depending on how these standards are applied this application could generate a customer parking requirement of either 21 or 42 spaces. The proposed site layout provides a combined 17 spaces for staff and customers. There were no customers on the premises on the Monday morning of my site visit. I consider that the proposed provision of car spaces is based on a reasonable appreciation of the car parking requirements which will arise from the proposed development.

- 7.11. Having regard to the foregoing I conclude the proposal is not an over-intensification of development on the application site.
- 7.12. **Dust**
- 7.13. The appeal makes the point that the proposed development will give rise to dust. The planning authority's Environment Section report (dated 22 December 2017) recommends a grant of permission and conditions controlling dust.
- 7.14. The application includes a dust assessment report which maps (see drawing PES17-8799-02 Rev A in the report) the residential uses near the site which are susceptible to impacts from dust. The dust assessment report concludes that restricting the loading/unloading of trucks to within the new grain store will adequately mitigate dust impacts and will maintain dust deposition outside the site to a maximum of 350mg/m<sup>2</sup> per day. The planning authority imposed that limit by way of condition.
- 7.15. Having regard to the material submitted with the application and appeal and the reports of the planning authority I conclude that the proposed development will not give rise to unacceptable dust impacts on property in the vicinity.
- 7.16. **Noise**
- 7.17. The appeal makes the point that the proposed development will give rise to noise. The planning authority's Environment Section recommended a grant of permission with a condition controlling noise. The application included a noise impact assessment. That assessment mapped the noise sensitive locations (NSL) near the site (drawing number 17-8799-091), recorded the background noise levels and predicted the noise impact for each NSL. The assessment concluded that no significant additional noise impact would arise from the proposed development in the area.
- 7.18. Having regard to the rural location of the site where noise from agricultural activity and the neighbouring road network may be expected, the existing use of the site as an agriculture supplies business, to the scale of the proposed additional development on site and to the material submitted with the application and appeal I conclude that the proposed development will not unreasonably impact on the noise environment in the area or seriously injure the residential amenity of property in the vicinity.



**7.19. Foul and surface water**

7.20. The application includes a site suitability assessment for the disposal of septic tank effluent to serve the sanitary needs of staff and visitors on site. The assessment records an average T value of 41 which is within the range of acceptable percolation test results set out in Table 6.3 of the EPA COP for WWTPs. The application proposes a septic tank/percolation system which will allow foul effluent to drain by gravity south east within the site to the septic tank and the treated effluent to the percolation area.

7.21. The suitability assessment is consistent with the observable conditions on site and surrounding topography. A visual inspection and walk over of the site supports the applicant's assessment's claim that the site is well drained and suitable for effluent disposal. The planning authority's Environment Report did not object to the application on the grounds of adequacy of effluent disposal measures. I conclude based on the material submitted with the application and appeal and my site inspection that the proposed development will not be prejudicial to public health.

7.22. The application (see especially the marked-up site layout map attached to the MK Environmental Solutions Report received by the planning authority on the 14<sup>th</sup> November 2017) distinguishes between clean surface water from the roofs of the buildings and soiled surface water from concrete aprons and hardcore areas. The clean roof water will be directed to an attenuation tank in the southern corner of the site from where it will drain to a stream running along the southwestern site boundary. The soiled surface water from the concrete aprons will be directed to soak pits and infiltrate into the earth thereafter. I conclude that these arrangements are satisfactory and will not give rise to water pollution.

**7.23. Operating Hours.**

7.24. The appeal makes the point that operating hours should be limited. The applicant claims that limiting operating hours would inhibit the business especially during harvest time when activity would be at its height. The planning authority did not impose a condition relating to operating hours.

7.25. There are houses in the area which require recognition of their residential amenity and I consider that there are potentially unreasonable impacts for these uses if the

business were to operate 24 hours. To address this matter, I recommend condition 2 as set out below.

**7.26. Appropriate Assessment Screening**

7.27. Neither the application nor the planning authority considered appropriate assessment.

7.28. The River Bann is about 600m to the southeast of the application site but separated from the site by the Dublin/Rosslare railway line and the N11 (I attach a map marked up with the approximate location of the site). The Bann is part of the Slaney River Valley SAC 000710 which is a Natura 2000 site. The site's conservation objective is the maintenance of habitats and species within the site at favourable conservation condition which will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.

7.29. The qualifying interests are;

1029 Freshwater Pearl Mussel *Margaritifera margaritifera*

1095 Sea Lamprey *Petromyzon marinus*

1096 Brook Lamprey *Lampetra planeri*

1099 River Lamprey *Lampetra fluviatilis*

1103 Twaite Shad *Alosa fallax*

1106 Atlantic Salmon *Salmo salar* (only in fresh water)

1130 Estuaries

1140 Mudflats and sandflats not covered by seawater at low tide

1355 Otter *Lutra lutra*

1365 Harbour Seal *Phoca vitulina*

3260 Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation

91A0 Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles

91E0 Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, Alnion incanae, Salicion albae).

7.30. Having regard to the separation distance between the site and the River Bann which is part of the Slaney River Valley SAC 000710, the best practice measures to ensure the treatment of surface water washing from the roofs and concrete apron areas, the assessment of the site as suitable to accommodate a septic tank and percolation area which may be operated without giving rise to water pollution and the overall modest scale of the proposed development it is reasonable to conclude on the basis of the information on the file, the material published by the NPWS and my site inspection which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Slaney River Valley SAC 000710 or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of an NIS) is not therefore required.

## **8.0 Recommendation**

8.1. Having regard to the foregoing I recommend a grant of permission for the reasons and considerations and subject to the conditions set out below.

## **9.0 Reasons and Considerations**

Having regard to the location of the proposed development in a rural area where the dominant land use is agriculture, to the existing use of the site for the sale of agriculture related goods and subject to compliance with the conditions set out below it is considered that the proposed development would not endanger public safety by reason of traffic hazard or be prejudicial to public health, would not seriously injure the residential amenity of nearby residential property by reason of noise or dust emissions and would, therefore, accord with the provisions of the Wexford County Development Plan 2013-2019 and with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The development shall be carried out and completed in accordance with

the plans and particulars lodged with the application, 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 hours of operation shall be between 600 hours and 2400 hours Monday to Friday and between 600 hours and 2200 hours on Saturday. The proposed development shall not operate on Sundays or public holidays save with the prior written agreement of the planning authority.

**Reason:** In the interest of the amenities of property in the vicinity.

3. The noise level shall not exceed 55 dB(A) rated sound level, as measured at the nearest noise sensitive location. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To protect the amenities of property in the vicinity of the site.

4. Dust levels at the site boundary shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details to be submitted shall include monitoring locations, commencement date and the frequency of monitoring results, and details of all dust suppression measures.

**Reason:** To control dust emissions arising from the development and in the interest of the amenity of the area.

5. The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Wastewater Treatment Manual – Treatment Systems for Single Houses" – Environmental Protection

Agency (2009).

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

6. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to an attenuation tank or adequate soakpits and shall not discharge or be allowed to discharge to the foul effluent drains or to the public road.

**Reason:** In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.

7. A scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the north-eastern (roadside) boundary and south-eastern boundary, consisting predominantly of trees, shrubs and hedging, capable of growing to the height of 3 metres. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the completion of construction works.

Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In order to screen the development, in the interest of visual amenity.

8. The developer shall pay to the planning authority a financial contribution 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, as amended. The contribution shall be paid prior to 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, 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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Hugh Mannion  
Senior Planning Inspector

16<sup>th</sup> May 2018.