



An
Bord
Pleanála

Inspector's Report ABP-301331-18

Development	Permission to construct two poultry units, insert holding tanks, meal bins, all associated works and open new entrance onto public road. The development requires a licence under Part IV of the Environmental Protection Acts 1994/2013 and an EIAR will be submitted with this application.
Location	Derryartry, Scotstown, Co. Monaghan.
Planning Authority	Monaghan County Council.
Planning Authority Reg. Ref.	18/11
Applicant(s)	Ciaran Cassidy.
Type of Application	Permission.
Planning Authority Decision	To grant.
Type of Appeal	First Party.
Appellant(s)	Ciaran Cassidy.
Observer(s)	None.
Date of Site Inspection	11 th July 2018.
Inspector	Deirdre MacGabhann.

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	4
3.3. Other Technical Reports	4
3.4. Prescribed Bodies	4
3.5. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Monaghan County Development Contribution Scheme 2013 to 2019.....	5
5.2. Natural Heritage Designations	5
6.0 The Appeal	5
6.1. Grounds of Appeal	5
6.2. Planning Authority Response	6
6.3. Observations/Further Responses.....	7
7.0 Assessment.....	7
7.2. Application of Development Contribution Scheme	7
8.0 Recommendation.....	9
9.0 Reasons and Considerations.....	9
10.0 Conditions	9

1.0 Site Location and Description

- 1.1. The 1.86ha appeal site lies c.12km to the north west of Monaghan Town, and c.5km west of Scotstown, in the townland of Derryartry, County Monaghan. The site comprises an agricultural field. To the east, the field borders the county road. At the time of site inspection, a large single poultry unit was under construction at the site (see photographs).

2.0 Proposed Development

- 2.1. The proposed development comprises the erection of **two** no. poultry units for over 100,000 birds (gross floor space for each unit, 2,496.37sqm), holding tanks for wash water drainage, meal bins, associated site works and the opening of a new entrance onto the public road. The poultry units will run parallel to each other and the gable ends of both buildings will face the public road. The units will be finished in corrugated sheeting and timber cladding and will have a maximum height of 6.192m. Sightlines of 80m in both directions are shown at the proposed entrance to the public road. Water supply is from an existing connection (group water scheme) and surface water will be disposed of via a soakpit. Poultry manure will be removed off site by an authorised contractor. Soiled water will be allocated to the applicant's landholding.
- 2.2. The application is accompanied by an EIAR. The development requires an integrated pollution control licence from the EPA.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 6th March 2018, the planning authority decided to grant permission for the development subject to 6 no. conditions. Condition no. 1a requires the payment of a development contribution of €13,868 in accordance with the General Development Contribution Scheme 2013-2019 (as revised).

3.2. Planning Authority Reports

Planning Reports

- 3.2.1. The planning report (26th February 2018) describes the appeal site, its planning history, submissions made and relevant policies of the Monaghan County Development Plan 2013 to 2019. It considers that the development is, in principle, consistent with Policy AFP2 of the Plan and the detailed criteria for development, set out in this Policy. The report summarises the EIAR and carries out an assessment of the likely significant effects of the development on the environment. It considers that whilst short term impacts will arise during the construction phase of the development, subject to best practice and implementation of mitigation measures set out in the EIAR, the development is acceptable in terms of environmental impacts. However, clarification is sought regarding the location of the proposed structures from the existing agricultural enterprise and traffic movements associated with the proposed works.
- 3.2.2. The Planning Report carries out an appropriate assessment of the development given its proximity to Slieve Beagh SPA (3km) and Kilroosky Lough Cluster SAC (9km). It considers that by virtue of the nature of the proposed development and the distance of the site from both of the Natura 2000 sites, there will not be any significant effects on the integrity of the sites, arising from the development or cumulatively from the development and any other plan or project.
- 3.2.3. The report recommends granting permission for the development subject to conditions.

3.3. Other Technical Reports

- 3.3.1. Environmental Report – This is referred to in the Planning Report, but a copy of the Report is not on file. Having regard to the nature of the appeal made (of development contribution only), I do not consider that it is necessary to seek a copy of this from the planning authority.

3.4. Prescribed Bodies

- 3.4.1. None.

3.5. Third Party Observations

3.5.1. None.

4.0 Planning History

4.1. On file reference is made to the following planning application previously made in respect of the site:

- PA ref. 14/391 – Permission granted on the appeal site for a poultry unit, holding tank and all associate site works. The development was subject to 5 conditions, with condition no. 1 requiring payment of a development contribution of €3,502 in accordance with the General Development Contribution Scheme 2013-2019.

5.0 Policy Context

5.1. Monaghan County Development Contribution Scheme 2013 to 2019

5.1.1. The adopted development contribution scheme for Monaghan is the Monaghan County Development Contribution Scheme 2013 to 2019, as revised in December 2014 and updated (indexed linked) in January 2018 (see attachments).

5.2. Natural Heritage Designations

5.2.1. Due to the nature of the appeal made, natural heritage designations and the need for appropriate assessment, fall outside the scope of this report.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The first party appeal is made on the following grounds:

- The development contribution levied is not in accordance with the Monaghan County Council Development Contribution Scheme 2013 to 2019 (1st December 2014 Revision).

- The Development Contribution Scheme, Section 8, states that the floor area of the proposed development shall be calculated as the gross floor area, that is the floor area determined from the internal dimensions of the proposed buildings.
- Monaghan County Council has taken the entire development area including ancillary yards etc. and arrived at a chargeable area of 6,669sqm. This is a misinterpretation of the DCS and/or a misapplication of the standards therein for the following reasons:
 - The concrete yards referred to are not buildings as specifically detailed in Section 8 and are merely ancillary to and incidental to the operation of the two poultry houses. The concrete yards do not provide for any intensification of activities on the farm that would warrant development charges being applied to.
 - Section 8 of the DCS specifically details that the floor area is to be calculated from the internal dimensions of the proposed buildings.
- The proposed development consists of 2 no. poultry houses with an internal floor area of 2,496.37sqm each, resulting in a cumulative total of 4,992.74sqm. Therefore, the appropriate development contribution is:
 - €530 +€2/m²*4,792.74 = €9,715.48.

6.2. Planning Authority Response

6.2.1. In response to the appeal, the planning authority state:

- At the time of granting permission, the development contributions were calculated under Category 3(g) '*provision of buildings and other structures for the purposes of agriculture*', based on the proposed buildings and/or the footprint of structures that do not comprise floorspace.
- In this case, the total area of the proposed buildings, meal bins, holding tanks and concrete yard was calculated as 9,796sqm (as detailed in development calculations in case officer's report).

- An error was made in this calculation table where the rate of €2 per square meter was applied to a lesser figure of 6,669sqm. The rate of €2 per square metre should have been applied to the figure of 9,796sqm.
- Consequently, the correct development contribution should have been €19,552 and not €13,868 as stated in the condition.

6.3. Observations/Further Responses

6.3.1. None.

7.0 Assessment

7.1. Having regard to the nature of the appeal, which is made solely in respect of financial conditions, the key issue for this appeal is whether or not the planning authority has properly applied the terms of the county council's development contribution scheme.

7.2. Application of Development Contribution Scheme

7.2.1. The Monaghan County Council Development Contribution Scheme 2013 to 2019, as amended on the 1st December 2014 is the current development contribution scheme in effect in the planning authority area. Indexed charges are set out in '*Indexed Development Contribution Charges 2018*'.

7.2.2. Appendix 3 of the DCS sets out Levels of General Development Contribution. Under category 3(g), Provision of Community, Recreation and Amenity Infrastructure, buildings or other structures for the purposes of agriculture are required to make a contribution as follows:

- Up to 300 m² (3229 sq ft) – Exempt.
- Over 300 m² - €530, plus €2 per m² over 300 m²

7.2.3. In addition, in Section 8, Floor Area, the DCS states:

'The floor area of proposed development shall be calculated as the gross floor area. This means the floor area determined from the internal dimensions of the proposed buildings, including each floor and mezzanine floors'.

- 7.2.4. The application form for the proposed development, under gross floor space of proposed works, states that a gross floor area of 2,496.37sqm is proposed. However, this refers to the area of one poultry house. As two are proposed, a total gross floor area of buildings of 4,992.74sqm is proposed.
- 7.2.5. In their assessment of the development contribution (attached to back of Planning Report), and in response to the appeal, the planning authority have clearly indicated that the contribution is levied on the basis of the poultry units, silos and concrete yard, with a total floor area of 9,796sqm i.e. they have included all structures, including those that do not comprise floorspace.
- 7.2.6. The development contribution scheme, in Appendix 3, requires the payment of a development contribution in respect of '*buildings or other structures*' and the proposed concrete yard could be construed as a structure. However, section 8, which refers to the measurement of floor areas refers to the '*internal dimensions of the proposed buildings*' and there is no reference to structures which do not comprise floorspace. I would conclude, therefore, that the DCS as written is unclear and not directly consistent with the view of the planning authority, expressed to the Board in response to the appeal.
- 7.2.7. In addition, I note that in the planning authority's assessment of the previous application under PA ref. 14/391, made on the 15th April 2015, a development contribution was levied on the basis of the '*floorspace of proposed structures*' = 1,796sq i.e. the gross floor area of the poultry unit then proposed (see Planning Report on file under PA ref. 14/391), excluding the proposed concrete yard.
- 7.2.8. The approach taken by the planning authority in this instance, is therefore at odds with the approach taken previously, under the provisions of the same Development Contribution Scheme. Further, I consider therefore that as there is no evident basis in the development contribution scheme to indicate that the concrete yard should be included, I would conclude that the Scheme has been wrongly applied. I would concur with the applicant that the proper development contribution is as follows:
- Up to 300sqm = exempt, so 4992.74 minus 300 = 4,692.74sqm.
 - Over 300sqm = 530 plus (2 x 4692.74) = €9,915.48.

8.0 Recommendation

- 8.1. Having regard to my assessment above, I recommend that the development contribution applied by the planning authority is amended to reflect this reduced amount for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. It is considered that the terms of the Monaghan County Council Development Contribution Scheme 2013 to 2019 have not been properly applied. The subject development comes within the scope of the scheme, which under category 3(g) applies a general development contribution on buildings or other structures for the purposes of agriculture and which, in section 8, defines floor area as the internal dimensions of the proposed buildings. Previous application of the scheme on the subject site included the floorspace of the proposed structures and excluded the external concrete yard. It is considered reasonable, therefore, and in accordance with the provisions of the scheme and the application of the scheme previously on the site, that condition no. 1 of the permission is amended to reflect the floorspace provided by the two poultry units and that the external concrete yard area is excluded from the calculated floor area.

10.0 Conditions

1. The developer shall pay to the planning authority a financial contribution of €9,915.00 (nine thousand, nine hundred and fifteen euro) 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. 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 An Bord Pleanála to determine.

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.

Deirdre MacGabhann

Senior Planning Inspector

22nd August 2018