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Bord  
Pleanála

## Inspector's Report ABP 301335-18

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<b>Development</b>	Four Bay Calving Shed (146 square metres) and farmyard entrance, (23.5 square metres) from public road.
<b>Location</b>	Pollnamal, Sylau, Tuam, Co. Galway.
<b>Planning Authority</b>	Galway County Council
<b>P. A. Reg. Ref.</b>	17/1740
<b>Applicant</b>	Michael Keane,
<b>Type of Application</b>	Permission.
<b>Decision</b>	Grant Permission
<b>Third Party Appellant 1</b>	Patrick Reilly.
<b>Third Party Appellant 2</b>	John F Keane.
<b>Date of Site Inspection</b>	24 <sup>th</sup> July, 2018.
<b>Inspector</b>	Jane Dennehy.

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## 1.0 Site Location and Description

- 1.1. The site of the proposed development is that of a farmyard complex located on the east side of a minor county road to the west of Tuam and circa two kilometres to the south east of Sylvane. There is an existing slab and slatted tank within the farmyard.
- 1.2. The applicant's dwelling is located to the south side of the farmyard it has a separate entrance and faces southwards eastwards. The main farmyard entrance is adjacent to the applicant's dwelling and entrance. The farmyard contains several farm buildings and hardstanding, machinery and equipment associated with livestock farming. Along the site frontage of the farmyard which extends along both sides of a sharp bend in the road there is some dry stone walling, a blocked up vehicular entrance, a pedestrian entrance, (which may have originally served as an entrance to a cottage) and the opening at the northern end at which the proposed entrance, subject of the application is to be located. The road width along the frontage is circa three metres excluding the verges. There are sharp bends on the road at the northern end and further along the road northwards and southwards.
- 1.3. There are two detached dwellings on the road frontage opposite the farmyard subject of the application. These two residential properties occupied by the two appellant parties and storage sheds in a back yard accessed to the sides of the dwellings from the public road.
- 1.4. The immediate area is characterised by agricultural land, and a mix of multiple single house developments and several houses and farmhouses and farmyards.

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for construction of a slatted calving shed at the northern end of the farmyard and for a new farm entrance adjacent to existing structures within the farmyard and for a new six metres wide entrance with double gates mounted between stone walls/piers set back from the road frontage by 4.5 metres and at 1.5 metres in height at the northern

end of the site frontage. The total stated floor area of the proposed calf shed is 169 square metres.

- 2.2. The application submission includes copies of correspondence relating to a Derogation License and a Statement of Organic Nitrogen and Phosphorous in connection with the applicant's herd issued by the Department of Agriculture, Food and the Marine.
- 2.3. The planning authority issued a request for additional information on 2<sup>nd</sup> February, 2018 in which revised site layout drawings indicating distances from third party dwellings, sight lines at the proposed entrance, details of the entrance to be closed and finished floor level details for the calving shed were requested. A revised site layout plan was submitted on 7<sup>th</sup> February, 2018 along with a written submission. It is indicated that the calving shed's finished floor level is to be +0.51 m OD allowing for run off to the adjoining slatted shed the finished floor level of which is which is +0.5m.OD. Cows would enter the calf house from the adjoining slatted shed. Soak pits indicated on the revised site plan will receive surface water run-off from concrete channels eaves gutters and down pipes

### **3.0 Planning Authority Decision**

#### **Decision**

- 3.1. Further to issue of a request for additional information issued on 2<sup>nd</sup> February, 2018 (details of which are available in section 2.3 above to which a response was received on 7<sup>th</sup> February, 2018 the planning authority issued a decision to grant permission.

Requirements by condition include the following:

Condition No 2 Sight distance triangles to be maintained free of obstruction.

Condition No 3 Permanent closure of the entrance on the south side of the machinery shed and construction of a natural stone wall in the opening in advance of commencement of the development.

Condition No 4: Prohibition of discharge of surface water beyond the site onto the road or third-party property with clean, uncontaminated water only being discharged to the soakaway system or surface water.

Condition No 6: Provision of downpipes and gullies to prevent build-up of soiled water from the agricultural building.

Condition No 9: Provision for storage capacity for a minimum of eighteen weeks of slurry from the development and, in Condition Nos 9 and 10, standardised requirements relating to land spreading in accordance with relevant EU Regulations.

### **Planning Authority Reports**

#### **3.2. Planning Reports**

The planning officer having considered the original application and further information submissions indicated in his final report that the proposed development is acceptable subject to conditions.

### **Other Technical Reports**

#### **3.3. The report of the Environment Section indicated a request for further information comprising evidence and details of storage capacity for agricultural effluent**

### **Third Party Observations**

#### **3.4. Submissions were received by the planning authority from the two Appellant Parties who reside on the opposite side of the road to the application site. They indicate concerns about pedestrian and vehicular safety due to the location of the proposed entrance near a blind corner; adverse impact on residential amenities and property value due to the location of the proposed development near their residences and, risk of flooding and drainage from the site into the appellant's properties.**

## **4.0 Planning History**

**P. A. Reg. Ref 13/150:** Permission was granted to the applicant for demolition of a house and for construction of a four-bay slatted/loose shed and silage slab the gross stated floor area of which is 604 square metres

## 5.0 Policy Context

### 5.1. Development Plan

The operative development plan is the Galway County Development Plan, 2015-2021

The landscape sensitivity is categorised as Class 1 within a Category range 1 – 5 in which '1' is the least sensitive.

The area is also that of a regionally important karst conduit aquifer at the location which restricts development potential in the area which is also adjacent to a flood whereby the area is at risk of fluvial flooding.

## 6.0 The Appeals

**Appeal 1: Mr John Keane.**

**Appeal 2: Mr. Patrick Reilly.**

6.1. Concurrent Appeals were received from Mark Fahy Associates on behalf of John Keane of Pollnamal (Appellant 1) and Mr. Patrick Reilly, (Appellant 2) on 3<sup>rd</sup> April, 2018. Mr Keane's property is on the west side of the public road opposite the silage slab and the proposed site entrance. Mr Reilly's property is to the south side of Mr. John Keane's property opposite the applicant's farmyard. A sketch indicating the location of the farmyard relative to the appellant's dwelling is included in each appeal. The appeals the two appellant parties are similar and their objections to the proposed development are outlined below:

- The proposed location is within a flood risk area. Widespread flooding took place in 2009/2010. The applicant disagreed with the planning authority's request to relocate the slab to a position beside the slatted shed because he did not want to raise the ground level to allow for drainage by gravity. The area floods during winter, the water table being at ground level between October and April at the site. NO soakpit would work due to the high level of

the water table. For two months surface water flows, by gravity from the farmyard onto the public road resulting in odour during winter.

- Detailed drainage plans required under Condition No 6 of the grant of permission under P. A. Reg. Ref. 13/150 were not submitted to the planning authority. No commencement notice was lodged with the planning authority in connection with this grant of permission. It was very important for these details to be submitted for the planning authority to agree and for implementation before consideration of proposals for any further grants of permission.
- The proposed entrance will adversely affect the amenity and the value of appellant's property due to the amount of noise nuisance from machinery, odours and dirt.
- The proposed entrance should not be opposite the appellant's property. The applicant already has a farmyard entrance adjacent to his own house on the southern boundary. The proposed entrance replaces an additional entrance adjacent to the storage yard on the western boundary which is unauthorised development. Although the applicant states that he will close this entrance he is unlikely to do so. The applicant, if the proposed development is permitted is moving farmyard material away from his own house towards his neighbours' properties
- The submission includes several comments on the prior grant of planning permission under P. A. Reg. Ref. 13/150 due to the location of the permitted silage slab.
- It is not demonstrated that the sightlines can be achieved at the entrance because the submitted drawings are inaccurate. Sight lines should be measured from 2.4 metres behind the road edge from with a seventy metres sightline would be achievable. The machinery shed would obstruct sightlines to the south and trees obstruct sightlines to the north. There is no consent from adjoining landowners to removal of trees and vegetation.

## 6.2. Applicant Response

A submission was received from Mark Ward on behalf of the applicant on 10<sup>th</sup> April, 2018 according to which:

- The proposed new entrance is required for reasons of safety as the existing farm entrance does not have adequate sight lines and poses a risk to traffic on the road and vehicles entering and exiting through it. This reasoning was clearly explained to the planning authority as a result of which a decision to grant permission was made.
- The proposed calving shed is necessary because the applicant who is a suckler farmer calves his cows in spring each year and the cows need to be moved from the winter housing unit to the calving shed for safety. It will be straw-bedded and will be in use for two to three months of the year.
- Soak pits indicated on the revised site plan will receive surface water run-off from concrete channels eaves gutters and down pipes

## 6.3. Planning Authority Response

There is no submission from the planning authority on file.

## 7.0 Assessment

7.1. There are two elements to the proposed development, the proposed calving shed and the proposed entrance at the northern end of the site frontage. Each of the two elements are considered separately below in view of the objections of the appellant parties in relation to concerns as to adverse impact on residential amenities and as to endangerment of public safety on the public road in the vicinity of the proposed entrance.

8.0 The proposals for the calf shed have been reviewed, including details of the finished floor level, the applicant's stated need for use of such a facility during three months of the year as an element of his business, which, having regard to the location within a rural/agricultural area is supported in the development plan policies and objectives and, the planning authority assessment. The proposed structure, its position within



the farmyard and the proposed use is considered reasonable particularly given the agricultural related use and the rural location. It is not considered that the use of this element of the proposed development would give rise to unreasonable adverse impact on the residential amenities of the property of the Appellant Party, Mr. Reilly which is opposite the southern end of farmyard or, the adjoining property of the other Appellant Party, Mr. Keane. There is no objection to the proposed calf shed, subject to good practice and maintenance which can be provided for in conditions, if permission is granted.

- 8.1. However, it is considered that the proposed new entrance at the northern end of the site is unacceptable. It has been concluded that it is not optimal relative to the use of the existing farmyard entrance at the southern end of the site from the perspective of vehicular traffic and public safety. Owing to the widened road at the bend in front of the applicant's dwelling and the dimensions of the existing farm entrance adjacent to the applicant's dwelling, it is considered that there is sufficient visibility to oncoming traffic from the south and across the farmyard on approach from the north. There is also adequate visibility and safety, given the low attainable operational speed by vehicles on the road, for exiting the farmyard onto the public road relative to the proposed new entrance position at the northern end. It is not clearly understood that the use of the existing this access is impracticable or inadequate for use in connection with all movements to and from the farmyard and circulation within it.
- 8.2. The proposed location, notwithstanding the alterations required to provide for a 4.5 metres deep setback from the edge of the three metres wide public road is directly opposite the main vehicular entrance to Mr. Keane's property and the front building line of which is estimated to be no more than ten metres from the existing front roadside boundary of the applicant's property onto the opposite side of the public road.
- 8.3. The drawings submitted with the application in the further information submission are not considered sufficiently scaled with dimensions or in detail to demonstrate that seventy metre sight lines to the edge, or to the centre of the road can be achieved, especially in a northerly direction. The proposed entrance might facilitate convenience for the applicant with access to the farmyard and with scope for circulation within the farmyard with the proposed calf shed in place. However, it is

not considered that it has been satisfactorily demonstrated that endangerment of public safety by reason of traffic hazard would not arise, especially when used by livestock and large vehicles given the proposed position directly opposite the Mr Keane's property and the entrance to it, the narrow road width and restricted sight in a northerly direction notwithstanding limitations to attainable speeds by vehicles on the road.

- 8.4. It was noted during the inspection that the unauthorised entrance referred to in the planning application documentation had been closed.
- 8.5. The observation of the planning officer in his report that the location of the development does not overlap the fluvial episode and no subterranean storage tanks and that a flood risk assessment is not required is noted. Risk of run off onto the public road from the proposed development can be satisfactorily ameliorated both through the development design and maintenance following completion of construction.

#### **Appropriate Assessment**

- 8.6. Having regard to the scale and nature of the proposed development and to the serviced central business district location, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **9.0 Recommendation**

- 9.1. In view of the foregoing, it is recommended that a split decision be issued whereby the decision of the planning authority to grant permission for the calving shed is upheld whereas the decision to grant permission for the proposed entrance is overturned. Draft reasons and considerations and conditions follow:

### **10.0 (A) Grant Permission for the Four Bay Calving Shed.**

#### **Reasons and Considerations.**

Having regard to the nature and extent of both the existing and proposed development which are related agriculture in a rural area it is considered that the proposed development, subject to compliance with the conditions set below, would

not seriously injure the residential amenities of property in the vicinity would not give rise to pollution or flooding risk resulting in risk to public health and, would 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 lodged with the application as amended by the further plans and February, 2018 except as may otherwise be required 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. Prior to the commencement of the development the applicant shall submit to and agree in writing with the planning authority a revised plans and section drawings for the farmyard to demonstrate the finished floor levels of the proposed calving shed and the existing slatted shed at +.51 metres.

**Reason:** To ensure overall assimilation with the existing development and satisfactory arrangements for collection of waste, in the interest of clarity.

3. All surface water generated by the proposed development shall be collected and disposed of within the site and shall not runoff into adjoining properties or onto the public road. Only clean uncontaminated surface water may be disposed of into the proposed soak pit and soakaway system or to watercourses.

**Reason:** In the interest of clarity and orderly development, the prevention of pollution and public health and safety.

4. All foul effluent, soiled water and slurry shall be stored on site to which it is to be transported via appropriately constructed channels within the site. It shall

not be allowed to discharge to any watercourse, third party lands or onto the public road. A minimum of eighteen weeks storage capacity shall be provided and shall be permanently available on the site.

**Reason:** In the interest of clarity and orderly development, the prevention of pollution and public health and safety.

## **B: Refuse Permission for the new farmyard entrance.**

### **Reasons and Considerations**

Having regard to proposed location of the entrance in close proximity to the existing residential property on the opposite side of the road, and directly opposite its existing entrance, to the width of the public road which is circa three metres, to the substandard alignment of the road and the restrictions to the sightlines that can be achieved, and, to the multiplicity of entrances and other properties in the immediate vicinity it is considered exiting and entering the proposed entrance, especially by large vehicles would obstruct the endanger public safety by reason of traffic hazard by reason of obstruction of other road users on approach from either direction, obstruction of the use of the entrance to the property directly opposite the proposed entrance would seriously injure the residential amenities and privacy of the opposite the proposed entrance and, would be contrary to the proper planning and sustainable development of the area.

**Jane Dennehy**

Senior Planning Inspector  
25<sup>th</sup> July, 2018.