



An
Bord
Pleanála

Inspector's Report ABP 301536 - 18

Development	Cattle shed with slatted tanks and all associated site works.
Location	Leadington, Midleton, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	17/7181
Applicant	Shane Cotter
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	(1) Joan Cronin & Frank O'Neill (2) Liz & Niall Dunphy
Observer	Sean Cullen
Date of Site Inspection	28/06/18
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site, which has a stated area of 0.1912 hectares, constitutes part of a larger field within a c.9.5 hectare agricultural holding at Leadington which is c. 1km to the north of Lisgoold village, c. 1km to the east of Ballincurrig and c. 8 km to the north of Midleton. The lands generally slope down from east to west to the Templebodan River which joins the Owennacurra River south of Ballincurrig bridge.

There is an existing agricultural gate with a cattle crush and holding area in the south-eastern corner of the overall field. The roadside boundary is delineated by a hedgerow with the northern and southern field boundaries delineated by post and wire fencing.

A two storey dwelling immediately adjoins the field to the south with a dormer dwelling on the opposite side of the road and upslope of the site.

The local road serving the site is relatively narrow and was noted to be lightly trafficked on day of inspection.

2.0 Proposed Development

The application was lodged with the planning authority on the 06/12/17 with further plans and details received 13/03/18 following a request dated 05/02/18.

The proposal is for a 269.28 sq.m. slatted shed to the north of the existing cattle crush. It is to house 50 cattle between 6 and 18 months and 30 over 18 months. 348.98m³ of slurry and soiled water storage is proposed.

A whitethorn hedge is to be erected to the west and north of the shed.

Water supply is to be from a private well.

Uncontaminated surface water disposal is proposed via a soak pit.

As per the further information response it is stated that the site for the shed was chosen due to the close proximity to the handling yard. Moving the site northwards would mean substantial groundworks in order to level the site as well as a new entrance from the road and new crush and handling yard.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 15 conditions.

Condition 2: All cladding to be dark green.

Condition 3: Whitethorn hedge to be planted to the north and west of the shed to be undertaken in 1st planting season following operation of the shed.

Conditions 4 -15: Construction, numbers of animals to be housed, spreading of slurry, soiled water disposal and surface water disposal requirements.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Planner's report dated 05/02/18 states that the proposal will not undermine the character of the greenbelt and that the shed can be accommodated in the surrounding landscape. Consideration should be given to the re-siting of the shed northwards to ease the concerns of adjacent dwellings although the restricted red line boundary of the application site is noted. If not possible then measures to address noise and odour required. A request for further information is recommended.

The 2nd report dated 06/04/18 following further information notes that the applicant has operated a cattle crush and hard standing area for in excess of 10 years. Having regard to the mitigation measures to reduce noise and odour it is considered that the position would not lead to adverse environmental impacts and its relocation is not merited. A grant of permission subject to 15 conditions is recommended.

3.2.2. Other Technical Reports

Area Engineer in a report dated 31/01/18 has no objection subject to conditions.

Environment report dated 16/01/18 states that based on the information provided there will be adequate slurry/soiled water storage capacity for the proposed livestock numbers. No objection to the proposal subject to conditions.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Objections to the proposal received by the planning authority raise comparable issues as set out in the 3rd party appeals and observations received by the Board and which are summarised in section 6 below.

4.0 Planning History

I am not aware of any previous applications on the site.

5.0 Policy Context

5.1. Cork County Development Plan 2014

Sections 6.8.1 & 6.8.2 state that agriculture and food production sectors are critical to a sustainable rural economy. A key element in the County's strategy to protect and enhance the County's rural areas is to provide support and encouragement for a dynamic, innovative and sustainable agriculture and food production sector.

Objective EE 8-1 - Encourage the development of a dynamic and innovative sustainable agricultural and food production sector by encouraging the development of sustainable agricultural and infrastructure including farming buildings.

5.2. Natural Heritage Designations

The appeal site is not located within or in immediate proximity of any designated sites. The site is 9 km to the north of the nearest point of Great Island Channel SAC (site code 001058).

6.0 The Appeal

6.1. Grounds of Appeal

The 2 no. 3rd Party appeals received can be summarised as follows:

6.1.1. **Joan Cronin & Frank O'Neill (submission by Tony O'Keeffe & Partners accompanied by supporting documentation)**

- The handling facility and crush is really a pen that is used irregularly for testing and dosing of cattle and could be relocated together with the cattle crush at minimal cost.
- The proposal would seriously injure their residential amenities due to noise and odour and would devalue their property. The mitigating measures do not address the issues arising.
- As the shed is not airtight it will allow for noise emissions through the ventilated sheeting, canopy and entrance doors.
- The agitation of slurry would give rise to hazardous gases. The accompanying medical report highlights the danger of infections to the appellant. The siting of the proposal so close to her home would pose a direct threat to her health.
- It would give rise to increase in traffic movements and would constitute a traffic hazard.
- Their current water supply is noted to be inadequate and it is proposed to provide a bore well on their site c.3 metres from their northern boundary. The proposal would give rise to risk of contamination of same. The location of any public or group water source within 200 metres and the on-site water supply are not shown.
- The current indications are weather patterns are changing thus extending the period that cattle need to be housed. The total slurry tank capacity is indicated as 348 m³. It is good practice that a 300mm freeboard should be allowed in determining the slurry storage capacity. This has not been considered.

- No specifications have been given to indicate the structural integrity of the underground tanks. The cross sections are conflicting. No details are provided of the concrete yard or apron, roof drainage, storm drainage and storage location of silage bales.
- No soil sampling of the landholding has been submitted to indicate the quantity of slurry to be spread through the year.
- The main entrance to the landholding is located 200 metres to the north and is used by farm machinery. The relocation of the shed further north in proximity to the said entrance is recommended.
- The site is c.16km from the main family home or farm yard. Thus, cattle will not be afforded the same husbandry as a cattle shed on the main farm holding.
- The exempted development regulations require the consent of the adjoining house owner should storage of effluents be located within 100 metres.

6.1.2. **Niall and Liz Dunphy**

- The applicant is invalid due to absence of site notice, incorrect address given in public notices and misspelling of townland.
- The applicant does not reside in the area.
- The field in which the proposal is to be located has no existing buildings or farmyard and has been used heretofore for grazing only. Therefore the application is not a case of utilising or improving facilities but rather for a change of use.
- The proposal will result in noise and odour emissions. As the applicant does not reside in the area the stock will not be afforded the same husbandry as those on the main farmyard.
- Adequate ventilation in the shed will mean that noise and odour will emanate.
- Agitation of slurry will result in significant odour issues as well as increased health risk.
- The exempted development regulations require consent from house owners within 100 metres.

- The planting of a whitethorn hedge would have no impact.
- The assessment of noise and odour impact should have been done by a suitably qualified person.
- The proximity to their private well gives rise to a serious risk of contamination.
- The proposal will increase the level of machinery operation and traffic. The gate to be used is a secondary gate and has not been used historically for machinery access. Its use by machinery would cause significant disruption and consistent soiling at their entrance. The main entrance is a double gate c.200 metres to the north. A water pipe has been laid in the vicinity of same.
- There are alternative locations within the holding. There is also the alternative of locating the shed at the existing farmyard.
- The existing handling facilities are not legal activities in terms of the relevant planning laws or in its operation under the Nitrates Directive, therefore their existence is irrelevant in terms of justifying the location of the shed.

6.2. Applicant Response

The submission by John Crowley Consulting, which is accompanied by supporting detail, can be summarised as follows:

- The applicant does not own the family farmyard at Ballinagoul, Glanmire. He resides in the family home which is separate from the farm. He does not have a farmyard or farm buildings and operates a farming system of weanling to beef on a fragmented holding. He has no facilities for the wintering of cattle.
- The site was selected due to the close proximity of the existing handling pen and crush which are regularly used. The use of green cladding, planting of whitethorn hedging around the sides and retention of roadside hedgerow are proposed to limit the impact on the surrounding dwellings.
- The applicant will be required to comply with the strict requirements set by the Department of Agriculture.

- Slurry has been spread on the lands adjoining the proposed development. The proposal will not increase the level of odour as slurry will continue to be spread.
- During agitation dangerous odours released will only pose a danger in the immediate vicinity of the shed and for a short period, only. Agitation would be in accordance with Department of Agriculture specifications. Most of the gases are released inside the shed. There would be no danger to the appellant.
- Cattle are currently fed at the corner of the field. There would be little change as a consequence of the proposed development except cattle will be fed in the shed. This will lead to a reduction in noise as the shed will absorb noise.
- The housing of cattle will also lead to be reduced poaching of soil as the cattle can be housed during periods of wet weather. Poaching has proven to be detrimental to ground water quality in severe cases. The shed, if anything, will lead to an increase in water quality.
- The letter referring to the boring of a well on the adjacent property refers to a site visit in 2013. The proposal will not interfere with ground water quality.
- Should the bore well be drilled the applicant will abide by the requirement that no organic fertiliser be applied within 25 metres.
- The proposal will lead to a reduction in public road usage as in the past organic fertiliser was hauled to the site from other locations.
- The applicant does not prioritise one entrance over the other. The wider entrance is used for machinery access as in silage equipment. Its location close to a bend makes it unsafe for regular use and would not be suitable for loading/unloading animals. The 4x4 m gate is regularly used for such purposes, machinery access as in fertiliser spreading, vet inspection, routine dosing and handling of animals. It is not proposed to widen the access. The accesses have been used in this manner for 20 years. Vehicular parking by the adjacent house has never caused problems. Wide machinery during construction would access the holding via the wider entrance.

- The most cost effective method of silage for feeding would be to produce same on this holding. It would also reduce traffic and noise.
- Cattle will have constant access to feeding thereby reducing their noise levels.
- The water pipe by the wider entrance to the north is part of the piping system to the cattle troughs in the individual paddocks. There is also a water pipe by the 4x4 metre gate.
- None of land area is arable, it is all grass.
- The application was validated by the County Council.

6.3. **Planning Authority Response**

None

6.4. **Observations**

The observation by Sean Cullen can be summarised as follows:

- Issues of site notice erection and wrong address used.
- The gate was irregularly used until recently. The parking of tractors and trailers has caused traffic problems. The use of his entrance 25 metres from the site entrance for parking and turning vehicles has also caused obstruction and damage. Increased traffic will exacerbate these problems. The potential of damage to the pillars that frame his entrance is also increased.
- The proposal would impact on the visual amenity and character of the landscape.
- It would devalue property.

7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings:

- Principle of Development
- Impact on Amenities of Adjoining Property
- Pollution Risk
- Access and Traffic
- Procedural Issues
- Appropriate Assessment

7.1. Principle of Development

- 7.1.1. The appeal site is located within an unzoned rural area of County Cork where agriculture is the main economic activity undertaken.
- 7.1.2. The applicant's holding at this location is in the region of 9.5 hectares (of an overall holding stated to be 21 hectares) with a cattle crush and holding area and access onto the public road located in the south-eastern most corner immediately adjacent to an appellants' property. The landholding is served by a second, double gated entrance approx. 200 metres to the north. The 2nd appellants' property is located on the opposite side of the road with the entrance to the observer's property c. 25 metres to the south-east, also on the opposite side of the road.
- 7.1.3. The applicant resides in the family home at Ballinagoul, Glanmire which is separate from the family farmyard which he does not own. He does not have a farmyard or farm buildings and operates a farming system of weanling to beef on a fragmented holding. He has no facilities for the wintering of cattle. The fact that he does not reside at, or in the vicinity of, the site does not negate the existing agricultural practices and the proposal does not, in my opinion, constitute a change in the use of the land as contended. The proposal can be considered as providing for improvements to an existing use in order to comply with prevailing farming practises. The principle of the proposal is therefore considered acceptable subject to consideration of the planning issues set out below.

7.2. Impact on Amenities of Adjoining Property

- 7.2.1. The substantive issue arising pertains to the location of the shed in proximity to adjoining residential properties. The appellants' concerns in this regard stem from the potential for noise, odour and impact on water quality. The relocation of the shed further north is advocated.
- 7.2.2. The proposed shed would be approx. 25 metres from the boundary with the 1st appellants' dwelling to the south and 45 metres to the 2nd appellants' property which is on the opposite side of the road. The latter is upslope of the appeal site. The location was chosen due to its proximity to the existing cattle crush and holding area with the cost that would be involved in relocating the latter to a location further north considered to be prohibitive. It is also stated that the existing 2nd access to the lands which is c.200 metres to the north of the appeal site whilst wider, is located on a bend giving rise to restricted sightlines. Although used for larger machinery associated with silage it is not considered suitable for the loading and unloading of cattle. The boundary of the application site as delineated in red on the plans accompanying the application does not include the said lands.
- 7.2.3. Smells and fumes associated with the operation are normally most likely to give rise to complaints during agitation of the tank and during land spreading of waste. While the perception of odour is somewhat subjective and subject to individual sensitivity, I consider that the odour generated by the proposed development will be typical of such agricultural developments and would not be out of place in this rural area. Having regard to this and the intended use of the shed for a limited period of the year, I consider that the development would not give rise to a sufficient level of odour as to warrant refusal of planning permission on this basis provided the facility is well managed.
- 7.2.4. Noise from cattle housed in the shed in such a location would not be an unfamiliar occurrence. Whilst I note that due to the ventilation requirements the shed would not be sealed I consider that the noise would not be to a level as to justify a refusal of permission on this basis. A whitethorn hedge is proposed to the west and northern sides of the shed with the roadside hedgerow to be retained. The shed opening is proposed to the southern elevation onto the cattle crush and holding area.

The augmentation of the southern boundary with the appellants' property would assist in terms of further noise attenuation.

- 7.2.5. Whilst the area has an innate rural quality it is not within an area designated as being of high scenic amenity in the current Cork County Development Plan. I would also note that slatted sheds are common agricultural structures, of which there are already a number in the surrounding area, and the proposal is of a standard agricultural design, with a mix of concrete and green metal cladding for walls and roof. While the structure will be visible from some surrounding area, I do not consider that the placement of such a structure and its associated activity in a strongly agricultural area such as the appeal site would be seriously injurious to the visual amenities or established character of the area.

7.3. **Water Quality**

- 7.3.1. As noted above the site is downslope of the appellants' property to the east and 200 metres upslope of the Templebodan River to the west. As yet the appellants' to the south have not bored a well within their property and source their water from an adjoining landowner.

- 7.3.2. The slatted shed includes an underground slurry storage tank with a stated volume of 348.98m³. I note that the management of effluent arising from agricultural activity is governed by specific legislation set out in the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2014, as amended. These Regulations provide statutory support for good agricultural practice to protect waters against pollution. The Regulations place certain obligations on occupiers of agricultural holdings in relation to farmyard management, collection and storage of manures, slurry soiled water etc, nutrient management and prevention of water pollution. The Regulations set out minimum requirements for storage of slurry/manure, soiled water etc, set limits on the land application of fertilisers and sets periods when land application of fertiliser (organic and chemical) is prohibited. The applicant will also be required to construct the structure in accordance with the relevant Department of Agriculture, Food and the Marine (DAFM) specifications. Subject to compliance with these Regulations and DAFM specifications and the imposition of suitable conditions in this regard, I am satisfied that the proposed

slatted shed and its storage tank will not result in water pollution or a deterioration in water quality.

7.4. Access

- 7.4.1. The slatted shed would be served by an existing vehicular entrance immediately adjoining the 1st appellants' property. The local road is narrow and is lightly trafficked. The effective speed on the local road is less than the speed limit of 80kph. The proposed use would not result in an unreasonable intensification of movements at the entrance given the ongoing extent of the agricultural operations on site and given the nature and scale of the proposed agricultural development. The Area Engineer did not raise any concerns regarding the proposed development.
- 7.4.2. The issue raised by the Observer in terms of the use of his entrance for vehicular turning movements is noted but is a matter for resolution between the respective parties. A grant of permission does not entitle the applicant to avail of the benefit of 3rd party lands.

7.5. Procedural Issues

- 7.5.1. The appellants and observer have questioned the validity of the application citing discrepancies in the address given, spelling of the townland and erection of the site notice. I note that the Planning Authority was satisfied that the said details were in accordance with the requirements of Articles 18 to 23 of the Planning and Development Regulations 2001, as amended, and therefore deemed the application to be valid. As the appellants and observer have engaged in the planning process culminating in this appeal I submit that their 3rd party rights have not been compromised.
- 7.5.2. Reference is made to the requirements of the exempted development provisions for agricultural developments as set out in the Planning and Development Regulations, 2001, as amended, specifically condition 6 attached to class 6 which necessitates the consent of any house owner within 100 metres to be secured. In this instance the separation distance to the nearest dwellings is less than 100 metres being 25 metres and 45 metres to the appellants' properties respectively. These separation distances are not prohibited but preclude the benefit of the exempted

development provisions and therefore the requirement for planning permission. Such consent is not a prerequisite in such an application.

7.6. Appropriate Assessment

- 7.6.1. The site is approx. 9 km to the north of the nearest point of Great Island Channel SAC (site code 001058). It is 200 metres upslope of the Templebodan River which is a tributary of the Owennacurra River which forms part of the SAC at Middleton. Having regard to the nature of the proposed development, the design of which incorporates appropriate arrangements for effluent storage in accordance with the detailed DAFM specifications and the operation of which will be required to be compliant with the European Communities (Good Agriculture Practice for Protection of Waters) Regulations, 2014, as amended, coupled with the relative separation between the sites, I consider it reasonable to conclude on the basis of the information on the file, 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 any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the rural location of the site, the nature, scale and use of the proposed development, the existing agricultural practices on the site and the objectives of the Cork County Development Plan 2014 which seek to support and encourage sustainable agricultural development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of properties in the vicinity, would not have an adverse visual impact, would not be prejudicial to public health and would 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.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 13th day of March 2018, 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 slatted shed shall be used only in strict accordance with a management schedule to be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The management schedule shall be in accordance with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2014, as amended, and shall provide at least for the following:
 - (a) Details of the number and types of animals to be housed.
 - (b) The arrangements for the collection, storage and disposal of slurry.
 - (c) Arrangements for the cleansing of the buildings and structures (including the public road, where relevant).

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

3. All foul effluent and slurry generated by the proposed development 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.

4. All uncontaminated roof water from the building and clean yard water shall be separately collected and discharged in a sealed system to existing drains, streams or adequate soakpits and shall not discharge or be allowed to discharge to the foul effluent drains, foul effluent and slurry storage tanks or to the public road.

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

5. 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, as amended.

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

6. The proposed planting indicated to the west and north of the proposed slatted shed as delineated on the Site Layout Plan received by the planning authority 6th day of December 2018 shall be augmented by planting along the southern boundary of the site as delineated in red thereon. The planting shall be carried out within the first planting season following the commencement of the proposed development in accordance with the following requirements:

- (a) the planting shall be confined to traditional native Irish hedgerow species only, and
- (b) any planting that dies within the first three years of planting shall be replaced with a similar species within the following planting season.

Reason: In the interest of the visual amenities of this rural settlement.

Pauline Fitzpatrick
Senior Planning Inspector

July, 2018