



An
Bord
Pleanála

Inspector's Report 302510-18.

Development

Retention of the siting of house, site boundaries, location of bored well, location of septic tank, vehicular entrance, first floor east facing gable window and roof light.

Location

Ardrah, Bantry, County Cork.

Planning Authority

Cork County Council.

Planning Authority Reg. Ref.

18163.

Applicant

Gene O'Neill.

Type of Application

Permission.

Planning Authority Decision

Permission with conditions.

Type of Appeal

Third Party.

Appellants

Christy Hurley.

Observer

None.

Date of Site Inspection

8th January 2019.

Inspector

Derek Daly.

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Ardrah in an elevated rural area which forms part of the upper reaches of the Mealagh River valley approximately 2.5 kilometres south east of the village of Kealkill and 8 kilometres northeast of the town Bantry in the west of County Cork.
- 1.2. The site has frontage onto a minor road which in turn is off a local road which runs southwestwards towards Bantry. The road defines the site's northern boundary. The area is characterised by isolated individual dwellings located on the road network.
- 1.3. On the site which is a large irregular configured site is a relatively new dwelling located centrally along the site's road frontage. At the eastern end of the site is an existing shed. To the northeast and forward of the building line of the dwelling is a timber shed. To the east of the shed is a kennel and a chicken shed. There is also a slatted concrete floor located in the area to the south of the shed.
- 1.4. The site falls in a southerly direction way from the road.
- 1.5. The site has a stated area of 0.41 hectares.

2.0 Proposed Development

- 2.1. The proposed development as submitted to the planning authority on the 29th of March 2018 was for the retention of a number of developments;
 - The retention of the siting of single storey house with roof accommodation located west of the located originally granted permission as indicated by hatched lines on the site layout plan,
 - The retention of a first floor east facing gable window and roof light from that previous granted under planning reference no 10/835.
 - The retention of site boundaries,
 - The retention off the location of bored well to the west of the dwelling,
 - The retention of the location of a septic tank located to the east of the dwelling,
 - The retention of a vehicular entrance located at the north-western corner of the site and the retention of a second entrance onto the local road which is a

double gated agricultural entrance to the west of the agricultural shed and east of the dwelling.

- The retention of a detached timber store with an external brown metal cladding to the north of the dwelling between the house and road with a stated area of 16.24m².
- The retention of a chicken shed.
- The retention of a dog kennel.
- The retention of a farm building for the housing of cattle and associated slatted tanks with a stated area of 87.42m². The structure is a modern building with a monopitch roof with a maximum height of 4300mm.
- The application also provides for an extension to the farm building incorporating a slatted floor and underground tank storage with a stated floor area of 125m² and associated site works.

2.2. Further details were submitted dated the 1st April 2018 relating to drainage details in relation to surface water the disposal of soiled water from the existing and proposed shed and the location a disused well.

2.3. Further information in response to a request from the planning authority was submitted on the 20th of July 2018 which included;

- Amended entrance details proposed including an amended gate width and recessed location.
- Site suitability report in relation to the revised location of the percolation area.
- Revised details relating to an improved surface drainage system for the site.
- Details relating to the location of wells and sources of water supply.
- Clarification in relation to the slatted tank and compliance with S123.

2.4. Revised public notices were submitted on the 26th of July 2018.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to grant planning retention permission subject to eighteen conditions.

Conditions of note;

Condition no. 2 requires reconfiguration of the second entrance within 2 months unless otherwise agreed by the planning authority in accordance with details submitted on the 20th of July 2018.

Condition no. 3 requires the implementation of the drainage reconfiguration within 2 months unless otherwise agreed by the planning authority in accordance with details submitted on the 20th of July 2018.

There are a number of conditions in relation to the control of slurry and silage to prevent water pollution.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 18th of May 2018 refers to

- The planning history of the site including enforcement history.
- Planning policy including reference to policies, EE 8-1, GI 10-5, GI 13-1, GI 13-2, GI 6-1, GI10-2, GI 10-3, GI 11-1, HE 2-1, HE 2-2 and TM 3-3.
- Submissions received.
- An assessment of the issues.

Further information was recommended.

The planning report dated the 15th of August 2018 in response to the further information submitted recommends permission.

3.2.2. Other Technical Reports:

Area Engineer Report dated 19th of April 2018 indicates concern in relation to the double gated agricultural entrance and issues of sightline visibility. Further information was recommended.

A subsequent Area Engineer Report dated 2nd of August 2018 in response to the further information submitted indicates no objections.

The environment report dated the 9th of May 2018 addressed the agricultural aspects of the development and recommends further information in relation to the protection of private wells including that of the applicant and confirmation regard the standard of construction of the slatted tanks.

A subsequent environment report dated the 10th of August 2018 indicates no objection to the revised details submitted by way of further information and an assessment of potential impacts on water supply sources.

3.3. Other submissions.

A third party submission was received referring to the lack of clarity in relation to details on drainage and impact on a potable well arising from the use of the lands in relation to farming. There is an absence of details in relation to storage and disposal of slurry and impact on watercourses. Issues of noise and odour are also raised and also concerns in relation to traffic hazard

4.0 **Planning History**

There is planning history relating to the site.

P.A. Ref. No.10/835

Permission granted for a dwelling on the site in 2011.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. Cork County Development Plan 2014.

Chapter 4 of the plan relates to Rural, Coastal and Islands and outlines policy in relation to these areas and policies for considering development distinguishing

between rural generated development and urban generated rural development mirroring national guidance.

Chapter 6 relates to Economy and Employment. Section 6.8 refers to agriculture and farm diversification and there are policies and objectives in general support of the agricultural economy and its development and diversification. Objective EE 8-1 is a general objective in support of this.

Chapter 13 refers to Green Infrastructure and Environment and section 13.5 specifically refers to landscape. The site is within a high value landscape as identified in figure 13.2 of the plan.

Objective GI 6-1 refers to matters of design and to respecting the character, pattern and tradition of existing places, materials and built forms and accommodation into the receiving landscape and that in

- *b) Landscape issues will be an important factor in all land use proposals, ensuring that a pro-active view of development is undertaken while maintaining respect for the environment and heritage generally in line with the principle of sustainability.*
- *c) Ensure that new development meets high standards of siting and design.*
- *d) Protect skylines and ridgelines from development.*

5.1.2. GI 10-2 relates to a general objective in relation to the protection of surface water. Objective GI 10-3 relates to a general policy for the protection of groundwater.

5.1.3. Section 10 13 relates to good agricultural practice in the protection of water. Objective GI 11-1 refers to protection from agricultural pollution through adherence to the Nitrates Directive and application of good agricultural practice.

6.0 The Appeal

6.1. Grounds of Appeal

The appellant c/o Gearoid Hayes and associates in a submission dated the 6th of September 2018 refers to;

- The site was originally granted planning permission for a dwelling house and not a farm yard with farm buildings. There is a lack of detail in relation to the corralling of animals and handling of animals within the 0.4 hectare site and a general lack of detail in relation to site levels and sightlines.
- The development is ad hoc and developed by stealth.
- There is an absence of detail in relation to disposal of surface water and an absence of calculations in relation to soakpits used for discharge of surface water.
- There is an absence of details in relation to managing farm yard manure and capacity for disposal.
- Issues of noise and odour nuisance arise in relation to residents of third party dwellings in the area.
- Reference is made to extremely vulnerable aquifers in the area and to the proximity to the catchment of the River Mealagh an important salmonid river and the River Mealagh also contains the freshwater pearl mussel.
- The appellant has a potable well 67.9 metres from the tank and there is no scientific or objective evidence presented of no hydrological or hydrogeological impact or contamination of surface or ground waters or impact on the potable well.
- There is an absence of compliance with the provisions of the county development plan.
- The entrances are not compliant with current best practice in terms of horizontal and vertical alignment.
- There is an absence of assessment of additional traffic.
- There is an absence of topographical survey information and therefore potential for conflict cannot be properly assessed.
- The site is an elevated site between two scenic routes.

6.2. Planning Authority Response

The planning authority in a response dated the 20th of September 2018 indicates that the traffic safety is not compromised if the entrance is reconfigured as required by condition no. 2. The planning authority do not accept that the private well will be impacted upon.

A further response dated the 16th of October 2018 to the first party response has no further opinion to add.

6.3. Applicant Response

The applicant in a submission dated the 1st of October 2018 refers to;

- The potable well referred to is definitely not for human consumption and this is already documented. Reference is made to the appellants sheep grazing in the vicinity of the well in question and indicated on a photograph.
- The applicant is aware of the impact on his property and has chosen to construct a slatted shed which betters the position and lessens impact on his neighbours or third party properties.

6.4. Third Party Appellant Response.

The appellant in a submission dated the 23rd of October 2018 refers to;

- The appellant expresses concern in relation to the impact of the activities of the farmyard on the well on his lands.
- The presence of sheep as indicated in the applicant's response does not address this concern.
- Are there records of the inspection carried out in relation to the farm building compliance with standards.
- There is an absence of information and calculations in relation to the capacity of the septic tank and for storage of slurry and manure and risks of overflowing of tanks and assessment of cumulative impacts.

- The well on the appellant's land continues to be used for potable water and the appellant has concern in relation to this well and the protection of his personal and property rights.
- In the absence of appropriately revised, accurate objective and justified impact assessment the appellant seeks to have his objection to the development upheld.

7.0 Assessment

7.1. The proposed development is for the retention of a number of developments which include;

- The siting of single storey house with roof accommodation located west of the located originally granted permission under planning reference no 10/835 as indicated by hatched lines on the site layout plan;
- A number of variations to the permitted dwelling in relation to the retention of a first floor east facing gable window and roof light from that previous granted under planning reference no 10/835;
- The retention of site boundaries;
- The retention of the location of bored well to the west of the dwelling;
- The retention of the location of a septic tank located to the east of the dwelling;
- The retention of a vehicular entrance located at the north-western corner of the site and the retention of a second entrance onto the local road which is a double gated agricultural entrance to the west of the agricultural shed and east of the dwelling;
- The retention of a detached timber store with an external brown metal cladding to the north of the dwelling between the house and road with a stated area of 16.24m²;
- The retention of a chicken shed and compound;
- The retention of a dog kennel;

- The retention of a farm building for the housing of cattle and associated slatted tanks with a stated area of 87.42m². The structure is a modern building with a monopitch roof with a maximum height of 4300mm;
- The application also provides for an extension to the farm building incorporating a slatted floor and underground tank storage with a stated floor area of 125m² and associated site works.

7.2. Principle of development.

In section 5 of the report I have outlined the main policy provisions as they relate to the site and area.

The development which is the subject of this appeal is largely for the retention of a development as currently exists on the ground. It includes a dwelling granted planning permission but not located in the position / siting indicated and minor variations to the dwelling as constructed. The provisions of the county development plan and the local area plan do not preclude the development on the site subject to compliance with various standards and objectives stated in the plans. I have no objection to the principle of the development.

7.3. Assessment of the development proposed for retention

7.3.1. Dwelling.

7.3.2. I have no objections to the revised location of the dwelling and the minor variations in design of the dwelling. Its current location is not of any significant variation to the original permitted location. The amendments to the design and elevations do not impact on amenities.

7.3.3. The retention of site boundaries.

I have no objections to the site boundaries as indicated.

7.3.4. The retention of the location of a bored well to the west of the dwelling and the retention of the location of a septic tank located to the east of the dwelling.

I have no objections to the relocations which arise from the relocation of the dwelling. A site characterisation assessment was submitted by way of further information in relation to the septic tank on the 20th of July 2018 which adheres to the EPA requirements.

7.3.5. The retention of entrances.

The revised vehicular entrance is located at the north-western corner of the site and this entrance serves the relocated dwelling. There is also the retention of a second entrance onto the local road which is a double gated agricultural entrance to the west of the agricultural shed and east of the dwelling.

Both entrances access onto a cul de sac road located off a local road. I have no objections to the entrance serving the dwelling. The main issue which has arisen in the assessment of the application and referred to in the appeal submission relates to the agricultural entrance. There was concern raised in relation to a double gated entrance and its proximity to the road and the hazard arising from the gate opening onto the road.

The applicant on the 20th of July 2018 submitted amended entrance details which included an amended gate width and recessed location of this entrance and the area engineer indicated no objections to the revised proposals.

I note the reference in the grounds of appeal that the entrances are not compliant with current best practice in terms of horizontal and vertical alignment and that there is an absence of assessment of additional traffic.

The entrances must be considered in relation to the existing road network, the scale of development and the general area. The site is in a remote rural area and the entrances access onto a cul de sac serving a limited level of development with a low level of traffic. The revised proposals as submitted I consider address traffic issues and any impact on the free flow of traffic on the cul de sac road.

I would consider that given the history of the site and that development has not been constructed as permitted a time requirement to reconfigure the agricultural entrance as specified in condition no 2 of the planning authority is both reasonable and desirable.

7.3.6. Other retentions.

These retentions include a detached timber store, a chicken shed and compound and a dog kennel. I have no objections to these developments.

7.3.7. Farm buildings.

In relation to the farm buildings there are matters under consideration. The first relates to the retention of a farm building for the housing of cattle and associated slatted tanks with a stated area of 87.42m². The structure is a modern building with a monopitch roof with a maximum height of 4300mm. The application also provides for an extension to this farm building incorporating a slatted floor and underground tank storage with a stated floor area of 125m² and associated site works. There is a partially constructed concrete slatted floor in situ.

In relation to modern farm buildings there are a number of specifications outlined by the Department of Agriculture, Food and Marine (DAFM) in relation to specifications for buildings, storage requirements, tank construction as outlined in a series of S publications including S 108 in relation to manure pits and dungsteads, concrete tanks and slats; S123 for bovine livestock units and reinforced tanks and S126 geomembrane lined effluent and slurry stores which are identified as minimum requirements and also stress that in addition to the construction specification slurry/effluent stores need careful and constant management to ensure correct operation.

There is nothing to indicate non-compliance with the specifications outlined and that certification of compliance as raised by the appellant is required. I do however note that a letter of compliance with S123 was submitted in the course of the application by way of further information to the planning authority on the 20th of July 2018.

I would note that the provision of underground storage in tanks would facilitate the control of effluent and that the environment department of the local authority has not raised issues in relation to the farm building. The issue of the scale of the holding and number of livestock is not necessarily a planning matter and there are other statutory provisions to regulate this aspect of the development.

7.3.8. Other matters raised in the appeal

The issue of a potable well is raised in the appeal and a threat to drinking water. The issue arises from the presence of a well on the third party holding in close proximity to the boundary of the applicant's holding. The purpose of this well is not clearly outlined in the grounds of appeal.

The issue of adverse impact on this well was assessed by the planning authority and was the subject of clarification by the applicant in relation to being used as a source

of drinking water. Additional information was also requested in relation to a surface water drainage layout for the site and its relationship to wells including the applicant's own well which is a source of drinking water.

The well on the appellant's lands is not disputed. There is information submitted that in the past it was used as a source of water supply for a dwelling to the south, but this was discontinued approximately 18 years ago and that the well in question is not a bored well.

In terms of distance from the farm development the well would appear to exceed the minimum required distance and the documentation submitted in particular the further information submitted on the 20th of July 2018 would confirm this.

I would also note the overall findings as outlined in the environment report dated the 10th of August 2018 in relation to the further information submitted which indicates no objection to the revised details submitted by way of further information and an assessment of potential impacts on water supply sources and compliance with the appropriate regulatory requirements.

Based on the above details I consider that the development complies with requirements in relation protection of waters and in particular water sources.

7.4. Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.5. EIAR Screening Determination

Based on a preliminary examination of the nature, size or location of the development there is no real likelihood of significant effects on the environment and EIAR is not required. I would note that the application largely relates to retention of development.

8.0 Recommendation

- 8.1. Arising from my assessment above I recommend that the Board uphold the decision of the planning authority and grant planning permission for the proposed development based on the reasons and consideration set out below.

9.0 Reasons and Considerations

Having regard to the existing pattern of development and the nature and scale of the development as proposed, it is considered that the development as constructed, and the proposed development would not seriously injure the amenities of the area or property in the vicinity 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.

10.0 Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application on the 29th of March 2018 and as amended by the details submitted on the 20th of July 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. Within two months from the date of this order to grant planning permission the second entrance shall be reconfigured to the entrance arrangement indicated on the amended site layout map received by the planning authority on the 20th of July 2018. This shall specifically provide for a single 6 metre wide entrance gate that only open inwards.

Reason: In the interest of traffic safety

3. Within two months from the date of this order to grant planning permission the drainage arrangement in particular the ACO drainage channel as detailed and indicated on the amended site layout map received by the planning authority on the 20th of July 2018 shall be fully implemented. Surface water shall be disposed of within the site and shall not be discharged onto the public road network.

Reason: In the interest of the protection of water sources in the area and orderly development.

4. 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) all uncontaminated surface water run-off shall be disposed of directly in a sealed system and shall not discharge or be permitted to enter the soiled water drainage system and effluent tanks,
 - (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.

5. All construction work in relation to the extension to the farm building incorporating a slatted floor and underground tank storage shall comply with the requirements of all current specifications as required by the Department of Agriculture, Food and Marine in relation to the construction and maintenance of such buildings

Reason: In the interest of environmental protection and orderly development

6. The external finishes of the proposed farm building development shall complement those of the existing building in respect of colour and texture.

Reason: In the interest of visual amenity.

. Derek Daly
Planning Inspector

23rd January 2019