



An  
Bord  
Pleanála

## inspector's Report ABP-303142-18

### Development

Permission to erect Agricultural Structures including 1) a Cubicle Shed with adjacent Concrete Aprons and Underground Effluent Storage Tank, including demolition of an existing Stone Building to facilitate proposed development, 2) the construction of extensions to existing Milk Parlour and Dairy, adjustments to Yard Facilities, including all associated works. Proposed Development is located adjacent to a Protected Structure S120 (Cloughprior House).

### Location

Cloughprior, Puckane, Nenagh County Tipperary.

### Planning Authority

Tipperary County Council

### Planning Authority Reg. Ref.

18601132

### Applicant(s)

John & Shane Seymour

### Type of Application

Permission

### Planning Authority Decision

Grant

<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Development Applications Unit
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	30 <sup>th</sup> January 2019
<b>Inspector</b>	Colin McBride

## **1.0 Site Location and Description**

1.1. The appeal site, which has a stated area of 1.45 hectares, is located approximately 2km north of Puckane Village. The appeal site is an existing farmyard complex associated with Cloughprior House. Cloughprior House is two-storey detached dwelling that is on the record of protected structures and is adjacent the appeal site (red line coincides with farmyard). The appeal site is located off the L1099. Adjoining lands are agricultural in nature.

## **2.0 Proposed Development**

2.1. Permission is sought for the erection of agricultural structures to include a cubicle shed with adjacent concrete aprons and underground effluent storage tank, including removal of existing stone building to facilitate the proposed development and the construction of extension to the existing milking parlour and dairy, adjustments to yard facilities, including all associated site works. The proposed structures have a gross floor area of 958.88sqm. The cubicle shed has a floor area of 869sqm (roof area) and ridge height of 7.85m and features profile metal cladding. The milking parlour and dairy building extension has a floor area of 62.88sqm and a ridge height of 3.7m and features external finish of concrete walls and profile metal clad roof. The structures are located within an existing farmyard complex with a number of exiting farm structures. The site is adjacent a protected structure, which is a two-storey dwelling.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission granted subject to 6 conditions. The conditions are standard in nature.

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

#### **3.2.1. Planning Reports**

Planning report (06/11/18): The proposal was consistent with land use and the existing farmyard complex. The proposal was also considered by satisfactory in the

context of the adjoining protected structure. A grant of permission was recommended based on the conditions outlined above.

### **3.3. Third Party Observations**

None

### **4.0 Planning History**

No planning history.

### **5.0 Policy and Context**

#### **5.1. Development Plan**

The relevant Development Plan is the North Tipperary County Development Plan 2010-2016 (as varied).

#### Policy ENV20: Agriculture

It is the policy of the Council to protect viability of farms and best quality land for agriculture and related uses. Proposals that are considered to have a negative impact on the viability of existing farms will not be favourable considered.

#### Policy ENV 21: Agricultural Buildings

It is the policy of the Council to require agricultural buildings to be designed, located and orientated in a manner that will minimise their environmental impact. All agricultural buildings should be constructed in accordance with current Department of Agriculture Specifications.

#### Policy ENV 24: Recovery of Agricultural Waste

#### Policy ENV 25: Nutrient Management

### Policy LH13: Protected Structures

It is the policy of the Council to encourage the sympathetic restoration, re-use and maintenance of protected structures thereby ensuring their conservation and protection. In considering proposal for development, the Council will have regard to the Architectural Heritage Protection Guidelines for Planning Authorities, (DAHG 2011) or any amendment thereof, and proposals that will have an unacceptable impact on the character and integrity of a protected structure or adjoining protected will not be permitted.

### Policy LH16: Archaeology and Cultural Heritage

It is the policy of the Council to safeguard sites, features and objects of archaeological interest, including monuments on the Sites and Monuments Record (SMR), the Record of Monuments and Places (as established under Section 12 of the National Monuments (Amendment) Act, 1994) and archaeological remains found within Zones of Archaeological Potential (ZAPs) located in historic towns and other urban and rural areas. In safeguarding such features of archaeological interest, the Council will seek to secure the preservation (i.e. preservation in situ or in exceptional circumstances preservation by record) and will have regard to the advice and recommendation of the Department of Arts, Heritage and the Gaeltacht.

Where developments, due to their location, size or nature, may have implications for archaeological heritage, the Council may require archaeological assessment to be carried out. This may include for a requirement for a detailed Visual Impact Assessment of the proposal and how it will impact on the character or setting of adjoining archaeological features. Such developments include those that are located at or close to an archaeological monument or site, those that are extensive in terms of area (1/2 ha or more) or length (1 kilometre or more), those that may impact the underwater environment and developments that require an Environmental Impact Statement.

## 5.2. Natural Heritage Designations

None in the vicinity.

## 5.3. EIA Screening

Having regard to nature of the development comprising a cubicle shed and extension to milking parlour/dairy there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

An appeal has been lodged by the Department of Culture, Heritage and the Gaeltacht (Development Applications Unit). The grounds of appeal are as follows.

- The application was referred to the Department on the 01<sup>st</sup> of October 2018 on archaeological grounds. The proposal entails demolition of a stone structure adjacent to a Recorded Monument RMP TN009-047 which is subject to statutory protection under Section 12 of the National Monuments (Amendment) Act 1994.
- On the 06<sup>th</sup> of November 2018 the Department advised that an archaeological impact assessment should be undertaken as further information. No archaeological impact assessment was requested and there is no provision for such an assessment by way of planning condition.
- The appellant notes that the proposal may have on archaeological heritage and that Development Plan policy under LH16 requires the Council to safeguard features of archaeological interest and have regard to the advice of the Department.

- The Department notes they have no objection in principle to the proposed development however it is strongly of the view that an archaeological impact assessment is required in order to protect and features/sub-surface deposits associated with the recorded monument.
- It is noted that the best option is for such an assessment to take place before any decision to grant permission. It is noted that if the Board is disposed to grant permission without such an assessment then the Department recommends attaching a condition ensuring archaeological assessment is carried out in advance with it noted that an archaeological monitoring condition would not be appropriate in this instance.

## 6.2. Applicant Response

A response has been received from John & Shane Seymour, Puckane, Cloughprior, Co. Tipperary.

- It is noted that the absence of an archaeological condition is likely an oversight by the Planning Authority.
- The applicants note they have engaged a Heritage Consultant to produce and Architectural Heritage Impact Assessment in relation to the building to be demolished.
- It is noted that the applicants have engaged the services of a Consultant Archaeologist for the project. The archaeologist will undertake to survey and record the early 19<sup>th</sup> century outhouse and carry out extensive archaeological assessment of the site after the monitoring and removal of the outhouse, under license from the Department of Culture, Heritage and the Gaeltacht. Test trenching and other investigative works will be carried out. The archaeological work will be recorded and the report lodged with the relevant authorities and the applicants will be guided by the recommendations of the consultant archaeologist.

- It is noted that the heritage protection requirements and the expression of no objection in principle by the appellants mean the concern could be dealt with by way of condition.

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

No response

## 7.0 **Assessment**

- 7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Archaeological impact/recorded monument

Appropriate Assessment

- 7.2. Archaeological impact/recorded monument:

7.2.1 The proposal entails the demolition of stone built shed and the construction of a new cubicle shed as well as an extension to an existing milking parlour/dairy. The main issue in the appeal concerns archaeological heritage and in particular the proposed cubicle shed. At present on the site of proposed cubicle shed is an existing stone built shed of considerable age (on maps circa 1830). This structure is adjacent a recorded monument RMP TN009-047 (Castle site unclassified). The proposal entails demolition of the existing stone structure and extensive groundworks adjacent the site of recorded monument.

7.2.2 The Planning report indicates that the application was referred to the Department of Cultural, Heritage and the Gaeltacht, but that no response was received. The Department in their appeal notes that the application was referred to the on the 28<sup>th</sup> of October 2018 and a response was sent on the 06<sup>th</sup> of November 2018. It was noted that in this letter the Department recommended an archaeological impact assessment be submitted by way of further information. Permission was granted



without such a request and no archaeological condition was applied to the grant of permission. The appellant notes that the best option would be for such an assessment to take place before any grant of permission.

7.2.3 The applicants' response indicates that they undertook an architectural heritage assessment and that they will engage the services of a suitably qualified architect to oversee the project to ensure protection of features of archaeological significance. The applicants are of the view that the issue can be dealt with by way of condition.

7.2.4 Having inspected the documents on file, I would note that the applicant submitted Architectural Heritage Impact Assessment written by a conservation consultant. This report outlines the description of the proposed development and the history of the structures at this location. It is noted the Cloughprior House, which is a projected structure adjacent the site (farmyard is associated with this structure) is of considerable age. It is noted that structure for demolition first appeared on maps dating from c1830. It is noted that the structure for demolition is in very poor condition, that the location proposed for the cubicle shed is the best option and the proposed development will have little impact on the protected structure.

7.2.5 I would note that the Architectural Heritage Impact Assessment report is not sufficient to satisfy the Department's request for Archaeological Impact Assessment. I would also note that the applicant have not been deficient in not providing such as they were not given the opportunity to submit one by way of further information and may not have had enough time to prepare one in the time required to respond to the appeal. There are two options that are available. The first option is that the Board may wish to request the applicants to submit an Archaeological Impact Assessment and then such could be referred to the Department of Cultural, Heritage and the Gaeltacht for comment. The second option is that permission could be granted with the condition suggested by the Department in their appeal applied to any grant of permission, however the Department have expressed that their preference is to have an Archaeological Impact Assessment prior to decision. I would consider both of

these options and rule out refusal as I do not consider that the applicants are at fault for the lack of such an assessment.

### 7.3 Appropriate Assessment:

7.3.1 Having regard to the nature and scale of the proposed development and its 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.

## 8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

## 9.0 Reasons and Considerations

Having regard to the policies and objectives set out in the Kildare County Development Plan 2017-2023, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of land use, would not seriously injure the residential and visual amenities of the area, would be acceptable in the context of the setting of the adjoining protected structure and in terms of archaeological impact. 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, 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 applicant is required to employ a suitably qualified archaeologist, specialising in medieval building survey, to prepare an archaeological impact assessment of the proposed development. This shall include the preparation of a record of the building proposed for demolition and the carrying out of a programme of archaeological test excavation across the development site. This assessment shall be carried out in advance of commencement of any development works, including any ground disturbance other than that carried out as part of the archaeological impact assessment.

The archaeological impact assessment shall include.

(a) An inspection, survey and photographic record of the building proposed for demolition. The report shall contain descriptions, plans and photographs of the building and include proposal for mitigation measures in respect of any archaeological/architectural features of note that may be affected by the development. The report shall also synthesise the archaeological and historical background of the site compiled from an examination of any relevant maps or other sources.

(b) The archaeologist shall then excavate test trenches across the site, at locations chosen by the archaeologist. Having consulted the site plans in consultation with the National Monuments Service of the Department of Culture Heritage and the

Gaeltacht. Excavation shall take place to uppermost archaeological horizons only – where they survive. Where archaeological material is shown to be present, the archaeologist shall stop works pending agreement with the National Monuments Service as to how to further proceed. All features/archaeological surfaces within the test trenches shall be hand-cleaned and clearly visible for photographic purposes.

(c) having completed the work. The archaeologist shall submit a detailed report on the archaeological impact assessment to the planning authority and the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht in advance of the commencement of any development works. The report shall advise on the degree to which the extent, location and levels of all proposed demolition works, foundations, service trenches and other sub-surface works required for the development will affect any archaeological remains. It shall be illustrated with appropriate plans, sections, etc.

(d) Where archaeological material (whether above or below ground and including masonry features of archaeological or architectural interest) is shown to be present, further mitigation measures will be required; these may include **redesign (in whole or in part), to allow preservation in situ, archaeological excavation and/or monitoring**. The developer shall consult the planning authority and the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht in absence of agreement as to the necessary mitigation.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, site, features or other objects of archaeological interest.

3. The cubicle shed shall be used only in strict accordance with a management schedule which shall 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 Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2018, and shall provide at least for the following:

- (1) Details of the number and types of animals to be housed.
- (2) The arrangements for the collection, storage and disposal of slurry.
- (3) Arrangements for the cleansing of the buildings and structures.

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

4. All foul effluent and slurry generated by the proposed development and in the farmyard 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.

5. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains, streams or adequate soak pits 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.

6. 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 Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2018.

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

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, off-site disposal of construction/demolition waste, and measures to ensure that no polluting material or contaminated surface water enters groundwater, any watercourse, or any public road.

Reason: In the interests of public safety and residential 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 the 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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Colin McBride

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Planning Inspector

06<sup>th</sup> March 2019