



An
Bord
Pleanála

Inspector's Report ABP 303280-18

Development	Slatted shed and farm roadway
Location	Aghfarrell, Brittas, Co. Dublin
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD 18A/0366
Applicant(s)	Dermot Quinn
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Dermot Quinn
Observer(s)	None
Date of Site Inspection	6 th February 2019
Inspector	Irené McCormack

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1.0 Site Location and Description

- 1.1. The site is located in Aghfarrell, Brittas, Co. Dublin. It is approx. 2.5km east of Brittas and 5km south of Saggart. It is 3km south-east of the N81 road and just south-west of Kilsaran Concrete Quarry.
- 1.2. The site is located in a rural area of Co. Dublin on the border between Dublin and Wicklow. It is accessed off a minor local road 40m south of the R 114.
- 1.3. The site itself is located in the south-eastern corner of a large agricultural field and is 1HA in area. The landscape is characterised by uplands mountain areas and open grasslands. The site falls from north to south away from the R114 and is located in a valley between Mountseskin to the north and Moanbean to the south. There is a mapped water course running along the southern site boundary labelled *Mill Race* on the historical 6inch maps. The Brittas River is located 42m to the south of the site boundary. There is an existing agricultural field gate serving the lands.

2.0 Proposed Development

- 2.1. It is proposed to construct a 230sqm agricultural slatted shed with feeding area and cattle crush. The maximum ridge height of the shed is 6.2m. It is proposed to locate the shed in the south-western corner of the site.
- 2.2. Access to the shed is proposed via a new 172m long farm roadway which runs parallel with the watercourse to the south of the site.
- 2.3. Associated effluent holding tanks are proposed with the slatted shed. A new well is proposed to serve water needs. Landscaping berms are proposed to the north and south of the shed to assist in screening the shed.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for one reason.

1. (a) *The applicant is proposing to construct the slatted shed approximately 5 metres from stream edge while it should be a minimum of 50 metres. A*

storage facility for silage should be located not less than 50m from any waterbody in the case of new farmyards. The minimum distance between a storage facility and a public/private water supply source, either surface or ground, shall be 60m for new farmyards and subject to a hydro-geological survey. In vulnerable situations this distance shall be increased up to 300m.

The above is taken from Section 5.1 of a document published in September 2017 by the DEPARTMENT OF AGRICULTURE FOOD AND THE MARINE relating to Minimum Specifications for Bovine Livestock Units and Reinforced Tanks.

(b) There is no details showing how slurry storage tank will be prevented from flotation due to high water table if such occurs.

(c) There is no report showing percolation tests for proposed soakaways.

(d) There is no drawing showing cross sectional view of design details for proposed soakaways.

(e) The proposal does not comply with the Greater Dublin Regional Code of Practice for Drainage Works.

(f) There is no provision made in the application for the interception of overland water flow immediately up gradient of the proposed shed location. As there is a considerable gradient to the field in which the proposed shed is to be sited and the area in winter time receives comparative high rainfall the risk of inundation of the slatted underground tank is a real and substantial possibility.

For the above reasons, the proposed development would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. The Planner's Report is the basis for the Planning Authority decision. It includes:

- The application site is zoned 'HA- DM' – To protect and enhance the outstanding natural amenity of the Liffey Valley Dodder Valley and Dublin

Mountain Areas'. improve rural amenity and to provide for the development of agriculture'.

- Planning history and pre-planning consultation outlined. Notes previous application for agricultural shed was refused to the north of the site.
- Notes that regarding surface water the Environmental Services section recommended refusal having regard to the proximity to stream edge – approximately 5m, and the absence of details relating to slurry storage and surface water drainage.
- The proposal to utilise the existing agricultural gate is acceptable to the Roads Department.
- The report notes the Heritage Officers requirements to address surface water, landscaping and sets out that a Stage 2 Appropriate Assessment is required to adequately assess the application having regard to the proximity of the site 5m from stream edge (Known as diversion of Brittas River), the proximity to the Brittas River and the proximity to the Wicklow Mountain SAC.

3.2.2. Other Technical Reports

- **Roads section:** No objection subject to conditions
- **Surface Water Drainage:** Refusal recommended
- **Waste section:** No report
- **EHO:** No report
- **Heritage Officer:** Proposal not acceptable – seeks Further Information

4.0 Planning History

4.1. Site

I am not aware of any recent planning applications relating to the subject site.

4.2. Surrounding

SDCC 16A/0075 – Planning permission refused for (1) Agricultural Shed for the purposes of wintering cattle, comprising of lie back area and slatted tanks; (2) improve existing entrance and re-alignment of existing boundary fence to improve

existing sight lines; (3) all associated site works at Aghfarrell, Brittas, Co. Dublin. This site is located to the north of the site within the same agricultural field.

5.0 Policy and Context

5.1. Development Plan

5.1.1. South Dublin County Development Plan 2016 – 2022.

The land is located on lands zoned 'HA- DM' – To protect and enhance the outstanding natural amenity of the Liffey Valley Dodder Valley and Dublin Mountain Areas'. improve rural amenity and to provide for the development of agriculture'

Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Section 7.2.0 Surface Water & Groundwater -Infrastructure and Environmental Quality (IE), Policy 2 – Surface Water and Groundwater – It is the policy of the Council to manage surface water and to protect and enhance ground and surface water quality to meet the requirements of the EU Water Framework Directive.
- IE2 Objective 9: To protect water bodies and watercourses, including rivers, streams, associated undeveloped riparian strips, wetlands and natural floodplains, within the County from inappropriate development. This will include protection buffers in riverine and wetland areas as appropriate (see also Objective G3 Objective 2 – Biodiversity Protection Zone).
- Section 8.2.0 Watercourses Network states '*The County's watercourses form a major and unique element of the Green Infrastructure network. The considered management and enhancement of watercourses and wetland areas can provide effective measures to help manage fluvial and pluvial flooding whilst supporting a quality, multi-functional green network generating multiple benefits for the environment, tourism and society*'.
- Section 11.6. 1 refers to WATER MANAGEMENT - (ii) Surface Water, (iii) Sustainable Urban Drainage Systems (SUDS), (iv) Groundwater

The policies in relation to Heritage, Conservation & Landscape are set out in Chapter 9 and including the following;

- Section 9.7.0 refers to Sites of Geological Interest.
- Section 11.5.5 LANDSCAPE states with respect to Ecological Protection:

All development proposals shall maintain a biodiversity protection zone of not less than 10 meters from the top of the bank of all watercourses in the County, with the full extent of the protection zone to be determined on a case by case basis by the Planning Authority, based on site specific characteristics and sensitivities.

5.2. National Policy and Guidelines

- The Planning System and Flood Risk Management – *Guidelines for Planning Authorities*, (2009)
- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (2009)
- Department of Agriculture Food and the Marine - Minimum specification for bovine livestock units and reinforced tanks (2017)

Section 5.1 Site states the following:

The site shall be carefully chosen with a view to minimising operational and constructional problems. It shall be well separated from potential fire hazards and sheltered if possible. As a general guide, a storage facility for silage effluent/slurry/soiled water should be located not less than 50m from any waterbody in the case of new farmyards, and not less than 10m in the case of extensions/modifications to an existing facility. The minimum distance between a storage facility and a public/private water supply source, either surface or ground, shall be 60m for new farmyards and this may be reduced to not less than 30m for existing farmyards subject to a hydro-geological survey. In vulnerable situations this distance shall be increased up to 300m. Extreme care shall be exercised to prevent any pollutant getting into the backfill around storage facilities.

Note: Any land drains shall be stopped at least 10m on the upstream side of a site and diverted around to re-connect with the drainage system at least 10m on the downstream side of the storage area.

5.3. Natural Heritage Designations

There are no European designated sites within the general vicinity of the site.

- Wicklow Mountains SAC (site code 002122) c. 2.8 km south-east of the site.
- Wicklow Mountains SPA (site code 004040) c. 6km to the east of the site.
- Glenasmole Valley SAC (site code 001209) c. 3.7km northeast of the site.
- Poulaphouca Reservoir SPA (site code 004063) c. 6.7km south of the site

5.4. Environmental Impact Assessment –Preliminary Examination

The proposed development is not of a class for the purpose of EIAR. The nature and scale of the development would not result in a real likelihood of significant effects on the environment. 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

The principal grounds of appeal can be summarised as follows:

- There is no farmyard on the holding and the shed is located in the centre of the landholding for security reasons and to comply with EU requirements for effluent storage and management.
- Previous planning refusal referenced - SDCC 16A/0075.
- The submission sets out that there is a dry field drain on site and a photograph of the drain dated December 2018 accompanied the submission.

The submission states that this was a field drain to supply water to a local mill and was decommissioned in the early 1900's.

- The only water entering the field drain is surface water from two drainage pipes running from the north of the field.
- The submission sets out that the shed can be moved 6m further north and the revised positioning will ensure the shed is 11m from the field drain and accordingly, the development would be in compliance with Section 5 of the Department of Agriculture Food and the Marine - Minimum specification for bovine livestock units and reinforced tanks (2017).
- In brief the submission outlines that the site is not liable to flooding and flotation of slurry storage tank unlikely.
- A percolation test is not required for agricultural development. All water is to be piped to the proposed clean water soakaway.
- The submission includes a letter from Tegasc setting out the slurry storage capacity of the tank for the required 16-week winter period under the Nitrates Directive, in addition to a surplus capacity to cater for unforeseen events.

6.2. Planning Authority Response

6.2.1. No further comments.

7.0 Assessment

7.1. Introduction

The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Siting
- Ground Water and Surface Water
- Appropriate Assessment

7.1.1. The site is zoned 'HA- DM' – To protect and enhance the outstanding natural amenity of the Liffey Valley Dodder Valley and Dublin Mountain Areas'. improve rural amenity and to provide for the development of agriculture'

7.2. Siting

7.2.1. The proposed development is for the construction of a 230sqm agricultural slatted shed with feeding area and cattle crush, and a 172m long access roadway. The shed is sited in the south-eastern corner of a large agricultural field and the site is 1HA in area. There is an existing agricultural field gate serving the lands.

7.2.2. There is a mapped water course running along the southern site boundary, referred to as *Mill Race* on the historical 6inch maps. The Brittas River is located 42m to the south of the site boundary. The shed is sited 5m from the *Mill Race* watercourse. However, in their submission the appellant sets out that the shed can be repositioned within the red line boundary at a distance of 11m from the *Mill Race* watercourse, if required. No revised drawings have been submitted in this regard.

7.2.3. The appellant asserts that the *Mill Race* watercourse is a field drain and not a watercourse as determined by the Planning Authority. The appellants submission asserts that the drain is dry except where the two existing concrete pipes enter the drain. In this regard, I can confirm on the day of site inspection that there was significant water present in the watercourse along the entire stretch of the site. There was also a subtle but continuous flow of water from the two pipes into the watercourse. I am, therefore satisfied that there was sufficient water present to determine that this is a watercourse and not a dry drain.

7.2.4. It is the policy of South Dublin County Council as set out in policy IE2 Objective 9 to protect water bodies and watercourses, including rivers and streams. In relation to the siting of the shed, I note section 11.5.5 LANDSCAPE of the South Dublin County Development Plan 2016-2022 establishes a 10m biodiversity protection zone from the top bank of all watercourses. Furthermore, I would refer the Board to Section 5.1 of the Department of Agriculture Food and the Marine - Minimum specification for bovine livestock units and reinforced tanks (2017) which sets a 50m separation distance from any waterbody. With respect to the appellants submission the

maximum revised separation distance of 11m cannot be adequately assessed in the absence of appropriate drawings.

- 7.2.5. In conclusion, I consider that the proposed development does not provide for adequate separation distance from the adjacent watercourses in accordance with Section 5.1 of the Department of Agriculture Food and the Marine - Minimum specification for bovine livestock units and reinforced tanks (2017) and Section 11.5.5 LANDSCAPE of the South Dublin County Development Plan. I consider the development to be contrary Policy IE2 Objective 9 to protect water bodies and watercourses.

7.3. **Ground Water and Surface Water**

- 7.3.1. I note that the Environmental Services Section of South Dublin County Council recommended refusal having regard to the proximity to the *Mill Race* watercourse but also having regard to insufficient information in relation to ground water table and how slurry storage will be prevented from floatation where a high-water table occurs. In addition, the Planning Authority set out that the appellant has failed to adequately address soakaway specifications and overall compliance with the Greater Dublin Regional Code of Practice for Drainage Works. The appellant has provided no construction specifications save to say that the soakaway will be designed to BRE Digest 365. I note also that no construction materials and drainage details have been submitted with respect to the access roadway proposed.
- 7.3.2. It is an objective of South Dublin County Council as set out in Infrastructure and Environmental Quality (IE), Policy 2 to manage surface water and to protect and enhance ground and surface water quality. I do not consider that the appellant has adequately considered the ground water table on site or surface water volumes and surface water disposal in relation to the development site. The site is located within a Geological Site for Protection as set out in Table 9.6 of the South Dublin County Development Plan for large accumulation of deposited sands and gravels which need to be protected. Furthermore, the ground water vulnerability is classed as extreme (GIS groundwater data) and there is a considerable gradient to the field falling from north to south towards the site. In the absence of sufficient information with respect to the ground water table and surface water disposal and taking

cognisance of the nature of the development with underground slurry storage tanks, I am not satisfied that the development will not pose a risk of ground water and surface water pollution within a Geological Site for Protection.

- 7.3.3. In my opinion the development is contrary to Infrastructure and Environmental Quality (IE), Policy 2 of the South Dublin County Development Plan 2016-2022 in relation to the protection of Surface Water and Groundwater.

7.4. **Appropriate Assessment**

- 7.4.1. There are 4 European Sites within 7km of the appeal site. The Wicklow Mountains SAC (site code 002122) is located c. 2.8km south-east of the site, the Wicklow Mountains SPA (site code 004040) is located c. 6km to the east of the site, Glenasmole Valley SAC (site code 001209) is located c. 3.7km north-east of the site, Poulaphouca Reservoir SPA (site code 004063) is located c. 6.7km south of the site.
- 7.4.2. Having regard to the nature and scale of the proposed development, impact pathways would be restricted to hydrological pathways.
- 7.5. There is no direct pathways or linkages with the Wicklow Mountain SAC, the Wicklow Mountains SPA and the Glenasmole Valley SAC as these sites are upland of the site.
- 7.5.1. The site drains into the *Mill Race* watercourse which flows in an easterly direction along the southern site boundary. This discharges into the Brittas River c. 42m southeast of the site. The Brittas river is a tributary of the River Liffey which flows into the Poulaphouca Reservoir within the Poulaphouca SPA (site code 004063), 6.7km south of the site. Conservation objectives have been prepared for Poulaphouca SPA (site code 004063). The primary conservation objective for the Poulaphouca SPA is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. The site is a Special Protection Area under the E.U. Birds Directive, of special conservation interest for the Greylag Goose and Lesser Black-backed Gull. Part of Poulaphouca Reservoir SPA is a Wildfowl Sanctuary.

- 7.5.2. There is a potential link via the water environment (the impact 'pathway'), with the Natura 2000 site (the 'receptor'), the Poulaphouca Reservoir SPA (site code 004063). However, given the distance from the proposed development to the Poulaphouca Reservoir SPA (site code 004063) at 6.7km and the small scale of the development, it is not considered that there is any likelihood of significant negative effects on the SPA.
- 7.5.3. The Area Planners Report notes following discussion with the Heritage Officer that a Stage 2 Appropriate Assessment is required having regard to the proximity to the stream edge (*Mill Race*) and the Brittas River and the distance from the Wicklow Mountains SAC (Natura 2000 Site). I consider the Planning Authority's approach over precautionary in this instance.
- 7.5.4. I consider it is 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 European site, Poulaphouca SPA (site code 004063), or any other site and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. I recommend that planning permission for the proposed development should be refused for the reasons and considerations, as set out below.

9.0 Reasons and Considerations

1. The proposed development does not provide for adequate separation distance from the adjacent watercourses in accordance with Section 5.1 of the Department of Agriculture Food and the Marine - Minimum specification for bovine livestock units and reinforced tanks (2017) and Section 11.5.5 Landscape of the South Dublin County Development Plan 2016-2022. The development is contrary to Policy IE2 Objective 9 of the South Dublin County Development Plan 2016-2022 which seeks to protect water bodies and watercourses, including rivers and streams. Accordingly, the proposed

development would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

2. In the absence of sufficient information in relation to the ground water table and surface water disposal the Board is not satisfied that the proposed development would not pose a potential risk for groundwater or surface water pollution within a designated Geological Site for Protection. The proposed development would, therefore, be contrary to Infrastructure and Environmental Quality (IE), Policy 2 of the South Dublin County Development Plan 2016-2022. It is considered that the proposed development would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

Irené McCormack
Planning Inspector

4th March 2019