



An
Bord
Pleanála

Inspector's Report ABP-303426-19

Development	The proposed erection of a single storey shed for storage of agricultural vehicles and farm equipment, approximately 7 metres high, access road, landscaping, together with all other associated site works.
Location	Keeloges, E.D. Forth, Barntown, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20180855
Applicant(s)	Patrick John Mooney
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party v. Decision
Appellant(s)	John & Aoife O'Flynn
Observer(s)	None.
Date of Site Inspection	18 th April, 2019
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in the rural townland of Keeloges, Co. Wexford, approximately 1.2km northwest of the village of Barntown and 1.0km southwest of the River Slaney, in an area that is typically rural in character and which is dominated by a rolling patchwork of agricultural fields interspersed with a considerable number of one-off rural dwelling houses most likely attributable to the development pressures arising from the proximity of Wexford town and the N11 / N25 National Roads.
- 1.2. The site itself has a stated site area of 5.4 hectares, is irregularly shaped, and presently comprises a number of fields set in pasture in addition to an active farmyard, which consists of various cattle housing (including a slatted shed), an open yard area, a silage slab, and a storage shed, however, it is also of relevance to note that a dwelling house is currently under construction towards the rear of the site pursuant to PA Ref. No. 20171571. It can be accessed via the new entrance arrangement which has been opened onto the adjacent public roadway to accommodate the permitted dwelling house or, alternatively, by way of an entirely separate agricultural entrance / access track that serves the existing farmyard. The wider site area is bounded by mature hedgerow and open pasture / agricultural fields to the south, east and west, although there are several dwelling houses located on the adjacent lands to the immediate northeast. In terms of topography, the site rises steeply on travelling southwards away from the public road with the existing farm buildings occupying a position proximate to the crest of this localised rise.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a single storey shed for the purposes of storing agricultural vehicles and farm equipment. It has a stated floor area of 450m² and will measure 30.35m x 15m in plan with an overall height of c. 6.82m. The proposal also includes for the development of an access road extending from the driveway permitted under PA Ref. No. 20171571 in addition to landscaping and all other associated site works.
- 2.2. In response to a request for additional information, revised proposals were submitted to the Planning Authority on 27th November, 2018 which detail the provision of a

further accessway linking the proposal with the existing farmyard and allowing for access via the existing agricultural entrance arrangement.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Following the receipt of a response to a request for further information, on 18th December, 2018 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 3 No. conditions which can be summarised as follows:

Condition No. 1 - Refers to the submitted plans and particulars.

Condition No. 2 - Prohibits the discharge of surface water runoff from the proposed development onto the public road.

Condition No. 3 - Requires the agricultural storage shed to be used for dry storage purposes only and expressly prohibits any use for the housing of animals / livestock.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

An initial report indicated that whilst there was no objection in principal to the erection of an agricultural shed on site, concerns arose as regards the overall size and scale of the shed proposed given the limited landholding and the possibility that it may instead be used for purposes in connection with the applicant's asbestos removal business.

Following the receipt of a response to a request for further information, a final report was prepared which noted that the applicant had confirmed that the proposed shed would be used solely for agricultural purposes. Accordingly, it was recommended that the proposed development be granted permission, subject to conditions.

3.2.2. Other Technical Reports:

Environment Section: No objection, subject to conditions.

Executive Engineer (Borough District of Wexford): No objection, subject to conditions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

3.4.1. A total of 3 No. submissions were received from interested parties and the principle grounds of objection / areas of concern contained therein can be summarised as follows:

- The inadequacy of the surrounding road network to accommodate the additional traffic (and loadings) consequent on the proposed development.
- Concerns as regards the intended use of the proposed shed.
- The excessive height and scale of the proposed development / detrimental visual impact on the surrounding landscape.

4.0 **Planning History**

4.1. On Site:

PA Ref. No. 20061875. Was granted on 4th October, 2006 permitting Alan Mooney permission to erect a slatted cattle house, concrete aprons, silage base and associated drainage facilities.

PA Ref. No. 20171571. Was granted on 27th February, 2018 permitting Patrick John Mooney & Dervla Mulligan permission for the erection of a fully serviced two-storey dwelling, provision of a new vehicular entrance, landscaping, septic tank system with percolation area, new well, together with all other associated site works.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. **Wexford County Development Plan, 2013-2019:**

Chapter 6: Employment, Economy and Enterprise:

Section 6.4.6: *Agriculture*

Objective ED17: To promote the continued development of food production and processing within the county subject to complying with normal planning and environmental criteria and the development management standards in Chapter 18.

Objective ED18: To promote and encourage food producers and processing to provide associated activities by permitting the expansion and development of existing businesses, subject to complying with normal planning and environmental criteria and the development management standards in Chapter 18.

Objective ED20: To facilitate and support the development of sustainable agriculture practices and facilities within the county subject to complying with normal planning and environmental criteria and the development management standards in Chapter 18.

Chapter 14: *Heritage:*

Section 14.4: *Landscape:*

Section 14.4.1: *Policy Context*

Section 14.4.2: *Landscape Character Assessment:*

3. *River Valley:*

The Slaney and Barrow River Valleys, which include the rivers and their associated riparian and woodland habitats, offer significant scenic qualities, which are sensitive to development.

N.B. The proposed development site is located within the ‘*Slaney / Bann River Valley*’ landscape unit as identified on Map No: 13: ‘*Landscape Units and Features*’ of the Development Plan (‘*Landscape Character Assessment*’).

Section 14.4.3: *Landscape Management.*

Objective L01: To have regard to the Landscape Character Assessment and associated map contained in Volume 3, the Landscape and Landscape Assessment-Guidelines for Planning Authorities (2000) Draft and any updated versions of these guidelines

published during the lifetime of the Plan, when assessing planning applications for development.

Objective L03: To ensure that developments are not unduly visually obtrusive in the landscape, in particular in the Upland, River Valley and Coastal landscape units and on or in the vicinity of Landscapes of Greater Sensitivity.

Objective L04: To require all developments to be appropriate in scale and sited, designed and landscaped having regard to their setting in the landscape so as to ensure that any potential adverse visual impacts are minimised.

Objective L05: To prohibit developments which are likely to have significant adverse visual impacts, either individually or cumulatively, on the character of the Uplands, River Valley or Coastal landscape or a Landscape of Greater Sensitivity and where there is no overriding need for the development to be in that particular location.

Objective L06: To ensure that, where an overriding need is demonstrated for a particular development in an Upland, River Valley or Coastal landscape unit or on or in the vicinity of a Landscape of Greater Sensitivity, careful consideration is given to site selection. The development should be appropriate in scale and be sited, designed and landscaped in a manner which minimises potential adverse impacts on the subject landscape and will be required to comply with all normal planning and environmental criteria and the development management standards contained in Chapter 18.

Objective L09: To require developments to be sited, designed and landscaped in manner which has regard to the site specific characteristics of the natural and built landscape, for example, developments should be sited, designed and landscaped to minimise loss of natural features such as mature trees and hedging and built features.

Chapter 18: Development Management Standards:

Section 18.23: *Agricultural Buildings:*

The Council will encourage and facilitate agricultural development subject to the following criteria:

- The impact on the character and amenity of the immediate and surrounding area.
- There are no suitable redundant buildings on the farm holding to accommodate the development.
- The proposal will not impact negatively on the traffic and environment of the area.

The Council recognises the need for agricultural buildings and acknowledges that there is often a requirement for these structures to be significant in scale. Notwithstanding this, these buildings will be required to be sympathetic to their surroundings in terms of scale, materials and finishes. The building should be sited as unobtrusively as possible and the finishes and colours used must ensure the building will blend into its surrounding and landscape. The use of appropriate roof colours of dark green and grey will be required. Where cladding is proposed it shall be dark in colour also.

5.2. Natural Heritage Designations

5.2.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The Slaney River Valley Special Area of Conservation (Site Code: 000781), approximately 1km northeast of the site.
- The Wexford Harbour and Slobs Special Protection Area (Site Code: 004076), approximately 1km northeast of the site.

6.0 The Appeal

6.1. Grounds of Appeal

- The proposed development site forms part of a larger landholding (c. 21.01 hectares) in the ownership of Mr. Alan Mooney which is used for the production of beef cattle and in this respect it should be noted that the existing sheds on site (with a combined floor area of 568.5m²) presently provide housing for 13 No. sucklers, 13 No. calves and 28 No. beef cattle (as detailed in an earlier planning application on site i.e. PA Ref. No. 20061875). Given that these existing sheds were previously deemed sufficient to accommodate the aforementioned livestock numbers, it is queried why there is now a need for an additional 462.75m² of shed space on site and if the subject proposal constitutes an unwarranted overdevelopment of the site.
- The applicant (i.e. Mr. Patrick John Mooney) is not the landholder nor is he engaged in agriculture. Accordingly, there are concerns that the proposed shed is not for agricultural purposes and will instead be used for the storage of plant / machinery associated with the applicant's business which pertains to the removal, storage and disposal of asbestos.
- The landholding details provided in response to the request for further information relate to lands which are not in the applicant's ownership. Moreover, the current use of said lands would not require the erection of a shed of the size proposed given that suckler farming only requires basic facilities for the purposes of housing livestock and storing feed etc. (ample such facilities are already in place on site).
- Contrary to the applicant's assertions, the existing sheds on site are in good condition and are more than capable of accommodating the limited livestock numbers generally present on this landholding.
- The current agricultural use of the lands is not machinery intensive and if the proposed shed is to be used for the storage of machinery and dry goods then the following matters should be queried:
 - Where is the machinery in question presently stored?

- Details of the machinery to be stored should be provided given that the proposed shed would seem to be particularly large even for machinery storage.
 - It is unclear why the existing farming operation would necessitate additional machinery, particularly as no evidence has been submitted that the landowner has expanded operations or increased his stock numbers.
 - The intended use of the machinery to be stored should be queried as it will not be required for use on the subject lands.
 - In the event that the proposed shed is to be used for dry storage purposes, details should be provided of the source of the feedstock and why it is proposed to be stored at this facility.
 - Details should be provided of the applicant's stocking rates / livestock numbers given that there are rarely any animals grazing this landholding.
- The assertion by the applicant that the construction of the proposed shed will be as a favour to his uncle (the landowner) is rejected on the basis that the applicant (and not the landholder) will be the beneficiary of any grant of permission.
 - The proposed shed is intended for agricultural purposes and, therefore, the applicant should have a need for same (which is not the case in this instance).
 - The site layout plan submitted with the initial application shows that access to the proposed shed will be obtained via the private laneway serving the dwelling house recently permitted under PA Ref. No. 20171571 which is unconnected to the other sheds on the farm. Accordingly, it is reiterated that concerns arise as regards the intended use of the proposed shed given that the applicant is the owner of an asbestos removal company. Indeed, it was only in response to the request for further information issued by the Planning Authority that proposals were then submitted to remove the hedgerow separating the proposed building from the existing sheds and to provide for a dual access arrangement.

The Board is referred to the accompanying aerial photography of the registered location of the applicant's asbestos removal business which shows the storage of various heavy plant and vehicles etc. There are concerns that the farmland on which it is proposed to construct the new shed will be transformed into a comparable commercial site of varying usage.

- Given that the applicant is also building a dwelling house at this location, there are concerns that the landholding will, over time, develop into a commercial facility as is the case at the current registered address of his business (i.e. Ballygoman, Barntown).

6.2. Applicant's Response

- The applicant has applied for planning permission on behalf of his uncle (Mr. Alan Mooney), the current landowner, as a sign gratitude for his consenting to the construction of the applicant's principle dwelling house on the same landholding (PA Ref. No. 20171571).
- It is the applicant's intention to take over the management of the farmland in the future and to further improve the productivity of same.
- Whilst the applicant owns and manages a construction and asbestos removal company ('Gravity Construction'), the subject proposal is for agricultural purposes only and is unrelated to the activities of Gravity Construction. In support of the foregoing, the Board's attention is drawn to the accompanying correspondence from the applicant (Mr. P.J. Mooney) and his uncle (Mr. Alan Mooney) which confirms that the proposed shed will be for agricultural purposes only and will not be used, under any circumstances, for the storage of asbestos materials or for any other activity related to the operations of Gravity Construction.
- The enclosed documentation from Gravity Construction clearly states that there is no possibility for any storage related to the company to be undertaken anywhere else other than its approved and registered locations. The storage and handling of asbestos materials and all the machinery related to same is strictly controlled by all local authorities and the Health & Safety Authority. It

requires strict adherence to the relevant statutory provisions as well as the payment of specific fees.

- Gravity Construction is a certified hazardous waste collection permit holder and is fully approved, trained and insured to handle, collect and transport asbestos containing materials in accordance with health, safety and environmental regulations. In this respect, all third parties can be confident that all asbestos waste handled by Gravity Construction is disposed of safely and in accordance with the relevant legislation. Furthermore, the *'Practical Guidelines on ACM Management and Abatement – Asbestos Containing Materials ACMS in Workplaces'* clearly states the following:

'Prior to any removal work, as part of developing the plan of work, a suitable facility for disposal should be identified. The collection, transport and disposal of asbestos waste should only be undertaken by a waste collection permit holder and waste should be sent to an appropriately authorised facility'.

Therefore, it is clear that there is no possibility for Gravity Construction to engage in any activities related to the company from either the applicant's farmland or the proposed agricultural shed.

- Whilst the applicant is not the owner of the subject lands, this should not be used as a reason for refusal as the application accords in full with the requirements of the Planning and Development Regulations, 2001, as amended, including:

'Section 22:

Content of planning applications generally:

g) where the applicant is not the legal owner of the land or structure concerned, the written consent of the owner to make the application . . .'

The subject proposal has been accompanied by a signed letter from the landowner (Mr. Alan Mooney) consenting to the application and confirming the use of the proposed shed for agricultural purposes.

- The landowner, Mr. Alan Mooney, has other farmland elsewhere which is presently subcontracted due to a lack of machinery and associated storage

space. These additional lands are in close proximity to the subject site and are currently underutilised, primarily due to a lack of infrastructure.

- The existing sheds on site are not suitable for the storage of farm machinery and dry goods as they have been utilised solely for suckler farming activities. Furthermore, the poor condition of the sheds serves to justify the provision of a new shed for the storage of dry goods and machinery.
- In order to manage and develop this farmland and the other additional lands, new machinery and space for the storage of same is required. The proposed shed will serve to ensure the productive and sustainable development and management of the farm into the future.
- The location of the proposed shed was selected due to its proximity to what will be the applicant's main residence for security and practical reasons as well as to respond to the topography of the application site.
- In response to the appellant's query as to where machinery is presently being stored, the applicant does not propose to comment on this matter as it pertains to private information which is outside of the appellant's interest. Moreover, this aspect is not part of the contents or objectives of the Regional Planning Guidelines as per Section 23 of the Planning and Development Act, 2000, as amended, and thus is not a relevant consideration in the assessment of a planning application.
- Details pertaining to the nature etc. of the machinery etc. to be stored in the proposed shed are of a private nature and are not a relevant consideration in the assessment of a planning application.
- Details of the landowner's farming activities and his stocking rates etc. are of a private nature and are not relevant to the assessment of the subject application.
- It is reiterated that the new machinery (and the space necessary for the storage of same) is required to develop the wider farmholding under Mr. Alan Mooney's ownership to its maximum productivity and that this justifies the need for new good quality storage facilities.

- Details of the sourcing of feedstock and livestock are not relevant to the assessment of the subject application.
- The overall farmholding in the ownership of Mr. Alan Mooney is presently underutilised due to a lack of infrastructure and suitable machinery with the result that, in some cases, activities are subcontracted to other operators. This is one of the main reasons behind the development and improvement of the overall management and productivity of the wider farm. Therefore, the present stocking rates on site are irrelevant to the subject application as it is intended that the farmland will not be limited to only one activity.
- The location of the proposed shed was selected due to the proximity of what will be the applicant's main residence, for reasons of security and practicality, and in order to respond to the site topography.

It was initially intended that the new entrance arrangement for the dwelling house permitted under PA Ref. No. 20171571 would include for a direct connection to the proposed shed. However, in response to a request by the Planning Authority that all the farm machinery and equipment would have to make use of the existing entrance to where the existing sheds are located, a connection between the new shed and the existing structures was proposed although a direct connection to the approved dwelling would also be provided in order to integrate the farm use with the applicant's main residence.

- The assertion that the applicant is not engaged in agriculture is not an impediment to the subject application. The site is currently used for farming purposes.
- It is reiterated that it is the applicant's intention to develop the efficiency of the wider farm and to eliminate the need for subcontracting of storage space and machinery as is presently the case.
- Any change of use of the proposed shed / landholding into a commercial facility would necessitate a grant of planning permission and could not be undertaken as exempted development.

- The proposed shed will not contravene, or affect in any negative way, the function of the existing farm, and will not have an adverse impact on neighbouring landowners etc.

6.3. **Planning Authority's Response**

None.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Overall design and layout / visual impact
- Appropriate assessment
- Environmental impact assessment (screening)
- Other issues

These are assessed as follows:

7.2. **The Principle of the Proposed Development:**

7.2.1. On the basis that the development in question is intended for agricultural purposes, and as the subject site includes an existing farmyard which is situated in a rural area where the predominant land use is agriculture, I am of the opinion that agriculturally-related developments such as that proposed are an inherent part of rural life and should generally be accommodated within such areas. Accordingly, in light of the

foregoing, and having regard to the scale and the intended use of the proposed development for agricultural purposes, I am of the opinion that the subject proposal is acceptable in principle at this location.

- 7.2.2. With regard to the need / rationale for the proposed development, including the assertion in the grounds of appeal that the existing sheds / cattle housing on site have previously been deemed sufficient to accommodate the livestock numbers supported by the landholding in question, I would suggest at the outset that matters pertaining to animal husbandry and general good agricultural practice, such as the management of stocking rates and animal welfare, are subject to regulation by the Department of Agriculture, Food and the Marine. In any event, I note the submission by the applicant that the landowner, Mr. Alan Mooney, has farmland located elsewhere, which is presently subcontracted due to a lack of farm machinery and associated storage space, and that the proposed shed is necessary for the storage of newly acquired agricultural machinery in order to allow for improved productivity and the sustainable management of the farmholding into the future. Reference has also been made to the poor condition and unsuitability of the existing farm structures on site for the storage of machinery.
- 7.2.3. On balance, I am satisfied that the proposed development is required for agricultural purposes in connection with the continued operation of the farm holding and that it will function in conjunction with the existing farmyard (*N.B.* In this regard I would draw the Board's attention to the inclusion of a new accessway linking the proposed shed to the farmyard and its entrance arrangement as shown on the revised site layout plan submitted in response to the request for further information).
- 7.2.4. By way of further clarity, and in response to the assertion that the applicant is not engaged in agriculture, it should be noted that any grant of permission in this instance will pertain to the land and not the applicant and that it has been established that the landholder in question would appear to have need of the proposed storage shed.

7.3. **Overall Design and Layout / Visual Impact:**

- 7.3.1. Whilst I would acknowledge that the application site is located within the 'Slaney / Bann River Valley' landscape unit, which is considered to be sensitive to development, and that it is a requirement of Objective L03 of the Development Plan

to ensure that developments within such areas are not unduly visually obtrusive in the landscape, it is of relevance to note that the overall design and layout of the proposed development is typical of similar agricultural structures common to rural areas whilst the proposed construction will be situated immediately alongside an existing farmyard in a position set back from the public road. Indeed, the existing farm buildings on site will serve to screen views of the proposed development from the public road. Accordingly, having regard to the foregoing, and in light of the site context, including the screening offered by the surrounding landscape and other features, I am satisfied that the proposal will not unduly impact on the visual amenity of this rural area.

7.4. **Appropriate Assessment:**

- 7.4.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

7.5. **Environmental Impact Assessment (Screening):**

- 7.5.1. Having regard to the nature and scale of the proposed development, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, and the separation distance from the nearest sensitive location, 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.

7.6. **Other Issues:**

7.6.1. **Potential Future Non-Compliance:**

Whilst I would acknowledge the concerns raised in the grounds of appeal as regards the possibility of non-compliance with the terms and conditions of any grant of permission issued in respect of the subject proposal, including the possible use of the shed in question for purposes not associated with agriculture, in my opinion, it would be inappropriate for the Board to speculate on such matters and any future

breaches of condition or instances of unauthorised development should be referred to the Planning Authority.

7.6.2. Traffic Implications:

Although there are weight restrictions in place along the road network in the vicinity of the application site, having regard to the established use of the site (and the wider area) for agricultural purposes, the presence of an active farmyard within the confines of the site, the limited scale and nature of the proposed development, and following a site inspection, I am satisfied that the surrounding road network has adequate capacity to accommodate the increased traffic volumes consequent on the subject proposal without detriment to public safety.

8.0 Recommendation

- 8.1.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

9.0 Reasons and Considerations

- 9.1. Having regard to the location of the proposed development alongside an established farmyard and to its nature and scale, it is considered that, subject to compliance with the conditions set out below, the proposed development would be an appropriate land use in this rural and agricultural area, would not seriously injure the amenities of the area or of property in the vicinity, 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 27th day of November, 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. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

3. The roof and elevational cladding of the proposed structure shall be coloured to match the existing farm complex, to details to be agreed in writing with the planning authority prior to commencement of work on site.

Reason: In the interest of visual amenity.

4. The proposed structure shall be for agricultural use in connection with the subject land holding only and shall not be used for any commercial purposes.

Reason: In the interest of clarity and orderly development.

5. 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 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.

Robert Speer
Planning Inspector

20th April, 2019