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Bord  
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## Inspector's Report ABP-304375-19.

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<b>Development</b>	Permission for the retention of slatted cattle shed, feed store, retaining wall, silage pit, alterations to existing field entrance and access laneway and all associated site works.
<b>Location</b>	Crumlin Big, Moneygall, Co. Tipperary.
<b>Planning Authority</b>	Tipperary County Council.
<b>Planning Authority Reg. Ref.</b>	18/600498.
<b>Applicant(s)</b>	Martin Murray.
<b>Type of Application</b>	Retention permission.
<b>Planning Authority Decision</b>	Grant subject to conditions.
<b>Type of Appeal</b>	Third Party.
<b>Appellant(s)</b>	John Flynn.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	6 <sup>th</sup> August, 2019.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The subject site is located approximately 2km to the south east of Monegall and the M7 motorway in Co. Tipperary. The site is accessed over the L-3225-0 local road and lies to the east of the road. The area of is very rural in character with only a number of farmsteads and one-off houses. There is an existing single storey house located immediately to the south of the site.
- 1.2. The natural site levels provide that the site slopes downwards from the public road towards the rear (east) of the site and the site has a stated area of 3.163ha<sup>2</sup>. There is a stream/drainage system, associated with the Little Brosna River, which runs completely along the western (roadside) and northern boundary of the site and partially along the eastern boundary before it turns away from the site.
- 1.3. Further to the identified subject site, the applicant has submitted details of lands which have been rented / leased for spreading of slurry. These holdings are submitted as follows:
  - Applicants landholding adjacent to, not including the 3.1ha subject site: 3.5ha
  - Sinead Kenneally, lands at Ballynakill/Foxburrow, 10km from the subject site: 32.88ha
  - Martina Donnelly, lands at Curraduff, 13km from the subject site: 9.9ha
  - Liam O'Meara, lands across the road from the subject site: 43.56ha indicated but maps for 27ha only provided (folio DY2704 omitted).
  - Nuala Keane, lands located approximately 26km from the site: 113.8ha indicated but maps for 102.77ha only provided (folio TY13261 omitted).

In total, the applicant provides maps for rented lands amounted to 172.55ha, and not the 200ha indicated in submitted plans and particulars.

## 2.0 Proposed Development

- 2.1. Permission is sought for the retention of slatted cattle shed, feed store, retaining wall, silage pit, alterations to existing field entrance and access laneway and all associated site works, all at Crumlin Big, Moneygall, Co. Tipperary.

- 2.2. The shed has a stated floor area of 2,975m<sup>2</sup> while the feed store has 184.36m<sup>2</sup>. The slatted shed is located to the south eastern corner of the site while to the north is the concrete silage slab, with an approximate area of 1,380m<sup>2</sup>, lies directly to the north of the shed. The feed store lies to the west of the slatted shed and a retaining wall has been constructed adjacent to the feed store, enclosing the yard. The Little Brosna River is identified as running through the site and along part of the northern boundary. The capacity of the slurry tank to be retained is indicated at 2,332.8m<sup>3</sup>. The applicant advises that the development will accommodate 400 dry stock animals.
- 2.3. The access to the sheds and farm yard runs along the southern boundary of the subject site, and immediately adjacent to the existing residence to the south.
- 2.4. Following the submission of the response to the further information request, a Flood Risk Assessment was submitted by the applicant together with proposals to relocate the entrance to the subject site from the south western corner of the site 30m to the north of the as constructed entrance.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to grant permission for the proposed development, subject to 7 conditions.

Condition 2 of the grant of permission requires the relocation of the entrance to the site as proposed in response to the further information request.

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

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

The planning report considered the detail and nature of the proposed development, together with submissions made in relation to the proposal, as well as policy requirements. Following a request for further information, the report formed the basis of the Planning Authority's decision to grant permission.

### 3.2.2. Other Technical Reports:

There were no initial reports noted on the file. Following the submission of the response to the further information request, the Planning File includes the following reports:

Area Engineer: Following the submission of FI, the report notes no objection subject to compliance with conditions.

Environment Section: No objection in principle, subject to compliance with conditions.

### 3.2.3. Prescribed Bodies;

None.

### 3.2.4. Third Party Submissions:

There was 1 third party submission from the immediate neighbour in relation to the proposed development. The issues raised reflect those issues raised in the appeal and are summarised as follows:

- The development relates to a very large slatted shed which was erected without the benefit of planning permission.
- The development will impact on the residential amenity and enjoyment of the property.
- The development is in breach of the proper planning and development for agricultural development.
- The scale of the development in the vulnerable site has created significant environmental threat to the local environs.
- The capacity is indicated as being for 400 animals but the scale of the development provides for 999 animals which will have a knock on effect on the slurry output from the facility.
- The information provided in the application is lacking detail.
- The scale of the development will result in noise and light pollution, 24 hours a day, 7 days a week during the winter months.

- A large volume of agricultural machinery use the roadway at all hours of the day and night and is unacceptable. It is local knowledge that the applicant owns a large number of agricultural machinery and carries out agricultural services.
- Environmental issues raised in relation to vermin, slurry, the raising of site levels of between 1.5-3m has caused issues on the objectors property, increased traffic, the required spreading area is inadequate for the scale of the operation, proximity of the facility from the dwelling and inadequate details in terms of rainwater disposal on lands known to have flooded.
- Roads and traffic issues raised including inadequate sight lines at the entrance.
- Issues raised in relation to the electricity and water supplies to the facility, and fire safety issues.
- The development has depreciated the value of the family home and adjoining landholding.

Following the submission of the response to the further information request, the third party submitted a further objection, summarised as follows:

- Issues raised in relation to the new entrance proposed in response to the further information request and requests that a traffic management plan be prepared to ensure the suitability of the site for the machinery used.
- The site has been subject to flooding in the past.
- Inadequate details, and calculations, are provided in terms of surface water disposal and proposals are inadequate for the scale of the facility proposed.
- No topographical survey was carried out and the gravity flow disposal proposed will not work.
- The drawings do not identify the high voltage overhead wire, 75m to the north of the shed.
- No construction details of the slatted tanks was provided and the integrity test submitted was not agreed with the PA in advance and conflicting information is provided.

- Inadequate landscaping plans which differ from the site layout map.
- The response to the FI should have been re-advertised.
- The observer is taking legal proceedings against the applicant for nuisance.

The application should be refused.

## 4.0 Planning History

**TUD-16-165:** Unauthorised development enforcement file relating to the developments on the site.

## 5.0 Policy Context

### 5.1. Development Plan

The site is located in the open countryside within Co. Tipperary and is for an agricultural development. The North Tipperary County Development Plan 2010 (as varied) is the relevant policy document.

Chapter 5 of the Plan deals with Economic Development and section 5.6 deals with Rural Economy while Chapter 9 deals with Transport, Water Services and Environmental Management, with Section 9.7.1 dealing with Agricultural Slurries.

### 5.2. Natural Heritage Designations

The site is not located within any designated site. The site is located approximately 5.5km to the north of Slievefelim to Silvermines Mountains SPA, Site Code 004165.

### 5.3. EIA Screening

Having regard to nature of the development comprising the retention of an agricultural development, 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**

This is a third party appeal against the decision of the Planning Authority to grant permission for the proposed development. The grounds of appeal are similar to those raised with the Planning Authority and are summarised as follows:

- The development is contrary to acceptable guidelines of the Department of Agriculture, Teagasc, SEI, Tipperary County Development Plan and is unsustainable development.
- The development is unauthorised and has resulted in pollution of appellants landholding and impacts on residential amenity.
- The grant of permission has had no regard for adjoining properties and sets a precedent by permitting a substandard development.
- Roads and traffic issues relating to the scale of the machinery using the facility.
- The conditions attached to the permission do not deal with the ongoing issues in relation to noise, currently being experienced by the appellant and the location of the facility is not 200m from his home, rather it is 80-102m.
- The FI response submitted does not adequately address the issues raised in the request.
- Previous observations to the file clearly show that the development is unsustainable.

It is requested that planning permission be refused.

### **6.2. First Party Response**

The applicant has not responded to the third party appeal.

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

The Planning Authority has not responded to this third party appeal.

## 6.4. Observations

None.

## 7.0 Assessment

I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Scale of the development & Impacts on Residential Amenity
2. Flood Risk Assessment
3. Appropriate Assessment

### 7.1. Scale of the development & Impacts on Residential Amenity:

7.1.1. The subject site is located in a rural area of Co. Tipperary where the land use in the immediate area is predominantly agricultural, with a small number of one-off houses. I also noted a large volume of machinery around the site on the date of my inspection. The closest residential property is located approximately 100m to the south west of the slatted house, with the boundary running along the line of the access road as constructed.

7.1.2. The subject site would have been recently developed as a farm yard, being under grass previously, and it is noted that the works were carried out without the benefit of planning permission. The site has been extensively developed to provide

- A slatted shed with a floor area of 2,975.28m<sup>2</sup>
- Slurry tank with a capacity of 2,332.8m<sup>3</sup>
- Feed store with a floor area of 184.36m<sup>2</sup>
- Silage pit with an area of 1,380m<sup>2</sup>
- A new entrance and access roadway with associated fencing.

The development also includes a concrete yard and retaining walls associated with the filling of the site. The applicant advises that the development accommodates 400 animals. In terms of the landholding, the applicant appears to own just 6.6ha,



constituting the land the subject of this retention application, and an additional area to the east of the site. In support of the application, the applicant has submitted details of rented lands, part of which are located adjacent to the subject site, with the remaining fields located between 10km to 26km from the subject site. The rented area adjacent to the subject site is indicated as covering 43.56ha, however details have been submitted for only 27ha. In terms of the above, it is clear that the works constitute a significant development.

7.1.3. In the absence of any clear details relating to the animals, although acknowledging that the farm is not a dairy farm, the recommended floor area per animal ranges from 1.7m<sup>2</sup> for weanlings, to 2.5m<sup>2</sup> for animals under 2 years and up to 3m<sup>2</sup> for suckler cows. Taking the measure of 2.5m<sup>2</sup>, the slatted house, the subject of this retention application, has the potential to accommodate over 1,000 animals.

7.1.4. Schedule 2 of the European Union (Good Agricultural Practice for Protection of Waters) Regulations require 0.26m<sup>3</sup>/week per animal. The subject site is located within Zone A in terms of Schedule 3 of the Regulations which requires a minimum storage period of 16 weeks for holdings in Co. Tipperary. In this regard, using the animal figures presented by the applicant, the slurry tank, would require a capacity of 1,664m<sup>3</sup>. The development proposes a slatted tank with a capacity of 2,332.8m<sup>3</sup>, has the potential to accommodate up to approximately 560 animals aged +18months. This figure increases to 972 cattle 6-24 months and 1,822 calves 0-6 months. On the date of my inspection, there were a small number of young calves in the shed.

7.1.5. In terms of lands available for spreading slurry, I would consider that a farm holding in the ownership of the applicant of 6.6ha is small for the numbers of animals that could be accommodated in the shed to be retained. That said, I acknowledge the submission of rented lands available for slurry spreading but I would note the distances from the farmyard, and also the nature of some of the plots of land – part forested, in close proximity to numerous residential properties and waterways, including the Little Brosna River which runs through and adjacent to the farm yard site. However, having regard to the information presented in the application, I am satisfied that the applicant has provided adequate details of available land to comply with the above requirements.

7.1.6. While I would state that I have no objection in principle to the proposed farming developments in this area, and that the third party appellants home is located within a rural area where agriculture is the primary use, I consider that the scale of the operation at this location gives rise to concerns, and in particular, how it impacts on the existing residential amenity of the residents in the immediate area. The recently constructed farmyard, together with its associated access road and entrance, are located immediately adjacent to the appellants family home, with the large slatted shed constructed approximately 100m from the house, and 6.4m from the boundary of the site. There is no doubt but that there is potential for impacts arising on the existing residential amenities of the appellants home, notably in terms of noise and traffic, together with the operational hours that arise in a large farming enterprise.

7.1.7. The Board will note the proposals submitted in response to the Planning Authoritys further information request, to relocate the entrance to the site 30m to the north to address the issues raised relating to the as constructed entrance. While this may address certain aspects of issues raised, I would not accept that the proposal addressed the overall residential amenity issues associated with the wider farm yard development. The proximity of the development the subject of the retention application of such a significant scale, together with the large amount of machinery on the land, would adversely impact the residential amenities of the adjacent properties. I am also concerned regarding the scale of the development on such a small landholding.

7.1.8. Overall, and having regard to the level of information submitted planning application documents, I would not be satisfied that the development, if permitted, would adequately protect the existing residential amenities of the residents living immediately adjacent to the site. Having regard to the minimal separation distance between the large building and the residential property, the access arrangements together with the scale of facility and use at the farm yard, I am not satisfied that the development can be accommodated without serious injury to the existing residential amenities of the area.

## **7.2. Flood Risk Assessment**

- 7.2.1. Following a request for further information, the applicant submitted a Flood Risk Assessment Report. The report notes the proximity of the site to the Little Brosna River and advises that the OPW Preliminary Flood Risk Assessment Map (PFRA Map 165) shows that part of the site may be at risk from a Fluvial Flood Event in the nearby Little Brosna Stream.
- 7.2.2. The OPW identifies that part of the northern boundary of the site may be at risk from a flood event. This area of the site has the stream running along its boundary. While the third party has indicated that the site is susceptible to flooding, and I noted ponding in areas of the site on the date of my inspection, the FRA concludes that the farm development will not be impacted from a fluvial flood event associated with the stream. Surface water arising from the development will not discharge to the stream with soiled water being diverted to the underground slatted tank.
- 7.2.3. The assessment includes a section in relation to the Justification Test and submits that the existing development will not be impacted by flooding but makes no further reference to other existing developments or the potential impacts on other properties in the vicinity of the site. The assessment concludes, after modelling, that the development will not be impacted in the event of a 1:100 or 1:1000 year flood event and that no mitigation measures are necessary.
- 7.2.4. Having regard to the third party submissions, it would appear that the filling of the subject appeal site, and the subsequent construction of the slatted shed on the raised land, has given rise to issues on the neighbouring landholding. While I found the ground wet underfoot on the date of my site inspection, I am generally satisfied that the development, in terms of flood risk assessment, is reasonably acceptable.

## **7.3. Appropriate Assessment**

The site is not located within any designated site. Having regard to the location and nature of the subject site, I am satisfied that there is no potential for impact on any Natura 2000 site, warranting AA.

## 8.0 Recommendation

8.1. It is recommended that permission be refused for the following stated reason.

## 9.0 Reasons and Considerations

1. Having regard to the scale and intensive nature of the proposed development to be retained, and the proximity to the adjoining residential property, it is considered that the proposed development would seriously injure the residential amenities of this property due to noise, traffic and odour. Furthermore, the Board is not satisfied on the basis of the submissions made in relation to the planning application and the appeal that the proposed location of the large structure has been adequately justified. The retention of the development would, therefore, be contrary to the proper planning and sustainable development of the area.

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A. Considine  
Planning Inspector  
09/08/2019