



An
Bord
Pleanála

Inspector's Report

ABP-304600-19

Development	Extension to the side of slatted shed, the extension will be for livestock with underground slurry storage tanks
Location	Edmondstown, Ardee, Co Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	1924
Applicant(s)	Peter McEneaney
Type of Application	Permission
Planning Authority Decision	Permission
Type of Appeal	Third Party
Appellant(s)	Michael and Orla Brennan
Observer(s)	None
Date of Site Inspection	19 th of September 2019
Inspector	Angela Brereton

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1.0 Site Location and Description

- 1.1. The site is in the rural area to the north of Ardee and is accessed via the local road network to the west of the N2 and Dooley's restaurant is located at the turnoff to the local road. The existing farm complex is located at the end of a Ballabony Road (L11201) public road at Edmondstown. The boundaries of the site comprise of low hedging and semi-mature trees. The complex comprises of slatted sheds, hay sheds, bedding sheds and other associated buildings. There is a dwelling house and some older sheds within the holding to the north of the complex on site.
- 1.2. There are two dwellings on the adjoining sites to the south and a number of one off houses with access to this cul-de-sac road. The Third Party dwelling is to the south of the agricultural sheds on site. It is screened by deciduous trees and hedgerows along the site boundary. The access road from the local road network is narrow and surfaced and there are trees/hedgerows either side. It widens at the northern end to serve the entrances to either of these houses and the gated controlled entrance to the farmyard complex.

2.0 Proposed Development

- 2.1. Permission is sought for an Extension to the side of the existing slatted shed. It is proposed that the new extension will be for livestock with underground slurry and storage tanks and underground tank for holding rain water and all associated works.
- 2.2. R&J Engineering Architectural & Building Consultants submission includes the following on behalf of the Applicant in support of this application:
 - Flood Risk Report
 - Storm Calculation
 - Copies of Letter and Report from Teagasc
 - Site Location Map, Site Layout Plan and Floor plans and Elevations and Sections showing the extension to the side of the existing shed.

3.0 Planning Authority Decision

3.1. Decision

On the 10th of May 2019 Louth County Council granted permission for the proposed development subject to 3no. conditions. These generally relate to technical and infrastructural issues, including visibility from the entrance and prevention of damage to local roads, drainage - disposal of surface and wastewater, finished floor levels, construction related issues etc.

Condition no.2 is of note as is as follows:

2(a) The development shall be so operated that there will be no emissions or malodours, fumes, gases, dust or other deleterious matter such as would give reasonable cause for annoyance to any person in any residence in the vicinity.

(b) Prior to the commencement of the proposed development a hydro-geological survey in relation to existing wells within 100m of the site shall be carried out and submitted to the Planning Authority for written approval.

Reason: In the interest of public health and orderly development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report had regard to the locational context of the site, planning history and policy and to the reports and submissions made. Their assessment included the following:

- The site is located within Development Control Zone 5 of the Louth CDP 2015-2021. They consider that the principle of this proposal complies with planning policy relative to the rural agricultural area.
- An Appropriate Assessment Screening Matrix was carried out.

Issues to be resolved by way of further information include the following:

- Environmental issues relating to adjoining wells and ground water flow
- Silage pit run-off will not permitted to enter drains or dry drains

- Separation distances to streams

Further Information Request

The applicant was requested to submit the following:

- A revised site layout displaying all the wells within 100m of the site (including distances from the proposed effluent tanks) and confirmation that every dwelling within 100m of the proposed site has been contacted in relation to their wells.
- They were also requested to mark ground water flow in the direction on the revised site layout plan.
- Revised Public Notices.

Further Information Response

R& J Engineering response to the F.I includes the following:

- Copies of Proposed Site Layout Plan (Distance from well within 100m of proposed extension and ground water flow direction). Details relative to wells at neighbouring properties.
- The applicant has a well which is located in front of his dwelling house and is over 120m away from the effluent tank.
- A Site Layout drawing showing the ground water flow direction of the drain.
- Additional Public Notices are not required.

Planner's Response

The Planner had regard to the F.I submitted. They noted the following:

- Levies will not be charged for this application as per the LCC Development Contributions Scheme 2016-2021.
- An EIS/EIAR is not required.
- Based on the favourable report from the Environment Section they recommend permission subject to conditions.

3.3. Other Technical Reports

Infrastructure Section

They have no objections subject to a number of recommended conditions, including relative to the entrance, visibility splays, maintenance of roads, drainage – surface water attenuation and disposal, and construction related matters.

Environment Section

They recommended that all wells within 100m of the site be shown on a site location map (to include distance from proposed effluent tanks) and to confirm that every dwelling within 100m of the proposed site has been contacted in relation to their wells. Also, to mark the ground water flow on the map. Subsequently they considered the F.I submitted acceptable subject to a number of conditions.

3.4. Third Party Observations

A Submission has been received from adjacent residents Michael & Orla Brennan. As these are the subsequent Third Party Appellants and similar type issues are raised, their comments are considered in the context of the Grounds of Appeal below.

4.0 Planning History

Applicant's farm complex

Reg.Ref.03/28 – Permission granted subject to conditions to Peter McEnearey for a two storey extension to dwellinghouse and associated works.

Reg.Ref.07/1304 – Permission granted subject to conditions to Peter McEnearey to construct a slatted cattle unit and ancillaries.

Third Party property

Reg.Ref.14/60 – Permission granted to Michael Brennan for a two storey detached dwelling house with conservatory, detached garage, install a waste water treatment system with percolation area and associated site works.

5.0 Policy Context

5.1. National Planning Framework – Project Ireland 2040

Section 5.3 refers to the growth and development of rural areas and the role of the rural town as a catalyst for this. It is recognised that the Irish countryside is, and will continue to be, a living and lived-in landscape focusing on the requirements of rural economies and rural communities, based on agriculture, forestry, tourism and rural enterprise, while at the same time avoiding ribbon and over-spill development from urban areas and protecting environmental qualities.

National Policy Objective 23 seeks to: *Facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector....while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.*

5.2. The Sustainable Rural Housing Guidelines 2005

Section 1.2 provides the Policy Context and this includes: *In relation to rural housing, sustainable development is, therefore, much more than an environmental concept, although it includes that important element. It requires an acknowledgement of the role that people living in both small towns and villages and the wider countryside have to play in supporting a dynamic rural economy and social structure.*

The Guidelines seeks to encourage and support appropriate development at the most suitable locations. Section 3.2.3 concerns Rural Generated Housing and gives an example of Persons who are an intrinsic part of the rural community and Persons working full-time or part-time in rural areas.

5.3. EU Water Framework Directive

The purpose of the EU Water Framework Directive (WFD) 'is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater.

5.4. Louth County Development Plan 2015-2021

Rural Development Strategy

Section 3.3 refers: *The Council's Rural Development Strategy is based on promoting sustainable rural development aimed at maintaining vibrant and viable rural communities while also seeking to protect the amenity, recreational and heritage value of the rural landscapes and countryside of the County.*

Section 3.3.1 refers to *Rural Enterprise* and Policy RD3 seeks:

To secure vibrant and viable rural communities by promoting sustainable development and settlement patterns in rural areas, environmentally friendly agricultural practices and the protection of natural resources, environment, sensitive landscapes and landscapes of the countryside.

RD4 seeks: *To encourage the development of alternative rural based enterprises, including home based enterprises, where the scale and nature of such enterprises are not detrimental to the amenity of the area, adjoining dwellings and where the proposal can meet all other planning requirements. Any proposals must demonstrate that they have a site specific link to the rural area, are appropriate for the site size and be of a scale commensurate with the rural area.*

Agricultural

Section 3.4 notes that agriculture is an important source of employment and income in rural areas. *Farm practices are experiencing a shift away from traditional agriculture activities such as dairying and livestock farms. Specialist beef production is now the main enterprise on some 40% of farms in County Louth which reflects a national shift to this type of farming.* Policies RD7 to RD12 are supportive of sustainable agricultural practices and encourage rural diversification.

RD7 seeks: *To maintain a vibrant and healthy agricultural sector based on the principles of sustainable agriculture and associated activities as a cornerstone of rural development and prosperity.*

RD 8 seeks: *To facilitate the development of agriculture while ensuring that natural waters, wildlife habitats and conservation areas are protected from pollution.*

Agricultural Buildings

Section 3.4.1 supports good quality agricultural buildings: Policy RD13 refers:

To ensure that agricultural buildings are designed and appropriately sited to integrate into the landscape. Where new agricultural developments or extensions to existing authorised agricultural developments are proposed, it will be a requirement that the development is well screened by trees and hedgerows and of a palette which permits the structure to satisfactorily blend into its surroundings.

RD 14 seeks: *To ensure that agricultural developments provide adequate waste collection and storage facilities and adhere to all legislation on water quality including the Water Framework Directive, Nitrates Directive and Phosphorus Regulations.*

RD 15 seeks: *To ensure that agricultural developments are designed and constructed in a manner that will ensure that watercourses and sources of potable water are protected from the threat of pollution.*

Development Zones

Section 3.10 provides that the County is divided into 5 development zones in the CDP 2009-2015, and the purpose of these zones is to conserve and protect the amenities of rural areas and to promote development in a sustainable manner. The current CDP continues to take this approach with some modifications made.

The subject site is located in Development Zone 5 (Section 3.10.5) which seeks:

To protect and provide for the development of agriculture and sustainable rural communities and to facilitate certain resource based and location specific developments of significant regional or national importance. Critical infrastructure projects of local, regional or national importance will also be considered within this zone.

This section further states: *It is an objective of this Plan, from both social and economic perspectives, that agricultural activity and local communities should be protected and permitted to develop and prosper in this area.*

Policy RD39 refers to the principal forms of acceptable development within Development Zone 5. This includes the following categories: *limited one-off housing**, *agricultural developments, extensions to existing authorised uses and farms, appropriate farm diversification projects;*

* Refer to Section 2.19.1 for Qualifying Criteria

5.5. Natural Heritage Designations

The site is not proximate to any designated or Natura 2000 sites.

5.6. EIA Screening

- 5.6.1. Having regard to the nature and scale of the proposed development comprising the extension of a slatted shed in the rural area and the absence of any significant environmental sensitivity in the vicinity, the absence of any connectivity to any 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.

6.0 The Appeal

6.1. Grounds of Appeal

Michael and Orla Brennan, proximate local residents have submitted a Third Party Appeal. Their grounds of appeal include the following:

Proximity

- The proposed development substantially increases the intensity of use at the site in proximity to their home. This has serious issues for their young family and would be detrimental to their health and the peaceful enjoyment of their family home.
- There is a failure in the Council's decision to have sufficient regard to their legitimate and objective concerns which are recognised in policies in the development plan.
- The PA did not have regard to the location of their well or consider the information that was provided to them (Appendix 1 refers to correspondence with Louth CoCo).

Danger of Toxic Slurry Gases

- The increase in slurry storage has the potential to release additional toxic gases which are produced by bacteria during the decomposition of slurry.
- They are concerned that this would be detrimental to their health and their children could be exposed to such gases while playing outside.
- They submit that there is a lack of control of such dangerous substances and that this has not been given due regard by the PA.

Environmental Nuisance Factors

The implications of the following are referred to:

- Light Pollution and Breach of Privacy
- Noise Pollution
- Smells and Odours
- Unsocial Hours
- Water Course and Habitat
- Proximity of Physical Boundary Hedgerow

Alternative Sites

- They query why alternative sites within the applicant's three separate farm holdings, all of which have farm buildings thereon were not considered.
- They note that the proposed development is proximate to their dwelling and a considerable distance from the applicant's own dwelling and consider that they are taking all the benefit and none of the burden associated with sustained livestock activities.
- They submit that there is no site specific need for the proposed siting of the shed and that it will dwarf the existing shed.
- They ask the Board to recognise their concerns relative to the impact of the proposed development and the proximity of their property.

Legal Planning Principles

- They consider that the Planning Authority has erred in their application of legal planning principles.

- They consider it appropriate to highlight the legal principles governing the role of planners in planning cases and note a number of leading court decisions. They provide details of these cases and a summary of the key principles.

Error in Application of Legal & Planning Principles

- They highlight section 3.0 of the Development Plan which sets out the applicable policies and objectives regarding rural development and natural resources. They quote from the relevant policies and consider that more weight should have been proportioned to the following:
 - To ensure the nature of rural enterprise is not detrimental to an area, including dwellings;
 - To ensure sources of potable water are protected from the threat of pollution;
 - To ensure that agricultural development is well screened and
 - To protect and provide for both agriculture and sustainable communities.
- They consider that the decision of the PA has failed to appropriately balance the protection of their home (as a component of the rural community) against the agricultural development proposed.
- They note that as provided in the Section 28 'Sustainable Rural Housing' Guidelines that sustainable rural housing is acceptable in the countryside.
- They submit that an intensive livestock shed so close to their home is clearly not sustainable given the adverse effects on their residential amenity.

Planning and Development Regulations and separation distances for livestock sheds

- They highlight that under these Regulations agricultural buildings are only exempt if a letter of consent is provided by relevant third parties within 100m of the site. This provides a recognition of the need to safeguard neighbouring consent for such proximate agricultural buildings.
- They do not have the option to refuse to write a letter of consent and their residential amenity has not been recognised nor given due regard in either the project design or planning assessment.

- This significantly prejudices their ability to maintain reasonable residential amenity and highlights the importance of the role of the PA in balancing weaker rights.
- They consider that the PA overlooked the proximity of their existing dwelling, provision of adequate separation distances and did not even consider (as per Policy RD13) if adequate screening were in place.
- The Council's permission with insufficient conditions is not 'good planning' and does not balance the needs of both adjacent land uses in a sustainable manner.

Summary & Conclusion

- Their appeal has been necessitated by the inherent and serious issues that will result from the proposed development.
- The proximity of the existing agricultural uses is already interfering with the enjoyment of their property and poses a significant health risk to their children.
- They include extracts from journals and newspapers relative to the 'dangers of slurry'.
- They are concerned about an increase 'in intensity of use' and inadequate separation distances will create an unsustainable living environment.
- The proposed development will cause an unacceptable loss of their residential amenity and this has not been properly weighted by the PA and development plan policies have been ignored.
- The principles of 'reasonableness' and 'rational judgement' have not been followed and this decision departs from the well established legal principles of fairness.
- The grant of an intensive livestock and slurry store within 14m of the curtilage of a third party dwelling undoubtedly has adverse impacts and cannot objectively be, in compliance with Section 28 Guidelines.
- This decision does not comply with planning policy and guidelines and has failed to appropriately balance the protection of their home as a component of the rural community against the agricultural development proposed.

- They refer to planning case law relative to the principle of the need for objectivity includes the following:
 - Not act perversely;
 - Not take into account irrelevant material or ignore irrelevant material;
 - Abide by the statutory procedures; and
 - Not depart from the rules of natural justice of which are (a) the right to a fair hearing; (b) no person to be judge in his own cause or evidence bias or predetermine an issue.
- They ask the Board to refuse permission for the proposed development.

6.2. Applicant Response

Tony Eubanks of EHP Services has submitted a response on behalf of the First Party which includes the following:

Planning History and Rationale

- Details are provided of the long established history and current working practices of the Applicant's farm.
- The proposed development will allow for an additional number of cattle to be accommodated, resulting in more efficient farming operations within the farm complex.
- They have regard to the locational context of the site at the end of the Ballabony Road and note this road serves several detached dwellings. The existing cattle shed was granted in 2007, the Appellant's house in 2014.

Planning Policy Background

- They note that the Louth Economic & Community Plan 2016-2022 seeks to establish Louth as a premier producer in the Agri-Farming, Food and Fisheries sector.
- They consider that the proposal as an extension to an established agricultural use in the rural area is supported by planning policies.

The Appellant's Case & Applicants' Response

- This proposal includes mitigation and protection to the residential amenities of a recently constructed property within a rural setting and against the noise, odours, activities etc. that already occur within the adjoining farming complex.
- They consider that the Council gave sufficient and reasonable consideration to the issues raised.
- They note that the proposal is within the existing established farm complex, other farms within the applicant's holding are rented separately and do not provide a viable alternative for the proposed development.
- The justification for proposing the extension of the existing cattle shed within the main farming complex is both logical and reasonable.

Well Proximity

- They refer to the Council's FI request and to their response regarding proximity to wells. They note that the exact location of the Third Party well was not available but include further details in Appendix 1 of their submission.
- They query the location of the well and provide that the Applicant's proposed development should not be disadvantaged because of unauthorised development carried out by the Appellant.

Adverse Impact on Residential Amenities & Health

- They provide that the Applicant operates the existing farm and cattle shed in compliance with Best Practice Agricultural and Farming Guidelines and note details of such.
- They also note details of the agitation points which are only opened twice a year. They provide that this proposal will not give rise to toxic slurry gases that pose a threat to health and safety or residential amenity.
- No external light sources are proposed and this complaint is not material to the development under appeal.
- The proposed development will not increase the extent or duration of farming activities which the Appellants already experience since choosing to construct their dwelling in such a rural setting.

- They consider that Condition no.2 of the Council's permission addresses many of the environmental issues of concern to the Appellant.
- They do not accept that the well run operations will attract vermin.
- The proposed slurry tank is a sealed unit constructed to current standards and will not pose a threat to water quality.
- The proposed development will not impact on water habitats and they note that there will be no impact on the qualifying interests on the Natura 2000 network. Also, that the Council screened out the application for AA.
- No threat is posed to water quality or flooding potential within the area or cause the displacement of flood waters onto other lands.
- The proposed development will be sufficiently screened from the Appellants property by existing boundary planting. They will accept a condition relative to additional boundary planting.
- They do not support that the proposal will devalue the Appellant's property.

Error in Application & Legal Principles

- They refer to the Exemptions for Agricultural Buildings as provided in Schedule 2, Part 3 of the Planning and Development Regulations and consider that they do not apply as this proposal is not exempt and is the subject of a current planning application for permission.

Conclusion

- They note the established use of the farm and associated farm complex and provide that the current proposal does not represent a substantial alteration to the existing character of the area or relationship between the appeal site and adjoining residential property and will not result in detrimental impacts.
- They consider that the proposal complies with planning policies and objectives and does not raise new issues. They request the Board to dismiss this appeal.

6.3. Planning Authority Response

Louth County Council advises that the Planning Authority has no further comment to make but refers interested parties to the reports on file.

7.0 Assessment

7.1. Principle of Development and Planning Policy

- 7.1.1. The application site is located within the rural agricultural area, within Development Zone 5 as shown on Map 3.1 in the Louth CDP 2015-2021, where in accordance with planning policy (and as noted in the Policy Section above) the principle of sustainable agricultural development is generally supported. It is noted that this is a long-established farm holding. The issue here is that this proposal is for an extension to an existing slatted shed, albeit with another larger slatted shed and associated works. As noted in the Planning Section above the existing shed is authorised and Policy RD 39 considers such developments for extensions to existing authorised uses and farms. Regard is had to the rationale for the need for the proposed development below.
- 7.1.2. The concerns of the adjacent residential property i.e the Third Party Appellants have been noted. This includes that the proposed development substantially increases the intensity of use at the site and represents a 43% increase of floor space of all existing buildings and an 81.3% in slurry and effluent storage across the applicants 201 acre farming enterprise which currently utilises three independent farmyards. This increase in activity and intensity will be concentrated within 14m of the curtilage of their dwelling and within 47m of their living quarters. They are concerned that this increase in capacity would intensify serious existing issues for them and would be detrimental to their health and residential amenity including the peaceful enjoyment of their property. They consider that their rights as adjoining residents living in the rural area have been ignored. Also, that the social and environmental dimensions underlying the assessment of the PA have been weighted entirely in favour of the farm development, despite their existing dwelling being so closely adjacent and their objections being raised through the planning application.

- 7.1.3. The First Party response considers that the appeal disregards the fact that the proposed development is for an extension to an existing structure and use which is well established in planning terms. They provide that the agricultural development is fully compliant with the zoning objective for the area and is supported by planning policies and objectives. It is noted that the proposed development as an extension to an existing established agricultural use is supported by planning policies and objectives which seek to support existing and new rural based economic development such as farming, farming diversification and other appropriate forms of development that will secure vibrant and sustainable rural communities.
- 7.1.4. Having regard to the above, while the principal of development is generally acceptable and in accordance with policies that support agricultural development in the rural area, the documentation submitted and the issues raised in the Third Party Appeal are considered further in the context of this Assessment below.

7.2. Other Planning Considerations

- 7.2.1. The Third Party highlight the legal principles which they provide govern the role of planners in planning cases and have been set out in a number of leading court decisions and provide details of such. They set out a summary of the key principles and these are noted. They consider that the Planning Authority application of legal and planning principles and justification was not consistent with these principles. It must be noted that the processing of the application by the PA is not within the remit of the Board and the application is now being considered de novo.
- 7.2.2. They refer in particular to the application of policies and objectives regarding rural development and natural resources. They summarise a number of extracts from Section 3 of the Louth CDP, which include that such proposals not be detrimental to the amenities of the area. This includes adjoining dwellings, regard to screening and protection of the rural landscape and environment. In this respect they also quote from the Section 28 'Sustainable Rural Housing' Guidelines and note that the sustainable development envisaged by these Guidelines requires a balance between social, economic and environmental factors.
- 7.2.3. They provide that national planning policy correctly identifies that rural housing is sustainable and requires acknowledgement by Planning Authorities of the role it

provides via people living in the countryside. Also, that the guidelines place the correct policy context of 'support' for residential homes in the countryside. They consider that to grant an intensive livestock shed so close to their home is clearly not sustainable and will have adverse impacts on their residential amenity and that the decision has been weighted entirely in favour of farm development, despite their existing dwelling being so closely adjacent and their objections raised.

7.3. They also highlight to the Board the requirements for such agricultural development in proximity to third party dwellings are only exempt development under schedule 2, part 3, class 6 of the regulations if a letter of consent is provided by relevant third-party dwellings/occupiers within 100m of the proposed development. However, this is not the case relative to an application for planning permission and is not a relevant consideration in this case.

7.4. Rationale for Proposed Development

- 7.4.1. Details submitted provide that the applicant is a farmer specialising in livestock operating from a farmyard at Edmundstown, Ardee, Co. Louth. The appeal site has been a working farm in the Applicant's family for over 100 years. The Applicant has been a farmer for over 20 years and has lived on the farm since 2000, inheriting it in 2008. Details are given of his cattle herd which are spread over three farms (the other two being rented).
- 7.4.2. An agricultural slatted shed with associated underground slurry tank was constructed on the farmyard in 2007 – Reg.Ref.07/1304 relates. The purpose of this shed was to provide for the wintering of cattle. The applicant now wishes to provide an additional slatted shed to cater for an increase in herd numbers and to fully comply with EU Nitrate Directives. They provide that the existing shed has a capacity to accommodate 50-70 cattle approx. and the new shed will further accommodate such additional numbers, (c.160 cattle in all) with a result that the Applicant's farming operations can become more efficient and productive with more animals gathered together and segregated across several premises. They seek to consolidate their operations at one location by expanding the facilities and upgrading farm practices to meet current Department of Agriculture farm building and waste management standards.

7.4.3. The Letter from Teagasc notes that the proposed farm development is to modernise the farm and move cattle from straw bedded loose house to a modern slatted unit with a new slatted tank for the collection of all effluent and slurries. They provide that this new development is for an upgrade and modernisation of facilities and is to comply with EU directives. Also, that it will improve efficiency and reduce labour.

7.5. Design and Layout

7.5.1. The area of the site is 1.124ha. The g.f.s of the existing buildings is 1180sq.m. Existing buildings, which include the applicant's farmhouse, older sheds and more modern structures and the current proposal have been indicated on the Site Layout Plan submitted. They are served by the existing farmyard complex. There is a gate controlled entrance to the site, which is accessed via the local road network and a narrow access road.

7.5.2. As shown the proposed new shed, measuring c. 508sq.m in floor area, is to be located to the immediate west of and adjoining the existing shed. It is shown adjacent to and west of the existing sheds, alongside the existing slatted shed permitted under Reg.Ref.07/1304. The existing shed is shown 6.5m to the apex and the current proposal 7.4m, so it will be marginally taller than the existing shed. External finishes include concrete and galvanised grey metal sheeting to match the existing. It is to include a feed passage, dry pens and the central slatted unit with underground tank. This will allow for 3no. underground tanks (2no. existing). The rear elevation is shown to include a sliding door. It is considered that visually the proposed design and layout is acceptable and will be seen in the context of the existing buildings. It is recommended that if the Board decide to permit that it be conditioned that external finishes match those of the existing building.

7.6. Impact on the Character and Amenities of the area

7.6.1. The Third Party has raised a number of concerns about the impact of the proposed development on their property. These include concerns about light pollution from the various activities associated with the shed and that this will intensify due to the current proposal. They are particularly concerned about floodlights shining directly into their home and impacting on their privacy. The First Party provide that no

external light sources are proposed and consider this not material to the appeal. It is recommended that if the Board decide to permit that it be conditioned that there be no floodlights associated with the shed and any other lighting associated with the shed be directed away from the neighbouring property to the south.

- 7.6.2. That the increase in capacity will lead to increased livestock feeding and ancillary activities which will increase associated nuisance factors. Noise pollution is another concern particularly from tractor and machinery activities and during livestock weaning and testing. Also, that the proposed development provides for an additional vehicular opening within the shed which will front directly towards their house and will further aggravate the existing problem. The First Party provide that the proposal will accommodate more cattle than is presently possible. They consider that such an increase in capacity is not however considered an intensification of use within the context of the overall scope of operations and activities of the existing farm complex.
- 7.6.3. The Third Party provide that there is an issue with smells and odours and slurry gases which will intensify due to the current proposal. It is also noted that a lot of farm activities take place during the night and that there are unsocial hours. In response the First Party provides that the Applicant operates the existing farm and cattle shed in compliance with the Department of Agriculture, Food & Fisheries *Code of Good Farming Practice* guidelines and Teagasc guidelines on best practices. They provide that the proposed development will not give rise to any additional odours that aren't already generated by the existing farm or cattle shed. Also, that there will not be an increase in the extent or duration of farming activities which the Appellants already experience in this rural agricultural setting. They consider that concerns about the effect on their property are adequately dealt with by Condition no.2 of the Council's permission. It is considered that Condition 2(a) is governed by good agricultural practices.
- 7.6.4. The Third Party are concerned that the proximity of the proposed development to the southern boundary may cause damage to boundary hedgerows along this. Having regard to the Site Layout Plan submitted it is noted that the proposed shed while extending further forward than the existing will be on a similar rear building line to the existing adjoining slatted shed. Therefore, it will not be set further back towards the southern site boundary with the adjoining property to the south. Also, the height and design of the proposed slatted shed is similar to the existing shed (albeit c.1m taller).

The site visit was carried out in mid-September so the trees while deciduous were in full leaf. The Appellant's property to the south was not visible from the subject site. When visiting their property a slight glimpse of the existing slatted shed was seen in the distance through the trees. It is understood that the shed will be more visible in the winter period. It is noted that the First Party response provides that the Appellant will accept a condition requiring additional planting and a change of colour of external finishes if necessary. If the Board decides to permit I would recommend that conditions be included relative to external finishes to match the existing and landscaping plans be submitted to include retention and augmentation of the trees/hedgerows along the southern boundary.

- 7.6.5. While it is not ideal to have an intensive livestock facility so close to a dwelling the development before the Board is part of an existing working farmyard that has been established for many years. It is also adjacent to an existing slatted shed granted permission in 2007, built prior to the house which was permitted in 2014. While all of these concerns are valid relative to the proximity of the dwelling, it must be noted that this is the rural agricultural area where the principle of such use provided it is environmentally sustainable and does not impact adversely on the amenities of the area is supported. It is noted that it is stated that these activities will be carried out in accordance with standards for good agricultural practice relative to such, which are dealt with under separate remit.

7.7. Alternative Sites

- 7.7.1. Another issue put forward by the Third Party has regard to lack of consideration of Alternative Sites. They note that the applicant has three separate farmyards in his farming business and each have purpose built livestock housing. The location of the proposed development is a considerable distance from the applicant's farmhouse and is the only facility that directly adjoins and is in close proximity to a residential property. They are concerned that the proposed development (within 14m of their boundary, 23m of their garage and 47m of their dwellinghouse) will allow for construction vehicles and farm machinery to be able to circulate the boundary walls of the shed during construction and operation. They contend that there are numerous other sites and locations within the farm holding of an adequate separation distance from their home which can be utilised by the applicant for an

alternative position for the submitted floor area/livestock spaces which the applicant is proposing.

7.8. The First Party response notes that the applicant's farming business is based from the complex accommodating the appeal site which is also his principal residence. The Applicant leases two other farmyards one in Edmondstown and the other in Authurstown. Neither farmyard is under the Appellant's ownership or control nor are any of the sites or structures within suitable for extension. They provide that neither site provides a viable alternative to the proposed development. They contend that the justification for proposing the extension of the existing cattle shed within the main farming complex is both logical and reasonable. In this respect it is noted that agricultural development including expansion of existing authorised uses and farms is generally supported by planning policy (RD 39 relates).

7.9. **Access**

7.9.1. There are concerns that the proposed development will require access from heavy goods vehicles for long durations during enabling and development works, which may cause damage to the local access road. It is provided that the road was recently upgraded through a Community Involvement Scheme, the majority of the costs being borne by local residents on a pro-rata basis.

7.9.2. Details submitted show that it is proposed to use the existing gated access from the local road network to the site. The Council's Infrastructure Section recommends that the existing visibility splays at the entrance to the development must be maintained and that the existing entrance gates remain in-situ. Also, that road drainage across the entrance must not be impeded and that the applicant be responsible for any damage caused to the adjoining public road arising from construction works and be responsible for carrying out any road cleaning works. It is recommended that if the Board decide to permit that a condition relative to these issues be included.

7.10. **Storage and Disposal of Effluent**

7.10.1. Details submitted provide that the total lands available to the Applicant for application of slurry, FYM and effluents consists of 81.4ha (as shown in proximate/separate parcels of the landholding on the attached maps). The Report from Teagasc

submitted with the application provides additional information relative to such matters. This includes details outlining planned stock to be kept over winter storage facilities for slurry, FYM and soiled water. It is provided that adequate storage is available for Slurry, FYM and all effluents. They provide details of Organic N concentrations and that this would be considered to be a low stocked farm. It is provided that all wilted bale silage is made so no silage effluent is produced.

- 7.10.2. It is noted that all animals are to be confined indoors or in roofed areas. No open soiled areas are proposed. Existing roof water and clean yard water drains to soakage areas or ditches. Details submitted include 'Determination of Greenfield run-off rate,' and 'Proposed Attenuation Requirements'. Slurry spreading is carried out by the Applicant on his own lands and lands under his control (as shown on the maps submitted with the application). Slurry is spread by vacuum cleaner.
- 7.10.3. There are concerns that the proposed development is within 12m of a watercourse and within a marsh and water habitat. That during development pollutants could leach into this area and would quickly spread through the adjacent watercourse to the wider hinterland. Also, that there would be continuous risk to these water habitats from silage effluent and slurry leaks. The proposed development is within 14m of the curtilage of the Third Party property and that there is concern regarding a lack of control of activities and emissions relating to slurry storage and agitation which will take place in such close proximity to their property. They refer to the dangers and risks of toxic slurry gases.
- 7.10.4. The First Party response provides that detailed information has been submitted in the approved drawings of the new slurry tank. The tank will be fully tested by manufacturer before installation by a fully qualified and experienced professional. Also, that the proposed extension and tank will be constructed and maintained in compliance with the Dept of Agriculture, Food and the Marine's 2016 *S101: Minimum Specifications for the Structure of Agricultural Buildings* document.
- 7.10.5. They provide that prior to the collected slurry being pumped out and spread on the Applicant's fields the two covered agitation points at either end of the proposed extension are opened and the slurry is stirred for no more than 10-15 minutes to aid extraction. These agitation points are opened only once or twice a year. At no other

time during the use of the proposed extension are they opened exposing the slurry to the elements.

- 7.10.6. The First Party provide that there is not a water course but a seasonal field drain along the boundary with the Appellants property. The proposed development, in particular the proposed slurry tank, is a completely self-contained unit, tested, installed and operated in compliance with standard best practice and regulatory requirements set out by the Department. Existing levels slope northwards away from the existing cattle shed and the Appellant's property. They provide that in the unlikely event of localised surface spillage the material would flow away from the field drain and the Appellant's dwelling.
- 7.10.7. It is recommended that if the Board decide to permit that appropriate conditions relative to these matters be included.

7.11. Drainage

- 7.11.1. A drawing has been submitted relative to the Council's F.I request detailing the position and distance of all wells within 100m of the proposed development. The additional information was considered acceptable by the Council. While a possible location for the Appellant's well is shown, the exact location is not known. Details relative to this issue have been submitted in the Further Information submitted and in Appendix 1 of the First Party response relates to further indication of the approved well. The application form notes that the area is supplied by and there is an existing connection to a Group Water Scheme.
- 7.11.2. It is noted that subsequent to the F.I submission, the Council's Environment Section considered that adequate information had been submitted relative to environmental and drainage issues and recommended a number of conditions. This included Condition no.2 of the Council's permission which refers to a geological survey being carried out in relation to existing wells within 100m of the site to be carried out and submitted for the written approval of the PA. If the Board decides to permit it is recommended that a similar type condition be included.

7.12. Flood Risk

- 7.12.1. An Assessment of Pluvial Flood Risk Report has been submitted with the application. This notes that a portion of the site is identified on the OPW Preliminary (PFRA) Pluvial Flood Maps as being susceptible to pluvial flooding. A larger scale of this Map shows the extent of the area identified as being susceptible to pluvial flooding is limited to a small portion of lands located centrally within the site as shown of Fig.2.2. They note some concerns about the accuracy of these maps.
- 7.12.2. A detailed topographical survey of the site has been carried out and the grid of spot levels are shown on Fig. 2.3. It is provided that this survey shows that the site is bowl shaped with higher levels (c.38.0m) around the perimeter and lower levels (c.36.60m) within the central portion of the site. This low lying area of the site lies to the east of the existing slatted shed – Fig. 2.4 relates. Ground levels within this area are lower than the remainder of the site and range from 36.6m to 37.0m. The later represents the most likely level of flood waters. The topographical survey supports the PFRA Map in identifying this area of the site as being potentially susceptible to pluvial flooding. They note that an independent FRA carried out for an adjacent residential house made a similar conclusion (Reg.Ref.1460 refers)
- 7.12.3. It is also noted that Historical OS Maps show the presence of Marl Pits in this area. This would suggest the presence of a silt clay sub-soil in this area with associated poor infiltration properties. The FRA Report provides that this combination of a low lying depression and subsoil with poor infiltration offers ideal conditions for Pluvial Flooding and it is concluded that the site maybe susceptible to pluvial flooding. The PFRA Map offers an accurate indication of the location and extent of pluvial flooding at the site.
- 7.12.4. It is provided that the proposed shed is located to the west of the existing slatted shed and therefore shall lie outside of the pluvial flood area. Ground levels at the location of the proposed shed range from 37.1m to 37.7m and are therefore higher than the predicted flood level. It is recommended that the FL of the proposed shed is set at 37.5m so as to provide a 0.5m freeboard above the predicted flood level as per the recommendations of the Greater Dublin Strategic Drainage Scheme (GDSDS) for buildings within or close to flood areas. It is also noted that this FL shall be 0.32m higher than the FL of the existing adjacent shed. Condition 3(f) of the

Council's permission, includes a FFL of 37.5 to provide a sufficient freeboard above predicted flood levels and construction related issues. This level is indicated on the Site Layout Plan in the F.I submitted.

7.12.5. The FRA Report provides that no works are proposed within the identified flood risk area. The retention of existing ground levels within this area are to ensure that flood water is not displaced onto other lands. They note that the development is a 'less vulnerable type of development as per Table 3.1 of the Flood Guidelines and shall not introduce any additional persons into a flood risk area. Also, that the proposed shed is a 'less vulnerable' development and an extension/addition to an existing authorised development. The Justification Test is not applicable in such cases.

7.12.6. The overall conclusion of the FRA Report is that the proposed development will not be adversely impacted upon by any pluvial flooding that may occur at the site nor shall it exacerbate flooding in the immediate vicinity or wider area. Therefore, after carrying out a detailed topographical survey of the appeal site and surrounding area the report concluded the proposed development posed no threat to the water quality or flooding potential within the area and would not cause displacement of flood water onto other lands.

7.13. Screening for Appropriate Assessment

7.13.1. Third Party concerns regarding potential impact on water habitats have been noted. The site is not proximate to a Natura 2000 site. The First Party response notes that the surrounding environs are not identified as being of any particular sensitivity or concomitant with any designated conservation area comprising the Natura 2000 site network.

7.13.2. It is noted that Louth County Council screened out the application concluding that the proposed development represented no threat to the integrity of qualifying interests of the Natura 2000 network. They note that the design and construction and operation of the new slatted shed must accord with the EPA Code of Practice and Dept of Agriculture Regulations. Regard is had to the NPWS mapping and it is noted there are no designated sites in close proximity. They, include the scale and magnitude of the potential impacts associated with the development are known and considered to be slight and provide a Findings of no Significant Effects Report Matrix.

7.13.3. It is reasonable to conclude that 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 Sites, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

8.0 Recommendation

8.1. I recommend that permission be granted subject to the conditions below.

9.0 Reasons and Considerations

Having regard to the scale and nature of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed agricultural development located in the existing farmyard complex, would not seriously injure the amenities of the area and would not be prejudicial to public health. 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 18th of April 2019, and the further particulars submitted to An Bord Pleanála on the 9th day of July, 2019, 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 external finishes and colour of the proposed development shall match those of the adjoining slatted shed.

Reason: In the interests of visual amenity.

3. Any lighting associated with the development shall be angled and constructed so that it is directed away from the southern boundary and there shall be no floodlighting permitted.

Reason: In the interests of residential amenity.

4. The trees and hedgerows along the southern site boundary shall be retained and prior to the commencement of development a comprehensive boundary treatment and landscaping scheme for the site, to include a plan for the protection of existing trees to be retained, during construction, and additional planting along the southern boundary of the proposed development, shall be submitted to and agreed in writing by the planning authority.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

5. The vehicular access, serving the proposed development, shall comply with the requirements of the planning authority for such works.

Reason: In the interests of amenity and of traffic and pedestrian safety.

6. Prior to the commencement of the development a hydro geological survey in relation to existing wells within 100m of the site shall be carried out and submitted for the written approval of the Planning Authority.

Reason: In the interest of environmental protection and public health.

7. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. In this regard-

(a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and

(b) all soiled waters shall be directed to a storage tank. Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of environmental protection and public health.

8. The slatted 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, 2017, as amended, 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 (including the public road, where relevant).

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

9. 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

10. 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 soakpits 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.

11. 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, 2017, as amended.

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

12. A minimum of 18 weeks storage shall be provided in the underground storage tank. Prior to commencement of development, details showing how it is intended to comply with this requirement shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of environmental protection and public health.

Angela Brereton
Planning Inspector

25th of September 2019