



An
Bord
Pleanála

Inspector's Report

ABP-304652-19

Development

Construction of a new slatted cubicle shed, milking parlour and dairy, meal bin and water tank and all ancillary concrete works and the removal of an existing roadside ditch/hedge to provide adequate sight lines.

Location

Kiltrogue/Cill Torróg, Claregalway, Co. Galway.

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

19177

Applicant(s)

Philip Noone

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

(1) Gerry Giles.
(2) Martin Murphy.

Date of Site Inspection

10th October 2019

Inspector

Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.35 hectares, is located in the townland of Kiltroque approximately 3km to the east of Claregalway. The appeal site is located on the south eastern side of the L1149, which ends in a cul-de-sac to south west of the site. The appeals site is part of a larger field area (1.88 hectares) and is currently in use as grazing lands. The public road at this location is approximately 3m wide. Adjoining lands to the south, east and west of the site are agricultural in nature. The site falls in levels away from the public road. The nearest dwellings include an existing single-storey dwelling to the north east whose site (boundary) is 35m from the boundary of the site at their nearest points, a new dwelling under construction on the other side the road to the north and a dwelling to the south west with an adjoining field between the site and the existing dwelling. The site has existing boundaries only along the south western boundary with a low stone wall in place. The field the site is part of has a hedgerow boundary along its north western boundary and the field has two existing access points.

2.0 Proposed Development

2.1. Permission is sought for construction of a new slatted cubicle shed, milking parlour and dairy, meal bin and water tank and all ancillary concrete works and the removal of an existing roadside ditch/hedge to provide adequate sightlines. The proposed development has a floor area of 1,566.46sqm and has a ridge height 7.2m

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 13 conditions. The conditions are standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (04/04/19): Further information required including details of sightline provision, details of consultation with telecommunication provider in respect of the

location of existing infrastructure in close proximity, justification for location of the development remote from an existing farm complex and a revised site layout plan including landscaping proposals.

Planning report (10/05/19): The proposal was considered to be satisfactory in regards to land use, visual impact, impact on adjoining amenities and traffic safety. A grant of permission was recommended based on the conditions outlined above.

3.3. Third Party Observations

3.3.1 Submissions were received from

Gerry Giles, Kiltroque, Claregalway, Co. Galway.

Martin Murphy, Kiltroque, Claregalway, Co. Galway

The issue raised included...

- Inadequate justification for location, adverse impact on adjoining amenity (noise/odour) adverse visual impact, unauthorised development, traffic hazard, inadequate spread lands, adverse impact on Natura 2000 sites.

4.0 Planning History

4.1 No planning history.

5.0 Policy Context

5.1. Development Plan

5.1.1 Galway County Development Plan 2015-2021.

Chapter 11 relates to Agricultural development.

Objective AFF1, Sustainable Agriculture: The Council shall support the sustainable development of agriculture, with an emphasis on a high quality, traceable primary production methods, the promotion of local food supply and agriculture diversification.

Objective AFF2, Rural Diversification: Galway County Council shall support those who live and work in agriculture and/or related activities in rural areas and who wish to remain on their land holding. Accordingly the Council will favourably consider rural diversification intended to supplement farm income where the activity remains ancillary and compatible to the ongoing agricultural use of the farm and does not have an adverse impact on residential amenity:

- a) Specialist farming practices e.g. specialised animal breeding, equine facilities, poultry, mushroom growing, vegetable and fruit growing;
- b) Farm enterprises such as processing, animal pet farms/horse riding schools with an element of retail activity;
- c) The production of organic and speciality foods to meet the increase in demand for such products;
- d) The conversion of disused buildings/existing farm buildings for appropriate owner run, rural oriented, enterprises, as a way of supporting a viable rural community, subject to proper planning and sustainable development of the area;
- e) Support the development of appropriate agri-tourism activities and eco-tourism development proposals and promote the County as a green tourist destination.

AFF4, Intensive Agricultural Developments: Have regard to S.256 of the *Planning and Development Act 2000* (as amended) which amends the *EPA Act 1992* regarding the control of emissions when assessing intensive agricultural developments.

AFF5, Compliance with EU Habitats Directives: New agricultural projects that may potentially affect Natura 2000 Sites, individually or in combination with other plans and projects shall be subject to Appropriate Assessment to ensure that there are no likely significant effects on the integrity of any Natura 2000 Sites in the County.

DM Standard 33, Agricultural Buildings:

In dealing with planning applications for such buildings the Planning Authority will have regard to:

a) Design and Layout

The quality of design and layout of the farm complex. Where possible new buildings, shall be located within or adjoining the existing farmyard complex. Buildings shall be of minimum scale and use of muted coloured materials shall be encouraged.

b) Residential Amenity

The proximity of any existing dwelling house.

c) Public Road Access

The safe access to public roads.

d) Rural Landscape

The assimilation of the buildings into the rural landscape by means of appropriate siting, external colouring, screening and shelter belting.

DM Standard 34, Agricultural Effluent: The European Union (Good Agricultural Practice for Protection of Waters) Regulations 2014 set out the requirements for storage of farm effluents and the minimum holding periods for storage of farm wastes.

All soiled liquid waste shall be collected before being further treated or spread on land in suitable weather conditions.

The following will be a requirement of planning permission:

- Design calculations;
- Design calculations supporting the selection of a particular volume of storage and details of the spread area.

5.2. Natural Heritage Designations

5.2.1 Lough Corrib SAC, Site Code 000297 415m to the south of the site.

Lough Corrib SPA, Site Code 004042 8km west of the site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A third party appeal has been lodged by Gerry Giles, Kiltroque, Claregalway, Co. Galway.

- The application is dependent on unauthorised development with a new entrance created and no indication in the public notices that such was the case. The application notice should be amended to include for retention of for the gate and access way.
- It is noted that there is failure to demonstrate a justification for the proposal in light of Development Management Standard 33. The design and scale of the proposal is excessive in scale and would have an adverse visual impact. The open nature of the design would have an adverse impact in terms of odour on the appellant's property.
- There is an inadequate assessment of the reasoning for relocating the entrance to the field.
- It is noted that inadequate sightlines are available the entrance point to be used and that the applicant does not have sufficient control over adjoining lands to improve such.
- It is noted that there is more appropriate locations on the applicant's landholding for the proposal and that adequate justification does not exist for the proposed location including adjoining the applicant's father's farmyard complex.
- There has been inadequate assessment of the nitrate management plan submitted with questions regarding the level of animals referred to, slurry storage and spread rate.

6.1.2 A third party appeal has been lodged by Martin Murphy, Kiltroque, Claregalway, Co. Galway. The grounds of appeal are as follows...

- Inappropriate location due to proximity to the River Clare which is an important spawning channel for salmon and trout and part of the Lough Corrib SAC.
- Adverse noise impact due to proximity the appellant's property.
- Adverse odour impact due to proximity the appellant's property.
- Excessive scale and adverse visual impact.
- Adverse impact on groundwater and surface water quality.
- Adverse impact on a Natura 2000 site with the Lough Corrib SAC in close proximity to the site as well as concerns regarding the proximity of spread lands to the SAC which are inadequate and inappropriately located.
- Traffic hazard due to narrow width of the public road which has insufficient capacity, inadequate sightlines at the proposed entrance.
- A more appropriate location for the proposal is the applicant's existing farm buildings.
- The applicant has received permission for a slatted shed at Lydican with similar spread lands indicated, concern is noted that spread lands proposed are inadequate to facilitate the proposed development.

6.2. Applicant Response

6.2.1 Response by the applicant Philip Noone.

- It is noted that the purpose of the application is to consolidate activity to one location because the current farm complex does not support a dairy enterprise due to not enough land adjacent to it.
- The proposal will operate under the Nitrates Directive and subject to appropriate conditions regarding best practice. The proposed development would have no adverse impact on adjoining uses or properties.
- The appeal site is not located within any Natura 2000 site.

- It is noted that the proposal would have no likely significant effects on the Lough Corrib SAC or any designated European Sites.
- The location of the site is not subject to flood risk.
- There are currently two access points to the site with the proposal to upgrade one of the access points, which is the newer of the two on site. It is noted this access was opened under provisions of exempted development (Article 9(1) of the Planning and Development Regulations, 2001 (as amended)). It is noted that the proposal would not constitute a traffic hazard or increased traffic having to the existing farmyard development off the public road.
- Sufficient spread lands are available to service the proposed development and sufficient lands are available to ensure no adverse impact on the Clare River.
- The proposal is for modestly scaled agricultural development in a rural area and would not have an adverse visual impact.
- In regards to odour and noise it is noted that there are no spread lands in the vicinity of the appellant's properties and the design and layout of the structure would minimise noise impact. The proposal is considered satisfactory in the context of adjoining amenities.
- The applicants have consulted with the ESB and the proposal is in excess of the required distance from the 110Kv lines.

6.3. Planning Authority Response

6.3.1 No response.

7.0 Assessment

7.1. Having inspected the site and examined the associated documents, the following are the relevant issues in this appeal.

Principle of the proposed development.

Impact on adjoining amenities.

Visual Impact.

Pollution risk/waste management.

Access and traffic.

Appropriate Assessment.

7.2 Principle of the proposed development:

7.2.1 The appeal site is located within an unzoned rural area of County Galway where agriculture is the main economic activity undertaken. The information on file is that the applicant is involved in full time farming and currently operates out of a farmyard complex belonging to his father in the townland Lydican located to the south of the site and on the north side of the R339. Lydican is approximately a 40km/half an hour drive from the site. The appellants question the justification for the proposal at this location remote from the existing farmyard complex noting Development Plan policy under DM 33 (where possible new buildings, shall be located within or adjoining the existing farmyard complex). The applicant notes that he has sizeable landholding at this location and such is to serve the landholding of grazing lands of 40 hectares out of a total family landholding of 70 hectares. The landholding map at this location was provided in a submission made to the application on behalf of the applicant. I would note that based on the level of the landholding at this location and its remote nature from the main farmyard serving the applicants family landholding, that there is sufficient justification for siting of an agricultural structure at this location. I would note that such is subject to the proposal being satisfactory in the context of visual and adjoining amenities, adequate waste management, and traffic safety. The principle of the proposal is therefore considered acceptable subject to consideration of the planning issues set out below.

7.3 Impact on adjoining amenities:

7.3.1 The substantive issue arising pertains to the location of the shed in proximity to adjoining residential properties. The appellants' concerns in this regard stem from the potential for noise, odour and general disturbance associated with the proposed use. The proposed shed would be approximately 38m from the boundary (77m

between the shed and the dwelling at their nearest points) with the nearest dwelling (appellant's property) to the north of the site. The next nearest dwelling is located on the opposite side the road to the north (under construction) and the next nearest after that is a field away to the south west.

7.3.2. Smells and fumes associated with the operation are normally most likely to give rise to complaints during agitation of the tank and during land spreading of waste. While the perception of odour is somewhat subjective and subject to individual sensitivity, I consider that the odour generated by the proposed development will be typical of such agricultural developments and would not be out of place in this rural area. Having regard to such, I consider that the development would not give rise to a sufficient level of odour as to warrant refusal of planning permission on this basis provided the facility is well managed.

7.3.3. Noise from cattle housed in the shed in such a location would not be an unfamiliar occurrence. Whilst I note that due to the ventilation requirements the shed would not be sealed I consider that the noise would not be to a level as to justify a refusal of permission on this basis. Landscaping is proposed which includes native hedgerows and tree planting to provide a buffer between the appeal site and the existing dwelling to the north (on the lands part of the landholding the site is taken from). I would consider that subject to implementation of the proposed landscaping that the proposal would be acceptable in the context of adjoining amenities.

7.4 Visual amenities:

7.4.1. I would note that whilst the area has an innate rural quality it is not within an area designated as being of high scenic amenity in the current Galway County Development Plan. I would also note that slatted sheds are common agricultural structures, of which there are already a number in the surrounding area, and the proposal is of a standard agricultural design, with a mix of concrete and metal cladding for walls and roof. While the structure will be visible from some surrounding area, I do not consider that the placement of such a structure and its associated activity in a strongly agricultural area such as the appeal site would be seriously

injurious to the visual amenities or established character of the area. I would note that the proposal provides for landscaping on site and on adjoining lands within the applicants control that would help soften the overall visual impact of the proposed development.

7.5 Pollution risk/waste management:

7.5.1 The slatted shed includes an underground slurry storage tank. I note that the management of effluent arising from agricultural activity is governed by specific legislation set out in the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2014, as amended. These Regulations provide statutory support for good agricultural practice to protect waters against pollution. The Regulations place certain obligations on occupiers of agricultural holdings in relation to farmyard management, collection and storage of manures, slurry soiled water etc, nutrient management and prevention of water pollution. The Regulations set out minimum requirements for storage of slurry/manure, soiled water etc, set limits on the land application of fertilisers and sets periods when land application of fertiliser (organic and chemical) is prohibited. The applicant will also be required to construct the structure in accordance with the relevant Department of Agriculture, Food and the Marine (DAFM) specifications. Subject to compliance with these Regulations and DAFM specifications and the imposition of suitable conditions in this regard, I am satisfied that the proposed slatted shed and its storage tank will not result in water pollution or a deterioration in water quality.

7.5.2 It is noted in the information submitted that the lands immediately adjoining the Clare River part of the applicant's landholding are not to be used for land spreading and that sufficient lands are available to cater for the proposed development. I am satisfied that subject to implementation of European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2014, and Department of Agriculture, Food and the Marine (DAFM) that the proposal development would be acceptable in the context of pollution risk/waste management.

7.6 Access and traffic:

7.6.1 The proposal notes that upgrading of an existing access is to be carried out with removal of existing hedgerow to improve sightlines. At present there are two entrances to the field the site is part of. To the north west of the site is an agricultural entrance, which appears to be a long standing entrance. The entrance to be used is a more recent entrance with the appellants noting that such was opened in the recent past without permission. The applicants note that the entrance to be use to serve the site was created on the basis of exempted development. There is provision for construction of an entrance under Class 9 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended) with the applicant noting that the entrance complies with Article 9(1) of the same regulations.

7.6.2 In terms of traffic impact I would note that the existing entrance is to be upgraded with realignment of the boundary to the north east. The entrance is onto a lower category county road, which is less than 4m wide. The existing road is a low traffic environment serving existing one-off dwellings, agricultural lands and farm developments. I would be of the view that having regard to the nature of traffic likely to be generated, the alignment of the public road and the layout of the entrance, that the proposed development is unlikely to result in an excessive level of traffic movements or constitute a traffic hazard at this location.

7.7 Appropriate Assessment:

7.7.1 The site is approximately 415m from the Lough Corrib SAC, Site Code 000297, which is defined by the Clare Rive, which runs to the south and south west of the site. The applicant's landholding at this location runs down to the north bank of the river. The site is also 8km east of the Lough Corrib SPA, Site Code 004042. Having regard to the nature of the proposed development, the design of which incorporates appropriate arrangements for effluent storage in accordance with the detailed DAFM specifications and the operation of which will be required to be compliant with the European Communities (Good Agriculture Practice for Protection of Waters) Regulations, 2014, as amended, coupled with the relative separation between the sites, I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the

proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the rural location of the site, the nature, scale and use of the proposed development, the existing agricultural practices on the site and the objectives of the Galway County Development Plan 2015-21 which seek to support and encourage sustainable agricultural development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of properties in the vicinity, would not have an adverse visual impact, 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 and as amended by the further plans submitted on the 18th day of April 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 slatted shed shall be used only in strict accordance with a management schedule to 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 Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2014, as amended, and shall provide at least for the following:

- (a) Details of the number and types of animals to be housed.
- (b) The arrangements for the collection, storage and disposal of slurry.
- (c) Arrangements for the cleansing of the buildings and structures (including the public road, where relevant).

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

3. All foul effluent and slurry generated by the proposed development 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.

4. All uncontaminated roof water from the building 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.

5. 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 Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2014, as amended.

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

6. The proposed planting indicated on the Site Layout Plan (Drawing no. 19_030_100) received by the planning authority 18th day of April 2018 shall be implemented. The planting shall be carried out within the first planting season following the commencement of the proposed development in accordance with the following requirements:

(a) the planting shall be confined to traditional native Irish hedgerow species only, and

(b) any planting that dies within the first three years of planting shall be replaced with a similar species within the following planting season.

Reason: In the interest of the visual amenities of this rural settlement.

Colin McBride
Planning Inspector

16th October 2019