



An  
Bord  
Pleanála

## Inspector's Report

### ABP-304721-19

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#### Development

Construction of a slatted shed and manure pit to include concrete apron and all associated works and widening of existing entrance.

#### Location

Mackney (Kelly), Ballinasloe, Co. Galway.

#### Planning Authority

Galway County Council

#### Planning Authority Reg. Ref.

181802

#### Applicant(s)

Brian Goode

#### Type of Application

Permission

#### Planning Authority Decision

Grant

#### Type of Appeal

Third Party

#### Appellant(s)

Valerie Dolan

#### Observer(s)

None

#### Date of Site Inspection

29<sup>th</sup> August 2019

#### Inspector

Ronan O'Connor

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## 1.0 Site Location and Description

- 1.1. The site is an agricultural field on the southern side of a local road, accessed off the R355 and is located approximately 800m south of junction 15 of the M6 motorway, and approximately 3km south of the town of Ballinasloe.

## 2.0 Proposed Development

- 2.1. Construction of a slatted shed and manure pit to include concrete apron and all associated works and widening of existing entrance.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant permission. There are no conditions of particular note.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The reports of the planning officer reflect the decision of the planning authority.

Points of note are as follows:

- The development cannot be accepted in principle under further information is submitted related to the justification for development on a site away from any existing farm complex/details of farm operations/flood risk have been submitted.
- Further information was requested on 14/02/2019 in relation to (i) legal entitlement (ii) nutrient management plan/effluent storage/justification for the need for shed/location of existing farm complex (iii) revised materials for access point (iv) drainage details (v) revised width of access point (vi) flood risk.
- Further Information was received on 30/04/2019 and was considered acceptable. The recommendation was to grant permission.

#### 3.2.2. Other Technical Reports

None

### 3.3. **Prescribed Bodies**

3.3.1. None.

### 3.4. **Third Party Observations**

3.4.1. 2 no. submissions were received. The issues raised are covered in the grounds of appeal.

## 4.0 **Planning History**

4.1.1. None.

## 5.0 **Policy Context**

European Communities (Good Agricultural Practice For Protection of Water) Regulations 2017. SI No 605 of 2017.

The 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. They also set out minimum requirements for storage, set limits on the land application of fertilisers and establish periods when land application of fertiliser (organic and chemical) is prohibited.

Under the Regulations, the country is divided into four areas with varying storage period requirements for livestock manure (Schedule 3). Prohibited spreading periods are set out in Schedule 4. The appeal site is within an area, which specifies a minimum storage period of 18 weeks. The land application of waste is prohibited between the period from October 15th to January 12th for organic fertiliser (other than farmyard manure) and from November 1st to January 12th for farmyard manure.

### 5.1. **Development Plan**

5.1.1. The Galway County Development Plan 2015-2021 refers.

- Chapter 11 sets out agricultural policy
- Objective AFF1 Sustainable Agriculture
- Objective AFF4 Intensive Agriculture Developments
- Objective AFF5 Compliance with EU Habitats Directive
- Development Management Standards 33 and 34.

## 5.2. Natural Heritage Designations

5.2.1. None.

## 5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development, a slatted shed, manure pit and concrete apron, and having regard to the separation distance to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- Previous breach of planning
- Request to see herd details/details that the applicant has requisite knowledge in farm management
- Spreading slurry after heavy rainfall can lead to water pollution.
- Slatted shed is within 100m of a 3<sup>rd</sup> party dwelling.
- Potential for gas emissions and smells.
- GCC failed to conduct a traffic assessment – involves traversing the R355 national route for approximately 300m/danger to road users

- Applicant should create an internal road to other farm buildings/site is away from other farm buildings.
- Road is a private road.
- Road safety issues for pedestrians on the road/road requires widening.
- GCC does not have the resources to manage compliance and requirements of slatted shed use.

## 6.2. Applicant Response

6.2.1. None.

## 6.3. Planning Authority Response

6.3.1. None.

## 6.4. Observations

6.4.1. None.

## 7.0 Assessment

7.1.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my de novo consideration of the application. The main planning issues in the assessment of the proposed development are as follows: -

- Principle of Development
- Traffic Safety
- Residential Amenity
- Flood Risk/Surface Water/Nutrient Management
- Other Issues
- Appropriate Assessment

## 7.2. Principle of the proposed development

- 7.2.1. The Third Party Appellant notes that the proposed slatted shed is some distance away from the established farm holding, and is therefore not in compliance with Development Plan Policy.
- 7.2.2. The Planning Authority sought Further Information in relation to the location of the existing farmyard complex.
- 7.2.3. The applicant's response to the Further Information request states that the existing farmyard complex is on approximately 4.49 ha, and notes that the area where the shed is proposed is currently used for storing bales of silage and the adjoining lands are used for out-wintering stock. The location of the site would contain the majority of the farmwork on the largest part of the farm, and would minimise the need to travel on the public road. The location and layout maps of the existing farmyard are submitted.
- 7.2.4. DM Standard 33: Agricultural Buildings states that where possible, new buildings shall be located within or adjoining the existing farmyard complex. The farm complex appears to be over two separate landholdings, which are detailed in the maps submitted as part of the further information request. The appeal site is at the northern end of the one of the landholdings, and the other landholding is located to the north-east of the site, but is not physically adjoined. There is a cluster of buildings within the northernmost landholdings, which appear to be the farmhouse and associated outbuildings. As such, while the proposed slatted shed is removed from this cluster, so too is the landholding to the south, and I concur with the applicant's assertion that the shed would help to contain the workings of the farm to this southern landholding. There is no objection, then, to the location, subject to other considerations below.

### 7.3. **Traffic**

- 7.3.1. The Third Party Appellant has raised road safety concerns and states that the existing road serving the site is not wide enough for pedestrians and farm traffic. It is further stated that the safety will be comprised at the junction of the road and R355.
- 7.3.2. In relation to the width of the road and its use by farm traffic, I note the existence of farm buildings at the end of this road, and as such there is existing farm traffic on the road. Similar considerations apply to the junction of the road and the R355, and farm

traffic already exits the junction. There are adequate sightlines along this stretch of road in any case. I do not consider the proposal will compromise road safety.

#### **7.4. Residential Amenity**

- 7.4.1. The Third Party Appellant has noted the proximity to the closest residential dwelling, and states that it is below the 100m distance specified in the Teagasc Guidelines. The closest dwellinghouse is to 125m to the west of the boundary of the appeal site. I consider that this is a sufficient distance so as to ensure no amenity impacts will result.

#### **7.5. Flood Risk/Surface Water/Nutrient Management**

- 7.5.1. A Flood Risk Assessment has been submitted as part of the request for Further Information. This notes the existence of a drain traversing the site to the south. The FRA examines the risk from Fluvial Flooding from the drain. The FRA concludes that the risk from flooding is low and the stream is within the stream corridor for all flows. The proposed development will have a freeboard exceeding 2m.
- 7.5.2. In relation to surface water, the FRA recommends that the surface water from roofs to be collected and used, and overflow be connected to a soak area and the surface runoff at entrance to be connected to a soak area.
- 7.5.3. Subject to the above recommendation being implemented, I do not consider the site will be at risk of flooding, nor will the proposal increase flood risk elsewhere.
- 7.5.4. In relation to Nutrient Management, the applicant has submitted a Nutrient Management Plan, the contents of which are to the satisfaction of the Planning Authority. This NMP notes sufficient slurry and farmyard manure storage is to be provided.

#### **7.6. Design/Visual Impact**

- 7.6.1. The proposed slatted shed is set back from the roadside and is within a field that is well screened by hedgerow and tree boundaries. It will appear as a typical agricultural building and will have a limited visual impact.

#### **7.7. Other Issues**

- 7.7.1. Procedural Issues – The applicant has submitted a letter of consent to the application from the landowner (applicant's father) as part of the further information



request. In relation to the issue of the ownership of the road, it is not within the Board's remit to adjudicate on the matter of rights of way or land ownership.

## 7.8. Appropriate Assessment

- 7.8.1. The closest Natura 2000 sites are the Glenloughaun Esker SAC (site code 002213), which is 1.8km to the south-west of the site, and the River Suck Callows SPA (site code 004097), which is 2.9km to the east of the site. There is no pathway to the Glenoughaun Esker SAC and therefore significant effects can be ruled out. The presence of a drainage ditch to the southern portion of the site is noted, and this could provide a pathway to the River Suck Callows SPA. The conservation objectives for this site are set out below:

<b>River Suck Callows SPA (site code 004097)</b>
Objective 1: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA: A038 Whooper Swan <i>Cygnus Cygnus</i> ; A050 Wigeon <i>Anas Penelope</i> ; A140 Golden Plover <i>Pluvialis apricaria</i> ; A142 Lapwing <i>Vanellus vanellus</i> ; A395 Greenland White-fronted Goose <i>Anser albifrons flavirostris</i>
Objective 2: To maintain or restore the favourable conservation condition of the wetland habitat at River Suck Callows SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

- 7.8.5. Information accessed on the NPWS website lists the threat of Fertilisation to this site as being High (accessed 02/10/2019). However, having regard to the nature of the proposal, a slatted shed, a manure pit and concrete apron, and having regard to the distance from the appeal site to the SPA, it is considered significant effects on the River Suck Callows SPA are not considered likely, having regard to the site's Conservation Objectives.
- 7.8.6. Therefore it is reasonable to conclude on the basis of the information available on the file, which I consider adequate in order to issue a screening determination, that the development, individually or in combination with other plans or projects, would not be likely to have a significant effect on the above listed European sites, or any

other 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. Grant permission.

## 9.0 Reasons and Considerations

Having regard to the nature and extent of the development proposed, and to the existing agricultural character and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not result in a traffic hazard, would not seriously injure the amenities of the area or of property in the vicinity, and would not result in increased flood risk, and 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 30th 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 agricultural building/structure hereby permitted shall be used solely for agricultural purposes only.

**Reason:** In the interest of clarity.

3. 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, 2017 (SI No 605 of 2017), 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.

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

4. 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, 2017 (SI No 605 of 2017).

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

5. 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 the slatted 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, public health and to ensure a proper standard of development.

6. All flood protection measures, as set out in the Flood Risk Assessment

submitted to the planning authority on the 30th day of April 2019 shall be implemented in full.

Reason: To minimise flood risk.

7. All foul effluent and slurry generated by the proposed development and in the farmyard shall be conveyed through properly constructed channels to the 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.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 to 1700 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

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Rónán O'Connor  
Planning Inspector

02<sup>nd</sup> October 2019