



An  
Bord  
Pleanála

## Inspector's Report ABP-305109-19

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<b>Development</b>	Retain two slatted sheds and construct a straw-bed shed and an extension to a slatted shed
<b>Location</b>	Moyliss, Carrowkeel townland, Athleague, County Roscommon
<b>Planning Authority</b>	Roscommon County Council
<b>Planning Authority Reg. Ref.</b>	PD/19/177
<b>Applicant(s)</b>	Martin Garvey
<b>Type of Application</b>	Retention Permission & Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third-Party
<b>Appellant(s)</b>	Michael Kilroe
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	25 <sup>th</sup> November 2019
<b>Inspector</b>	Colm McLoughlin

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## **1.0 Site Location and Description**

- 1.1.** The appeal site is located in the rural townland of Carrowkeel in County Roscommon, approximately 1.7km southeast of Fuerty village and 5km southwest of Roscommon town centre. The site is located on a local road (L-1816) connecting the R366 regional road and the N63, a national road that links Roscommon town to the M17 motorway. The local road primarily serves agricultural lands, farmyards and one-off houses.
- 1.2.** The appeal site is stated to measure c.0.64ha and comprises a farmyard with two slatted agricultural sheds and a feed silo, enclosed by a mix of boundaries, including stonewalls, poured concrete walls and agricultural gates, one of which is situated at the recessed vehicular access off the local road. The applicant's immediate landholding extends approximately 425m directly to the north of the farmyard and 190m to the northwest, and excludes the single-storey house adjoining the site to the northwest. The surrounding area is characterised by gently undulating agricultural fields bordered by a mix of ditches, stonewalls, hedgerows and trees. There is approximately a 3m drop in levels from the northwest boundary to the southeast boundary of the site and levels in the immediate area drop steadily to the northeast.

## **2.0 Proposed Development**

- 2.1.** The proposed development for retention comprises the following:
- two detached storage and slatted sheds, including shed no.1 measuring a gross floor area (GFA) of 377sq.m and shed no.2 measuring a GFA of 375sq.m, served by underground tanks, agitation chambers and a stormwater drainage soakaway.
- 2.2.** The proposed development comprises the following:
- construction of a rear extension to shed no.1 measuring a GFA of 83sq.m;
  - construction of a detached straw-bed storage shed measuring a GFA of 52sq.m, to be served by a stormwater drainage soakaway.

- 2.3.** In addition to the standard application documents, the planning application was accompanied by a Teagasc report, including a fertiliser plan, farm and soil fertility summary, details of the applicant's landholding, livestock numbers and soil samples.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The planning authority decided to grant permission, subject to four conditions of a standard nature, including the following:

- C.2** measures to control, manage and remove wastewater materials;
- C.3** restrictions on the spreading of organic fertiliser and/or soiled water.

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

#### 3.2.1. Planning Report

The initial report of the Planning Officer (May 2019) can be summarised as follows:

- the site is in a rural location where agricultural structures and activities would be expected and where agricultural uses prevail;
- greatest potential to impact on neighbouring amenities would be via contamination of water supplies;
- further information is required in order to make a recommendation regarding the development;
- the applicant is required to address sight visibility at the existing entrance, the type of floor for the proposed extension and also for the storage and livestock areas within the existing and proposed shed.

- 3.2.2. The final planning report (July 2019) notes that the Planning Officer was satisfied with the response to the further information request and their recommendation reflects the decision of the planning authority.

#### 3.2.3. Other Technical Reports

- Environment Section – following their initial request for further information, no objection, subject to conditions.

### **3.3. Prescribed Bodies**

3.3.1. None consulted.

### **3.4. Third-Party Submission**

3.4.1. Two submissions were received by the planning authority during consideration of the application from Michael Kilroe, a resident of the adjoining property to the northwest of the appeal site, and Laurence Kilroe, a neighbouring resident of Carrowstillan 200m to the southeast of the appeal site. The issues raised in the submissions are similar to those issues raised in the grounds of appeal and are summarised under the grounds of appeal below.

## **4.0 Planning History**

### **4.1. Appeal Site**

4.1.1. I am not aware of any other planning applications relating to the appeal site.

### **4.2. Surrounding Sites**

4.2.1. Planning applications in the surrounding area primarily comprise proposals for houses, domestic extensions and agricultural buildings, including the following:

- Reg. Ref. - 10/163 – permission granted in July 2010 to Donal Flynn to construct a house, garage and wastewater treatment system on a site 200m to the northwest of the appeal site;
- Reg. Ref. - 07/1179 – permission granted in September 2007 to Laurence Kilroe to construct a slatted shed on a site 200m to the southeast of the appeal site.

## **5.0 Policy & Context**

### **5.1. Roscommon County Development Plan 2014-2020**

5.1.1. Chapter 3 of the Development Plan addresses economic development and refers to the importance of agriculture in the county and the need to facilitate the development of agriculture and agricultural practices. Policies and objectives aimed at addressing water pollution and habitat protection, as part of agricultural development, are

included in chapter 3 of the Development Plan. Section 4.2 of the Development Plan addresses water services, including water quality and groundwater protection. Chapter 9 of the Development Plan provides Development Management Guidelines & Standards, including Section 9.26 addressing agricultural activity and the environment.

## 5.2. Roscommon Town Local Area Plan 2014-2020

5.2.1. While the site is 3.5km outside the Local Area Plan boundary, Map 7 of the Plan identifies that the site is within an inner source-protection area for Ballinagard springs, which supplies water to Roscommon town and the central region of the county.

## 5.3. National Guidelines and Legislation

5.3.1. The following legislation is relevant:

- EU (Good Agricultural Practices for the Protection of Waters) Regulations (2017) Statutory Instrument (SI) No.605 of 2017, as amended by SI No.65 of 2018.

## 5.4. Natural Heritage Designations

5.4.1. The nearest designated sites to the appeal site, including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), are listed in the table 1 below.

Table 1. Natural Heritage Designations

Site Code	Site Name	Distance	Direction
000588	Ballinturly Turlough SAC	1.1km	south
004097	River Suck Callows SPA	2.3km	southwest
000609	Lisduff Turlough SAC	5.2km	south
002200	Aughrim (Aghrane) Bog SAC	7km	southwest
000440	Lough Ree SAC	7.4km	east
001637	Four Roads Turlough SAC	9.5km	south
004140	Four Roads Turlough SPA	9.5km	south

002199	Ballygar (Aghrane) Bog SAC	10km	southwest
004064	Lough Ree SPA	11km	east
000610	Lough Croan Turlough SAC	11.4km	south
004139	Lough Croan Turlough SPA	11.4km	south
002349	Corbo Bog SAC	11.7km	northeast
000611	Lough Funshinagh SAC	12km	southeast
002347	Camderry Bog SAC	12.9km	southwest

## 5.5. Environmental Impact Assessment - Preliminary Examination

- 5.5.1. Having regard to the nature and scale of the proposed development, including the development to be retained, and the absence of a pathway to any sensitive location in the vicinity, 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

- 6.1.1. A third-party appeal accompanied by maps, photographs, a document titled 'Roscommon Central Regional Water Supply Scheme' and an Environmental Protection Agency (EPA) report regarding Ballinagard spring ground water monitoring programme was submitted by Michael Kilroe, a resident of the adjoining property to the northwest of the appeal site. In conjunction with the third-party observations, the grounds of appeal can be summarised as follows:

#### Risks to Public Health

- it is not clear from the fertiliser plan submitted, as to how slurry / sludge would be dealt with;
- the development poses a risk of pollution to drinking water supplies, including the private wells serving neighbouring residences and the public water supplies for central Roscommon;

- the site is within the zone of contribution for the Ballinagard springs, including the zone of production boreholes, which is part of the Roscommon central regional water supply scheme;
- water pollution concerns regarding the manner in which the existing facility is being operated;

#### Environmental Impacts

- the development poses an ongoing risk to the environment;
- insufficient and inappropriate spread lands would be available on the applicant's landholding, including lands liable to flooding to the north of the landholding in Carrowkeel and environmentally-sensitive lands that are liable to flood and partially within Lough Lurgeen Bog/Glenamaddy Turlough SAC, 25km to the west of the appeal site on the applicant's lands near Glenamaddy, County Galway;
- proper thorough consideration of how soiled waters would be spread has not been undertaken, including due regard for the site location within a karst area where a detailed groundwater protection plan is in operation;

#### Transport & Traffic Hazard

- sight visibility to the northwest of the site entrance is substandard and the planning authority failed to improve this situation via the application process;
- the application should be refused permission on traffic safety grounds or an alternative access solution should be provided;
- the transport of spread materials to the applicant's other landholding 25km to the west near Glenamaddy would be unsustainable;

#### Planning Policy

- despite being situated within the smaller of the applicant's two landholding and in an environmentally-sensitive area, the site is intended to serve the applicant's entire livestock, with much greater propensity for spreading to occur on the adjoining lands;
- the planning authority did not consider all relevant policies and sections of the Development Plan when assessing the development;



## Other Matters

- the Health Service Executive (HSE), Irish Water, Inland Fisheries Ireland (IFI), Galway County Council and the National Parks and Wildlife Service (NPWS) should have been consulted regarding the development;
- clarification of application details is required including, whether a Nutrient Management Plan has been submitted, the water supply, reference to unauthorised development (RCC Ref. UDR 2407), appropriate assessment, the applicant's landholding, construction details for structures, tanks and soakaways;
- noise and odour nuisance.

## **6.2. Applicant's Response**

6.2.1. The response of the applicant to the grounds of appeal can be summarised as follows:

- no additional traffic movements would arise;
- sufficient storage capacity would be available during winter months when spreading is prohibited;
- land spreading activities are regulated by the EU (Good Agricultural Practices for the Protection of Waters) Regulations, as addressed in condition 3 of the planning authority's decision;
- the Environment section of the planning authority has prepared two reports regarding the application proposals and following submission of further information by the applicant, they confirmed that they had no objection to the development;
- concerns regarding collection, storage and spreading of materials, as well as the inclusion of inspection manholes, are dealt with by conditions of the permission;
- the competent authority for the planning application has carried out an appropriate assessment screening exercise;

- as confirmed by the planning authority, traffic hazard would not arise based on the 65m visibility available to the northwest and the 90m visibility available to the southeast, and the access would be no worse than the access to the appellant's adjoining property.

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

6.3.1. The planning authority did not respond to the grounds of appeal.

### **6.4. Observations**

6.4.1. None

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. The predominant land use in this rural area is for agriculture. Subject to ensuring that there are no adverse impacts on the environment and neighbouring amenities, I am satisfied that the development to be retained and the proposed development is consistent with the pattern of development in the area, and is broadly supported by agricultural development policies of the Roscommon County Development Plan 2014-2020. Accordingly, I consider the substantive planning issues arising from the grounds of appeal and in assessing the development are as follows:

- Water Quality;
- Traffic Safety;
- Local Amenities.

### **7.2. Water Quality**

7.2.1. The site is within an inner source-protection area for Ballinagard springs, which supplies water to Roscommon town and the central region of the county. A northern wedge of the applicant's adjoining landholding is within the spring zone of contribution for this water supply. The grounds of appeal assert that the development would have an adverse impact on water quality in the area and as a

result would have undue impact on public health and the environment, including the designated European sites.

- 7.2.2. Policy 3.23 of the Development Plan aims to facilitate the development of agriculture, while also seeking to protect and maintain the environment, including water quality. To protect water quality, condition 2 of the decision issued by the planning authority, requires the development to comply with the EU (Good Agricultural Practice for the Protection of Waters) Regulations 2014, which have been revoked and replaced by the EU (Good Agricultural Practice for the Protection of Waters) Regulations 2017 (hereinafter referred to as the Agriculture Regulations). Article 13 of the Agriculture Regulations requires the capacity of slurry storage facilities for cattle to be equal to or to exceed the expected effluent from the stock proposed to be housed in a development. Table 2 of Schedule 2 of these Regulations sets out the effluent storage capacity required for different animals.
- 7.2.3. The drawings submitted with the application suggest that the total capacity of the slatted tanks would be approximately 542 cubic metres. The application included a fertiliser report from Teagasc and additional application form details outlining that the maximum number of cattle to be housed in the development would be 88 and a tanker would be used in spreading the resultant farm effluent.
- 7.2.4. All soiled water from the two slatted sheds would be directed to on-site fully sealed concrete underground tanks. This soiled water would be collected, stored, periodically emptied and spread to accord with the Agriculture Regulations. Separately, all surface water collected on site from the roofs and hard surfaced areas would be discharged to soakaways. The environment section inspected the site in May 2019 and following submission of further information, they did not object to the development, subject to the collection, storage and spreading of organic fertilisers, soiled waters and run-off being in accordance with the Agriculture Regulations. The applicant is legally obliged to comply with the requirements set out in the Agriculture Regulations and the tanks should not pose a threat to either groundwaters or surface waters, including those within the inner source-protection area for Ballinagard springs.
- 7.2.5. While recognising the site context relative to the inner source-protection area and the spring zone of contribution for Ballinagard springs, any spreading of cattle manure

would also be required to be in accordance with the provisions of the Agriculture Regulations, in order to ensure that surface water and groundwater resources in the wider area are not polluted. In conclusion, retention permission and permission for the development should not be refused for reasons relating to the impact on water quality.

### **7.3. Traffic Safety**

- 7.3.1. The slatted sheds would be served by an existing splayed vehicular entrance to the farmyard. Visibility from the entrance in a southeast direction is sufficient, while visibility in a northwest direction is restricted by virtue of the front boundary along the appellant's property. The single-lane local road serving the appeal site is lightly trafficked and the effective speed on the local road is less than the 80km/ph speed limit. As a result sight visibility requirements from the entrance would be reduced. Other entrances along the local road are sufficient distance from the appeal site entrance to avoid conflict. The proposed extension and straw-bed shed would not be likely to result in additional movements at the entrance during the operation phase, given the ongoing nature and scale of the agricultural operations on site. I am satisfied that the development would not endanger public safety by reason of traffic hazard.

### **7.4. Local Amenities**

- 7.4.1. When considering planning applications for agricultural buildings, the Development Plan requires consideration of the siting and design of the development, including the impact on the visual amenities of the area. The appeal site is within the 'Roscommon town and hinterland' landscape character area, based on the Landscape Character Assessment of County Roscommon and falls within the 'dry farmland' landscape character type. This is an area of 'High Value' from a landscape perspective because of the cultural heritage features in the town environs. I am satisfied that the development does not interfere with the setting of these features.
- 7.4.2. The appeal site is an established farmyard, which is not highly visible from neighbouring roads, as it is heavily screened by mature trees and hedgerows

immediate to the site, including those along the local road serving the site. The proposed extension to slatted shed no.1 would be situated to the rear and would be no higher than the existing sheds, while the proposed straw-bed storage shed would be situated along the southeast side boundary and both additional elements would visually integrate with the existing agricultural buildings on site. The development is similar in scale, design and nature to other farmyard complexes in the immediate area. Accordingly, the proposed development would not be incongruous or out-of-character with the surrounding rural and agricultural area, and would not detrimentally impact on the visual amenities of the area.

- 7.4.3. There is potential for undue impacts on neighbouring dwellings arising from noise and odour, including slurry agitation on a limited number of occasions during any year. The slatted sheds, including the agitator chambers, would be approximately 50m from the nearest dwelling, the appellant's residence to the northwest. Having visited the area, which is characterised by numerous agricultural facilities of a similar nature and scale, and given the distance to the nearest neighbouring dwellings, I am satisfied that the development would not be unduly injurious, and would be consistent with what would reasonably be expected in a rural area.
- 7.4.4. In conclusion, the development would not have an unreasonable impact on the visual amenities of the area or the residential amenities of property in the vicinity. Accordingly, retention permission and permission for the development should not be refused for reasons relating to impacts on local amenities.

## **8.0 Appropriate Assessment**

- 8.1.1. Having regard to the minor nature of the proposed development, including the development to be retained, the containment of foul effluent generated in the slatted sheds in underground storage tanks and the surface water discharge arrangements, the location of the site and the separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 9.0 Recommendation

- 9.1.1. It is recommended that retention permission and permission should be granted, subject to conditions, for the following reasons and considerations.

## 10.0 Reasons and Considerations

- 10.1. Having regard to the nature, scale and appearance of the proposed development for retention and the proposed development, the nature of the receiving environment, the pattern of development in the vicinity and the provisions of the Roscommon County Development Plan 2014-2020, subject to compliance with the conditions set out below, it is considered that the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, would not be likely to cause a deterioration in the quality of waters in the area and would be acceptable in terms of traffic safety and convenience. The proposed development to be retained and the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 20<sup>th</sup> day of June 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. 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 storage tanks. Drainage details shall be submitted to and agreed in writing with the planning authority, within three months of the date of this order.

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

3. The slatted sheds shall be used only in strict accordance with a management schedule, which shall be submitted to and agreed in writing with the planning authority, within three months of the date of this order. The management schedule shall be in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, as amended by SI 65 of 2018, 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.

**Reason:** In order to avoid pollution.

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

5. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to adequate soakpits and shall not discharge or be allowed to discharge to the slurry storage tanks or to the public road. Details of inspection chambers to be installed on all surface water collection pipes prior to discharge to soakpits shall be submitted to and agreed in writing with the planning authority, within three months of the date of this order.

**Reason:** In order to avoid pollution and to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.

6. Slurry generated by the proposed development and the development to be retained 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) Regulations 2017, as amended by SI 65 of 2018.

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

7. A minimum of 18 weeks storage shall be provided in the underground storage tank. Within three months of the date of this order, 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.

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Colm McLoughlin  
Planning Inspector

29<sup>th</sup> November 2019