



An
Bord
Pleanála

Inspector's Report ABP-305209-19

Development	To construct a cattle house with slatted slurry tank, cattle crush, dungstead and associated site works.
Location	Moneycusker, Tooms, Macroom, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	19/5610
Applicant(s)	Noel Kelleher
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party V. Grant
Appellant(s)	Joe Kelly
Observer(s)	None
Date of Site Inspection	29 th October 2019
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The site is located in Moneycusker, approx. 7km south west of Macroom and approx. 1km east of the R587. It is a rural area, characterised by numerous low hills with agricultural lands and associated houses.
- 1.2. The subject site has a stated area of 0.723ha. It is elevated and slopes away from the public road. It is located within the centre of a larger landholding with an area of approx. 48.5 ha. The subject site currently accommodates a cattle house, with a gross floor area of 399sqm and hard standing area for bale storage.
- 1.3. Access to the site is from a private access road via the L8502. There are 2 no. private wells on the site.

2.0 Proposed Development

- 2.1. It is proposed to construct a cattle house incorporating slatted slurry tanks, a cattle crush and dungshed. The proposed cattle house has a stated gross floor area of 713sqm. It is rectangular in shape with a pitched roof with a maximum height of 7m, above ground floor level. The slurry tank has a depth of 2.4m. The cattle crush is located along the western boundary of the cattle house and has a maximum height of 1.2m, and the dungshed is located at the northern boundary of the cattle house.
- 2.2. The cattle house is located approx. 8m to the rear of an existing cattle house and approx. 100m north of the public road.
- 2.3. It is proposed to remove a section of an existing sod and stone ditch to accommodate the development.
- 2.4. ***Unsolicited Further Information lodged 15th July 2019***

Details regarding a second site notice was submitted by way of further information.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 17 no. conditions. The relevant conditions are noted below: -

Condition 2: related to the external materials

Condition 3: related to landscaping proposals for the site

Condition 4: required that the use be restricted to agricultural uses only

Conditions 6, 7,9, 10, 11, 12, 13, 14, 15,16 and 17: Related to preventing water pollution

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Area Planners report raised no concerns regarding the proposed development and recommended that permission be granted subject to conditions.

3.2.2. Other Technical Reports

Area Engineer: No objection.

Environment Report: No objection subject to conditions.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

A third-party objection was received from Joe Kelly. The concerns raised are similar to those in the appeal submission.

4.0 Planning History

PL88.242440, Reg. Ref. 13/00340: Permission was granted in 2014 for an extension to an existing farm building.

Reg. Ref. 11/00595: Permission was granted in 2011 for an extension to an existing farm building. The decision to grant permission was quashed following a judicial review, primarily on the basis of the adequacy of the site notices (Kelly V. Cork Co. Co. and others, 2012 153 JR).

5.0 Policy Context

5.1. Cork County Development Plan, 2014

The subject site is located on unzoned lands. The site is located in an area identified as Valley Marginal Middleground in Appendix E of the Plan. These locations are designated as areas with a high landscape value and sensitivity and of County importance. Policy EE 8-1: Agriculture and Farm Diversification is considered relevant.

5.2. Natural Heritage Designations

The Gearagh SAC (000108) is located approx. 2km north west from the appeal site.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party objection was received from Joe Kelly. The issues raised are summarised below: -

- This is the third application on the subject site. The development is excessive having regard to the size of the landholding and would be visually obtrusive. The site boundary comprises of deciduous trees, therefore, there is no screening of the site for 6 months of the year. Due to the elevated nature of the site the existing development on site has a negative impact on the visual amenities of the area. The proposed development would exacerbate this situation. The proposed development should be relocated within the applicant's site to reduce the impact.
- The site is located within an area designated under a Groundwater Protection Scheme as an Aquifer with Extreme Vulnerability Rating. There is an existing well is located 65m from the proposed development. The development would have a negative impact on water quality.
- Surface water run-off from the site has damaged the public road. The proposed development would increase run-off from the site.
- The proposed development would result in additional noise being generated by the farm. The applicant has not complied with noise conditions attached to the previous application on site.
- The increase in slurry would result in an unacceptable odour.
- Construction works within the applicant's site have resulted in damage to the appellants site.
- The proposed development would devalue the appellant's property.
- The works would negatively impact on a recorded monument C0082-02 – Leacamolua Battlefield, a graveyard and a large ringfort.
- The drawings submitted do not accurately show the location of a stream.

- The proposed development would result in an intensification of use which would have a negative impact on a vulnerable landscape. The existing trees are in poor condition and do not provide sufficient screening.
- The appellant also raises concerns regarding applicant's non-compliance with previous planning conditions and enforcement procedures within Cork County Council.

6.2. Applicant Response

The applicant's response is summarised below: -

- The siting of the development was chosen to consolidate existing uses within the farm. It is also located at the furthest point from adjoining residential properties.
- There is no public well in the immediate vicinity of the site. There is a waterhole, however it is unsafe to drink from and attracts wildlife and domestic animals.
- The applicant has stated that he does not import slurry to his site. A Nutrient Management Plan has been submitted with the response.
- A number of trees were previously planted for screen and additional landscaping is proposed. The trees referred to by the appellant are located outside of the applicant's site.
- All previous conditions have been complied with. The proposed development would not result in feeding of silage outside of the cattle shed.
- The appeal site is well screened, and the proposed development would not be visually obtrusive.
- The recorded monument is not located within the appeal site and the development would not have any impact on it.
- There is no issues with surface water run-off from the existing site. the proposed development would not have any impact on drainage or flooding.

- No complaints have been received from any other neighbours, or the local authority, regarding noise or odour from the existing agricultural uses. The farm is annually audited by Bord Bia and have always been compliant.
- The separation distances provided between the proposed facility and watercourses is in accordance with guidelines and best practice, in this regard 50m.
- A letter has been submitted from the applicants Agricultural Consultant which notes that the applicant farms in a sustainable manner and is farming at a higher environmental standard than is required by legislation. The proposed development would have a positive impact on animal welfare and Nutrient Management Requirements.

6.3. **Planning Authority Response**

None

7.0 **Assessment**

7.1. The main issues in this appeal relate to the grounds of the appeal. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise.

- Visual Amenities
- Water Services
- Noise and Odour
- Archaeology
- Appropriate Assessment

7.2. **Visual Amenities**

7.2.1. Concerns have been raised that the proposed development would have a negative impact on the visual amenities of the area. The site is not located within a designated scenic or amenity area. The wider area is identified as '*Valley Marginal Middleground*' in the Development Plan. These landscapes are of high landscape

value and sensitivity and the landscapes are of county level importance. It is considered that they are vulnerable landscapes with the ability to accommodate limited development pressure.

- 7.2.2. The proposed cattle house is located approx. 8m to the north (rear) of an existing cattle house and approx. 100m north of the public road. The boundary of the larger landholding with the public road comprises mature trees and vegetation. Due to the topography of the overall site, which comprises numerous low hills, there are limited views of the existing cattle shed from the public road. The applicant has stated that it is proposed to provide additional landscaping, in the form of trees along the site boundary.
- 7.2.3. The appellants house is located approx. 3m from the public road. It is noted from photographs submitted with the appeal that the existing cattle shed is visible from the appellants house, which is located approx. 110m south of the appeal site. In my opinion, having regard to the location of the development in a rural area, the topography of the site, the separation distances and the limited size and scale of the development, the proposed development would not have a significant negative impact on the existing visual amenities or rural character of the area.

7.3. **Water Services**

- 7.3.1. Concerns have been raised that the proposed development would negatively impact on water quality in the area. Information submitted with the application indicates that the appeal site is located approx. 150m from the nearest watercourse. The site location map submitted with the application indicates that there is a private well located within the appeal site, approx. 60m from the proposed slurry tank and an additional well located approx. 120m south of the proposed slurry tank. This well is located adjacent to the public road and is on lands outside of the applicant ownership.
- 7.3.2. The Planning Authority's Environmental report states that there 2 no. wells on the applicant's overall lands and 2 no. additional wells to the south of the proposed development, outside of the applicant's ownership. It is noted that the water supply from the 2 no. wells outside of the applicant's ownership are unlikely to be safe to drink.

- 7.3.3. The proposed slurry tank is located a minimum of 60m from the nearest well, which is in accordance with the recommendations of the Department of Agriculture: Minimum Specification for Bovine Livestock Units and Reinforced Tanks. Based on the information provided there is sufficient storage capacity in the proposed slurry tank for the proposed number of livestock.
- 7.3.4. The applicant has stated that he does not import slurry and that slurry is spread using a Low Emission Spreading System which reduces levels of ammonia and odours. A nutrient management plan has been submitted with the response to the appeal.
- 7.3.5. There is no evidence to suggest, subject to an appropriate standard of construction, and compliance with the relevant regulations and guidelines, that the proposed development would impact on water quality. Therefore, it is my view that the proposed development would not give rise to a risk to public health. I recommend that conditions relating to the management of slurry and silage effluent and uncontaminated rainwater be attached to any grant of permission.
- 7.3.6. By reference to the OPW maps the subject site is not located in a flood zone. The applicant acknowledges that some flooding does occur along the public road. It is proposed to provide stone filled soak pits on site to manage surface water run-off. It is noted that the Planning Authority's Area Engineer raised no objection to surface water disposal. In my view, the provision of a surface water drainage system, discharging clean run-off to either soakaways or suitable watercourses would be appropriate.

7.4. **Noise and Odour**

- 7.4.1. Concerns were raised in the appeal that the additional agricultural activity would result in an unacceptable level of noise and odour. During my site visit no noise or odour emissions of significance were noted at the site.
- 7.4.2. Information submitted with the application indicates that existing cattle house accommodates a maximum of 80 no. cattle and the proposed development would accommodate an additional 55 no. cattle. The proposed development would allow younger animals (under 18 months) to be separated. It acknowledged that the

proposed development would facilitate additional livestock, however, having regard to the distance from the nearest residential property, approx. 110m and the existing agricultural uses on site and within the surrounding area it is considered that any additional noise generated would not cause a significant nuisance.

- 7.4.3. Concerns have been raised that the increase in slurry would result in an unacceptable odour. The applicant has stated that he does not import slurry and that slurry is spread using a Low Emission Spreading System which reduces levels of ammonia and odours. Having regard to the separation distances to adjoining residential properties and the agricultural nature of the area, it is my view that conditions to reduce the potential odours are not warranted in this instance.

7.5. ***Archaeology***

- 7.5.1. The subject site is located approx. 100m south of a Recorded Monument CO082-020 (miscellaneous – potential battlefield site), on lands which are also within the applicant's ownership. The subject site is also located approx. 90m north east of Old Kilmichael Graveyard. There are 5 no. recorded monuments within the curtilage of the graveyard, C0082-21001 (graveyard) C0082-021002 (Ringfort), C0082-021003 (possible holy well), C0082-021004 (Church of Ireland) and C0082-021005 (Church). Recorded Monument CO082-022 (Standing Stone) is located approx. 200m south east of the site.
- 7.5.2. Concerns were raised that the proposed development would negatively impact on recorded monument C0082-02. However, as this recorded monument is outside of the appeal site, and there are no visible remains of the potential battlefield, it is considered that the proposed development would not negatively impact on this recorded monument or any recorded monument in the vicinity of the appeal site. It is also noted that the Planning Authority raised no concerns regarding the proposed development. However, having regard to the proximity of the site to a significant number of national monuments, it is recommended that a condition be attached to any grant of permission that all groundworks associated with the proposed development be supervised by a qualified archaeologist.

7.6. ***Appropriate Assessment***

Having regard to the nature and small scale of the proposed development and the distance from 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.

8.0 Recommendation

I recommend that permission be granted subject to conditions

9.0 Reasons and Considerations

Having regard to the agricultural use of the site, the pattern of development in the area, and the small scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the amenities of the area. 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, 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.

Reason: In the interest of environmental protection and public health

3. All soiled water, 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 ground, to any stream, river or watercourse, or to the public road.

Reason: In the interest of public health and to prevent pollution.

4. The cattle house 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:
 - 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 and to protect residential amenity.

5. Additional tree planting shall be provided along the southern boundary of the site. Within three months from the date of this order, a plan detailing the number, species and exact location of the trees and arrangements for the replacement of trees that die within the first three years following planting shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of residential and visual amenities.

6. The proposed development shall be for agricultural use in connection with the subject land holding only and shall not be used for any commercial purposes.

Reason: In the interest of orderly development.

7. The external finishes of the proposed development shall be the same as those of the existing cattle house in respect of colour and texture, unless otherwise agreed with the Planning Authority.

Reason: In the interest of visual amenity.

8. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
- a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development,
 - b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site

Elaine Power
Planning Inspector

6th November 2019