



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305769-19

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<b>Development</b>	Construction of slatted shed, hardcore yard and all associated site works
<b>Location</b>	Donaghmore, Lisronagh, Co. Tipperary
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	19/600881
<b>Applicant</b>	Ivan Long
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party v Grant
<b>Appellants</b>	Marian & Noel O'Brien
<b>Date of Site Inspection</b>	06.01.2020
<b>Inspector</b>	Anthony Kelly

## **1.0 Site Location and Description**

- 1.1. The subject site, which comprises part of a relatively flat agricultural field, is located on a local road approx. 1.1km north east of Ballyclerihan and approx. 5km north of Clonmel in south Co. Tipperary.
- 1.2. The vicinity of the site is largely agricultural in nature with some one-off rural housing, including 2 no. single-storey houses to the north west of the site subject of the planning application. There is a bend in the local road adjacent to the north west corner of the site and there is a tree/vegetation line along the roadside/west site boundary. Otherwise the subject site comprises part of a larger field. A large drain runs east-west through the field immediately adjacent to the southern site boundary.
- 1.3. The site area is stated as 0.3 hectares.

## **2.0 Proposed Development**

- 2.1. The application is for permission for a slatted shed with loose straw bedding area and underground effluent tank, dung stead and crush/handling yard, a walled manure pit, a hardcore yard and all associated site works.
- 2.2. The proposed floor area is stated as 293sqm. The slatted shed has an indicated maximum height of 7.08 metres.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The planning authority decided to grant permission subject to 5 no. conditions of a standard nature, including conditions relating to surface water disposal, external finishes, vehicular access and Irish Water connection.

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

3.2.1. The Planning Officer's report was the basis for the decision. The Planning Officer concluded that the development complies with the policies and objectives of the South Tipperary County Development Plan 2009 and does not have an adverse impact on the character of the area or on the amenities of adjacent property.

#### **3.2.2. Other Technical Reports**

**District Engineer** - No comment.

### **3.3. Prescribed Bodies**

None received.

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

A third-party submission was received from Marian & Noel O'Brien, Ballycornane, Lisronagh. The main issues raised can be summarised as follows:

- Proximity to house
- Health hazard
- Block views of countryside
- Affect the value of property
- Noise, pollution and gas emissions
- Traffic hazard
- Flooding on public road.

## **4.0 Planning History**

None relevant.

## 5.0 Policy Context

### 5.1. South Tipperary County Development Plan 2009

- 5.1.1. Section 5.6.1 (Agriculture and Equine Industries) of the Plan is relevant to the current application. It states, inter alia, that the Council will seek to facilitate the sustainable expansion of the farming industry.
- 5.1.2. Policy TI11 (Management of Agricultural Slurries) states that it is the policy of the Council to ensure that proposals for agricultural developments, as appropriate, comply with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2010 or any amendment thereof.

### 5.2. Natural Heritage Designations

- 5.2.1. The closest area of natural heritage designation is Grove Wood pNHA approx. 5.4km to the north east. The closest Natura 2000 site is Lower River Suir SAC approx. 5.8km to the north east.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

1 no. third-party appeal was received from Marian and Noel O'Brien, Ballycornane, Lisonagh whose house is to the north west of the subject site. The main issues raised can be summarised as follows:

- The public road is prone to flooding on a regular basis for days at a time. The field is also prone to flooding as it is lower than the road and the surrounding land is higher. The river that runs along also floods the field. During the winter months you can see a blanket of water on the field. Flooding is an ongoing issue now with the added concern of effluent and manure contamination.
- Noise from animals and air pollution will have a major impact. Animals are taken from the field between 6am-7am. Cattle are gathered by a jeep beeping its horn and this is not acceptable next to a residence.

- When animals are being collected from the field the road is blocked by a truck backed into the entrance which creates a traffic hazard. The road is not wide enough to carry this kind of transport on a regular basis.
- Too close to the appellant's house.

## 6.2. Applicant's Response

6.2.1. The main points can be summarised as follows:

- To receive Single Payment Scheme payment from the Dept. of Agriculture and Food, which the applicant does, you must follow a variety of environmental, animal welfare, land maintenance etc. regulations. This system is known as Cross Compliance and the regulations that need to be followed are Statutory Management Requirements which are set down in EU legislation. The shed is required to comply with these regulations.
- The field is dry and the proposed area does not flood. The shed will be raised 300mm above field level so the slatted tank or shed could never flood. Flooding on the road is a council issue. Water does flow into the field but it is taken away by the drain in the field.
- The shed will only be used for five months a year from November to March. Animals are fed every third day by a tractor which takes about 20 minutes. This is the only regular mechanical noise. There will be some animal noise but no more than if the cows were in the field grazing.
- The proposed shed releases very little smell to the locality. It is east of the neighbouring property and the prevailing wind comes from the south/east so it is sceptical that any smell will hinder residential amenity in that location.
- The lorry will be able to pull off the public road and park beside the shed thereby removing any hazard of parking on the road.
- This is the best location for building as the ground is level. There is an existing entrance that can be used. The proposed shed is 80 metres from the house. There are heavy native hedgerows around the site and the applicant will screen the northern and eastern boundary with additional native trees.

### 6.3. Planning Authority Response

6.3.1. Observations made can be summarised as follows:

- Flood risk mapping available to the planning authority shows no pluvial or fluvial flood risk zones on or adjacent to the site. The District Engineer's report raised no flood-risk issues. The planning authority has no objection to the inclusion of a condition ensuring that the development does not impair existing road drainage if deemed necessary.
- A development of this nature and scale is commonplace in rural areas in the County and is sufficiently removed from the neighbouring residences to mitigate any negative impacts by way of noise or odour emissions.
- The Council's Municipal District Engineer raised no issue with access or traffic. The current management and transport of livestock is not a relevant issue.

### 6.4. Further Responses

6.4.1. A further response from the appellant Marian O'Brien was received which can be summarised as follows:

- The field floods almost every year, the road floods and this flows into the field as acknowledged by the owner. The flooding concern is very valid.
- The appellant still considers that the proposed building is too near their house and could they not be positioned further away. The appellant notes it will not be positioned near the landowner's house in the field.

## 7.0 Assessment

The main issues are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Flooding
- Farmyard Location and Activity

- Appropriate Assessment

## 7.1. Flooding

- 7.1.1. The appeal documentation states that the public road and field is prone to flooding on a regular basis.
- 7.1.2. On the site inspection the drain along the roadside boundary of the site, and the larger drain within the subject field were both dry. The applicant disputes that the subject site floods but acknowledges that water from the public road that flows into the field is taken away by the field drain. This field drain is outside the red line site boundary. In response to Q.17 of the planning authority application form, 'has the site ever, to your knowledge, been flooded', the applicant has ticked the 'no', box. However, the response to Q.17 also states 'Each year with floods near river'.
- 7.1.3. The planning authority states that there are no pluvial or fluvial flood risk zones on or adjacent to the site. This is supported by the OPW's floodinfo.ie website which does not identify any past flood event within 1km of the subject site (2 no. separate events are identified approx. 1.1km and 1.3km to the south west). The planning authority response to the appeal also notes that the District Engineer did not raise any flood-risk issue in their report.
- 7.1.4. The subject site is remote from the nearest river flood extent (the River Clashawley approx. 5.9km to the north east) identified on floodinfo.ie. The subject site is included in Figure 5.1 (PFRA Indicative Pluvial Flood Map) of the Strategic Flood Risk Assessment document prepared on behalf of (the then) Clonmel Borough Council and South Tipperary County Council to inform the Clonmel and Environs Development Plan for 2013 to 2019. Figure 5.1 identifies a substantial number of 'pluvial extreme' and 'pluvial indicative' locations in the wider vicinity of Clonmel. The closest pluvial area identified to the site subject of the planning application is approx. 700 metres to the south east. Figure 4.1 (Historical Flood Records) of the document identifies the same two flood events as those referenced in Paragraph 7.1.3. In Appendix E, the Clonmel and Environs Flood Zones map, the closest flood zone A or B identified is approx. 1.4km to the south.
- 7.1.5. Agricultural developments are designated as 'less vulnerable developments' in Table 3.1 (Classification of vulnerability of different types of development) in The Planning

System and Flood Risk Management Guidelines (2009). The subject site is in Flood Zone C, where the probability of flooding from rivers and the sea is low and covers all areas not in zones A or B. Less vulnerable development is deemed appropriate in this 'zoning' under Table 3.2 (Matrix of vulnerability versus flood zone to illustrate appropriate development and that required to meet the Justification Test) of the Guidelines.

- 7.1.6. Having regard to the foregoing, there is no record of any significant flooding event at this location and it is located in Flood Zone C where development of the type proposed is considered appropriate. I consider the proposed development to be acceptable in terms of any flooding issue.

## **7.2. Farmyard Location and Activity**

- 7.2.1. The appellants refer to noise and odour pollution in proximity to their house as a result of the proposed development.

- 7.2.2. The subject site forms part of a larger field within the applicant's landholding, which comprises 81 acres. There is currently no farmyard or agricultural structure in the near vicinity. Agricultural activity is the primary land use in the area. The potential nuisances set out in the appeal documentation are noted. Notwithstanding, a slatted shed and ancillary structures are a reasonable extension of a farm landholding and noise and odour from agricultural activity are an inevitable and unavoidable consequence of such rural activity and are to be expected. The use of the existing agricultural entrance reduces the requirement to construct a new entrance. There is a separation distance of approx. 70 metres between the nearest house and the proposed slatted shed which is considered to be adequate.

- 7.2.3. As this is an agricultural development within a rural area, I consider it to be acceptable.

## **7.3. Appropriate Assessment**

- 7.3.1. On the site inspection the drain along the roadside boundary of the site, and the larger drain within the field which contains the subject site, were both dry. The site layout plan submitted with the application shows that clean water will be discharged to the adjacent field drain. The drain runs along the southern site boundary and appears to be connected to the River Moyle, which comes within approx. 280 metres to the north



of the subject site, approx. 380 metres to the north east. The Moyle flows in a general south easterly direction before discharging to the Anner River which flows south and joins the River Suir east of Clonmel.

- 7.3.2. The closest Natura 2000 site to the site subject of the planning application is Lower River Suir SAC approx. 5.8km to the north east. The SAC at this location contains the Clashawley River, a tributary of the Anner River. However, the nearest affected point of the SAC by the subject development, as a result of the source-pathway-receptor link, is approx. 6.6km to the south east close to where the River Moyle discharges to the Anner River.
- 7.3.3. On foot of the foregoing, having regard to the nature and scale of the development proposed and to the nature of the receiving environment, approx. 6.6km from any 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**

- 8.1. I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

## **9.0 Reasons and Considerations**

Having regard to the provisions of the South Tipperary County Development Plan 2009 and the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the development would be acceptable in terms of flooding and the rural environment of the site. The 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 and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. The development shall be accessed from the existing agricultural entrance. The existing roadside vegetation/tree line shall be retained and maintained to ensure adequate visibility of road traffic.

**Reason:** In the interests of visual amenity and traffic safety.

3. 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.

4. All foul effluent and slurry generated by the proposed development and in the farmyard 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 drain, 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 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.

6. Slurry generated by the 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.

7. A minimum of 16 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.

8. (a) All oxidisable and galvanised surfaces of the proposed structure shall be painted a dark green matt colour, unless otherwise agreed in writing with the planning authority prior to commencement of development, and the surfaced shall be maintained in a painted condition at all times.
- (b) The finished floor level of the slatted shed shall be not more than 300 millimetres above the existing ground level.

**Reason:** In the interests of visual amenity and orderly development.

9. The applicant shall enter into a water connection agreement with Irish Water, prior to commencement of development, if required.

**Reason:** In the interest of public health.

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Anthony Kelly  
Planning Inspector  
04.02.2020