



An
Bord
Pleanála

Inspector's Report

ABP-305894-19

Development	Retention of concrete silage base and retaining walls and permission for erection of a concrete retaining wall to enclose the farmyard and associated works.
Location	Ballycullane, Tintern, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20191189
Applicant(s)	James Power
Type of Application	Retention and permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	James and Siobhan Wall and others
Observer(s)	None
Date of Site Inspection	28 th January 2020
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The site is located in a rural area c. .7km to the south east of the village of Ballycullane, Co. Wexford. The area is rural in character with scattered one off housing, a number of farms and a sawmills c. 200m to the east of the site.
- 1.2. The appeal site, with a stated area of .79 hectares, is a small farm complex with a large number of farm buildings. There is also a vacant farmhouse on the farm which appears to be in a reasonable condition and was occupied by a family member up till 5 years ago. The total area of land ownership is stated to be 56.71 hectares. Information submitted with the appeal indicates that the Power family has operated this farm for many years dating back pre the Griffith Valuation of 1848.

2.0 Proposed Development

- 2.1. Permission is sought for the retention of a concrete silage base and retaining walls together with a 2m wall around part of the farm complex and associated works.

3.0 Planning Authority Decision

3.1. Decision

- 3.2. Permission granted subject to 6 No. Conditions. Condition No. 5 required that adequate pest control measures shall be put in place and maintained. All other conditions are of a standard nature.

3.3. Planning Authority Reports

3.3.1. Planning Reports

- The planner's report noted that 2 site inspections had been carried out and there was no odour emanating from the site other than a small hint of silage when the planner was within 3 feet of the front of the silage pit. It was stated that the existing farmyard complex was well kept and maintained.

3.3.2. Other Technical Reports

Agricultural Scientist: Recommended a grant of permission subject to conditions.

3.4. **Prescribed Bodies**

3.5. No reports.

3.6. **Third Party Observations**

A total of 4 No. observations were submitted to the Planning Authority. The issues raised are similar to those raised in the appeal.

4.0 **Planning History**

0063/2019

Enforcement regarding *'possible unauthorised silage pit.'*

5.0 **Policy Context**

5.1. **Development Plan**

Wexford County Development Plan 2013-2019 (Extended)

Section 6.4.6 Agriculture

Objective ED20: To facilitate and support the development of sustainable agriculture practices and facilities within the County subject to complying with normal planning and environmental criteria and the development management standards in Chapter 18.

Chapter 18: Development Management Standards:

Section 18.23: Agricultural Buildings:

The Council will encourage and facilitate agricultural development subject to the following criteria:

- The impact on the character and amenity of the immediate and surrounding area.
- There are no suitable redundant buildings on the farm holding to accommodate the development.

- The proposal will not impact negatively on the traffic and environment of the area.
- The Council recognises the need for agricultural buildings and acknowledges that there is often a requirement for these structures to be significant in scale. Notwithstanding this, these buildings will be required to be sympathetic to their surroundings in terms of scale, materials and finishes. The building should be sited as unobtrusively as possible and the finishes and colours used must ensure the building will blend into its surrounding and landscape. The use of appropriate roof colours of dark green and grey will be required. /Where cladding is proposed, it shall be dark in colour also.

5.2. Natural Heritage Designations

5.2.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The Bannan Bay Special Area of Conservation (Site Code: 000697), approximately 2.7km to east.
- The Bannan Bay Special Protection Area (Site Code:004033), approximately 4.8km to east.

5.3. EIA Screening

5.3.1. Having regard to the minor scale of the development there is no real likelihood of significant effects on the environment arising from the development to be completed and retained. 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

The grounds of appeal can be summarised as follows:

- The site was inspected at the wrong time of year when there would not have been a silage smell.
- The silage storage area is within 100m of the appellant's house. No written consent was given for same.
- The assembly of cattle within 10m of the public road results in regular noise pollution.
- Unregulated and constant intensification of this farm has occurred over the last number of years.
- The smell is similar to '*rotting fish*'.
- The potential for health impacts needs careful consideration as the lead appellant suffers with COPD.

6.2. Applicant Response

The response can be summarised as follows:

- The grounds of appeal have no basis and are more of an objection to living near a working farm than an objection to this planning application.
- The silage slab is located where it suits the operational needs of the farm most.
- There was a national fodder crisis in 2018 due to the hot Summer burning off all the grass. Cattle farmers around the country including the applicant responded by building expanded silage facilities so that a greater store of silage can be put aside in the event of extreme weather.
- The Council carried out an Appropriate Assessment screening which concluded that there is no potential for significant impacts to Natura 2000 sites.

6.3. Planning Authority Response

- The Planning Authority response stated that they had no further comments.

6.4. Observations

- None.

7.0 Assessment

7.1. Having regard to the submission on file and my inspection of the appeal site, key matters for the appeal are:

- Impact on Residential Amenity
- Rationale for the location of the proposed development
- Other Matters
- Appropriate Assessment

7.2. Impact on Residential Amenity

- 7.2.1. The main issues raised in relation to the impact on residential amenity relate to odour and noise.
- 7.2.2. Figure 1 in the appeal response indicates the adjoining land uses including a farm, residences and a sawmill business in close proximity to the site. There is also another farmyard to the east.
- 7.2.3. I consider that the farm is an established use and appropriate for a rural area. I note that the planner's report describes the farm as very well kept and tidy overall and considers that farm activities are expected in a rural environment.
- 7.2.4. The planner visited the site on the 23rd day of September 2019 and the 2nd day of October 2019 and stated that *'there was no odour emanating from the site, albeit that I could get a very small hint of silage odour when I was standing within 3 feet of the front of the silage pit requiring retention.'*
- 7.2.5. The appellant stated that *'the planner visited at the wrong time of year and that the farm was less busy during the time the planning application was ongoing.'*

- 7.2.6. The applicant's response stated that *'at the time of the visit by Wexford County Council, the silage had been long cut and the silage pit filled up'*. It was stated that *'the best time of year to cut silage is in mid May and the fermentation process takes 10 days to 3 weeks for completion. As such, whatever smells the silage could produce were present on the days of inspection.'*
- 7.2.7. I visited the site on the 28th day of January 2019 when the silage pit was open and in use by the farmer. The odours experienced were akin to those one would experience at any working farmyard and did not present any discomfort.
- 7.2.8. The main concern raised in relation to noise relates to the use by the farmer of a cattle assembly area near the public road. The appeal response states that *'farmers do not need permission to assemble cattle anywhere on their farms; certainly not when they have used that purpose since pre-1945. Indeed, farmers can walk their cattle along and across public roads.'*
- 7.2.9. On the day of inspection, I noted that the farm was tidy and well maintained. Any noise and odour I experienced were typical of normal farm use. Furthermore, I note that an Agricultural Scientist from the Environment Section, Wexford County Council raised no issues in relation to noise or odour and recommended permission subject to conditions. Having reviewed the information submitted, I do not consider that the development will impact negatively on the residential amenities of adjoining properties.

7.3. Rationale for the location of the proposed development

- 7.3.1. The appeal acknowledges that the applicant has a right to expand his business and to farm his land. However, it is queried why the silage storage could not have been located elsewhere on the landholding of c. 51.4HA rather than so close to their properties.
- 7.3.2. The appeal response states this farm has been in family ownership since 1848 and predates the houses in the area. It is stated that the silage slab is the only suitable area in the farmyard to suit the operational needs of the farm and that it necessitated a large area which was machinery accessible.

- 7.3.3. I am satisfied that the silage slab is within the existing farmyard close to existing farm buildings and cattle. I consider that it is integrated with the existing farmyard which is practical for the farmer and desirable from a visual amenity perspective. The silage slab is adjoined by the existing farmyard on three sides and by a field on another and is c. 25m from the public road.
- 7.3.4. As such, I consider that the rationale put forward by the applicant for this location is acceptable.

7.4. Other Matters

- 7.4.1. I note that the appeal questions why the standard development control criteria in relation to Exempted Development Regulations could be dismissed so easily by the Planning Authority.
- 7.4.2. The applicant is seeking permission for the retention and completion of the development. As such the conditions and limitations in relation to exempted development are not applicable to the planning application.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the development, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

9.0 Reasons and Considerations

- 9.1. Having regard to the location of the proposed development within an existing farmyard, it is considered that, subject to compliance with the conditions set out below, the development proposed for retention and completion would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained, 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 retained, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All effluent/soiled water from the silage base shall be directed to the adjacent slatted tank. No effluent/ soiled water 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.

3. Arrangements for the disposal of surface water shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

4. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme

made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Emer Doyle
Planning Inspector
5th February 2020