



An
Bord
Pleanála

Inspector's Report ABP-307792-20

Development	A slatted sheep shed.
Location	Brodella, Shrule, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	20315
Applicant(s)	David Walsh
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Rachel Leonard
Observer(s)	None
Date of Site Inspection	28 th October 2020
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The proposed site (0.106ha) is in the townland of Brodullagh North, approximately 1.7km west of Shrule village in south County Mayo. The site is located to the north of a row of four dwelling houses with access to be provided along the northern boundary of the last house, which is also the applicant's dwelling house.
- 1.2. The proposed 243sq m slatted sheep shed, is to be located in an existing agricultural field to the immediate rear of the applicant's two storey dwelling site. The site slopes upward slightly to the rear and is approximately 1m above road level where the slatted shed is proposed for siting. There is no existing farm complex on site.
- 1.3. The surrounding area is characterised mainly by agricultural landuses and rural dwellings, with the majority in the area fronting directly onto local roads. The topography is mainly flat, with low undulation in the surrounding fields.

2.0 Proposed Development

- 2.1. The proposed development is to comprise:
 - A slatted sheep shed of 243sq m in area and max 5.7m in height, with 170m³ slurry storage capacity in tank beneath.
 - New gravel access roadway of approx. 57m in length.
 - New wall and entrance along the roadside to front of site.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to grant permission subject to seven conditions, most of which are standard in nature, but also including the following condition no.2:
 2. *Prior to the construction of any development on site, a revised site layout map and landscaping plan shall be submitted to the Planning Authority at Mayo County Council for written agreement, illustrating a detailed landscaping area along the southern site boundary, at the location of slatted sheep shed. The landscaping shall comprise of dense trees/hedges native to the area, which*

shall be maintained to be no less than two metres in height. On agreement, the entire landscaping shall be carried out prior to the construction of the slatted sheep shed.

Reason: *In the interest of visual amenity.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (June 2020) reflects the decision of the Planning Authority. The Planning Officer notes the following in their report:

- The proposed site is not within any flood risk area, however it is within 800m of the Lough Corrib Special Area of Conservation (SAC) which is located to its southeast.
- The area planner screened out the need for Appropriate Assessment based on the information submitted with the application which included a report and statement of organic nitrogen and phosphorous and submitted maps. In addition, it was determined that due to the separation distance involved, the lack of connectivity and the ecological nature of the SAC with its associated conservation objectives that no adverse impacts were expected.
- There is an existing agricultural entrance to the site and no concerns were raised regarding sight line visibility.
- A letter of consent has been received from the landowner Michael Walsh, who is also the applicant's father.
- Having regard to the nature and scale of the proposed development in this rural area it was considered that the proposed development would not injure the amenities of the area or property in the vicinity.
- The area planner noted the observation received from the neighbouring dwelling and in an attempt to mitigate any possible impacts has attached a landscaping condition to ensure the proposed development is appropriately screened.

3.2.2. Other Technical Reports

- Area engineers report dated 25/05/2020 stated that the location of the shed is potentially too close to adjacent dwellings. The area engineer recommended referral to the Environment Department for comments. No subsequent response from Environment Department was received.

3.3. Prescribed Bodies

- Irish Water – no response.
- Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs – no response.

3.4. Third Party Observations

One third party observation was received from Rachel Leonard, who is the occupant of the dwelling on a nearby site approximately 45m southeast of the proposed development. The following concerns were raised:

- Possible impact on privacy due to the proposed developments proximity within 45m of the observer's house. It is highlighted that under exempted development a shed could not be located within 100m of a dwelling house. This dimension is a scientifically proven distance to avoid ground contamination, odours, noise and disturbance.
- Impact on light, the top ridge of the proposed shed is 104.085m and her dwelling ridge height is 107.15m. Due to the orientation of the site, the proposed shed will block afternoon and evening sun to the living areas in her house.
- Smell – the development is likely to result in impacts in relation to odour. The observer states that there are vents located in the living areas and bedrooms of her house and therefore even with the windows closed there will still be impacts.
- Noise – it is anticipated that noise from animals and machinery will be ongoing and persistent particularly during the night throughout lambing season and it is also anticipated that artificial lighting will be required at the

proposed shed which will have a negative impact on the occupants of her house. The observer suspects that due to the size of the shed and the effluent tank capacity proposed, the applicant may use it for the housing of cattle also in the future, therefore creating even more of a noise and odour nuisance.

- The property value of her dwelling and resale of same in the future is likely to be affected due to the noise, light and smell of the proposed development.
- An alternative location at a greater distance away to the north of the applicant's dwelling is suggested as a compromise.

4.0 Planning History

No planning history on site.

5.0 Policy Context

5.1. Development Plan

The operative Development Plan is the Mayo County Development Plan 2014-2020.

5.1.1. Volume 1 Written Statement

Agriculture

Objective AG-01: It is an objective of the Council to support the sustainable development of agriculture, with emphasis on local food supply and agriculture diversification (e.g. agri-business and tourism enterprises) where it can be demonstrated that the development will not have significant adverse effects on the environment, including the integrity of the Natura 2000 network, residential amenity or visual amenity.

Water Quality

Objective WQ-01: It is an objective of the Council to implement the Western River Basin District Management Plan Water Matters 2009-2015 to ensure the protection, restoration and sustainable use of all waters in the County, including rivers, lakes, ground water, coastal and transitional waters, and to restrict development likely to lead to deterioration in water quality or quantity.

5.1.2. Under the provisions of Volume 2 Planning Guidance and Standards for Development in County Mayo the following applies:

Section 29.3 states that rural enterprises such as agriculture will be considered in all rural areas subject to no adverse impacts (e.g. noise, odour, dust, light pollution and traffic) on neighbouring properties and the environment including visual amenity. Preference will be given to the conversion of existing buildings in rural areas for small-scale employment purposes.

Section 56.1 recognises the importance of agriculture and agricultural diversification

Section 56.2 states that the principal aim shall be to support agriculture in the County subject to best environmental standards which promote maintaining good water quality and biodiversity. Therefore, the activities on the farm shall comply with the provisions of S.I. No. 610 of 2010, European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2010.

Section 56.3 states that large-scale agricultural development and/or agriculture-related processing will generally be permitted subject to the proper planning and sustainable development of the area.

5.2. Natural Heritage Designations

The nearest European Site are the:

- Lough Corrib Special Area of Conservation (SAC) (site code 000297) which is located 800m to the south east; and
- Shrile Turlough SAC (site code 000525) which is located 900m to the north.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal has been lodged by Rachel Leonard of Brodella, Shrile, Co. Mayo, the grounds of which can be summarised as follows:

- The appellant reiterates the points raised in the observation on the original planning application in relation to the possible impacts from the proposed

development on her property, these include impacts on the availability of light, odours, noise and privacy.

- While it is acknowledged that condition no.2 of the notification to grant permission will reduce the privacy concerns highlighted in the original observation on the planning application, a 2 metre high hedge will do little to prevent noise and odour from the animals that will be occupying and lambing in the slatted shed.
- There is an expectation that while living in the area one will experience animal noises and odours, however the proper planning and sustainable development should protect those not involved in agriculture from unnecessary disturbance.
- Under exempt development, 100m is the minimum distance for a slatted shed from a house or a public road. The proposed location of the slatted shed is within 45m of the appellant's dwelling house and she also notes that the area engineer flagged this up as a concern.
- The appellant states that she believes there are more suitable areas to locate the shed on the land holding which belongs to the applicant's father and covers an area of 3.27ha. An alternative location of a minimum distance of 100m away from Ms. Lenard's house would address all the concerns above.

6.2. Applicant Response

A response was received from the applicant on 31st August 2020. The response submitted can be summarised as follows:

- The position of the proposed sheep shed was chosen to be in close proximity to the applicant's dwelling house for eases of access. During the lambing period which lasts for approx. 4 weeks each spring the sheep flock would need to be observed and attended to regularly during the day and night. During the past number of years the applicant has had to use a third party's shed which is located over 2km from his house, this arrangement is not suitable long-term for both the applicant and the welfare of the sheep.

- Another consideration in choosing the current location was to ensure the shed was near the public road and therefore minimise the length of access track required.
- The appellant's dwelling house was considered when the applicant chose the current location. He wanted to have the shed close to his house while also maintaining a reasonable distance from the neighbouring dwelling house.
- The proposed shed is to be positioned at a location where the land is lower than that of the neighbouring dwelling whilst following the natural contours of the land. To further minimise visual impact, the height of the shed was kept as low as practical and is of a lower height than a typical sheep shed.
- Sheep sheds are not considered a particular nuisance in terms of smell and would only generate what could be considered nuisance odours when the slurry tank is agitated which may occur once a year and for a period of one day. The applicant would consider the smell generated similar to that experienced at other times of the year in this rural location.
- He also states that the prevailing winds come from the southwest and would therefore carry any odour in a direction away from the appellant's house.
- The applicant does not own any shed of his own currently in the area and he intends to house sheep in the shed for an average period of 8 weeks each year. The applicant states it is best to minimise the time spent by sheep in sheds and therefore he would be removing any young lambs and sheep from the shed and putting them out to field as soon as the weather would permit.
- There would be minimum machinery noise generated and any required can be restricted to during normal working hours. As part of the lambing process the applicant would have to monitor the sheep regularly but this would only involve pedestrian movements which would not generate a noise nuisance.
- Agricultural developments are supported under the development plan and the applicant notes the planning authority's request for additional screen planting to minimise further visual impact on neighbouring dwellings.

6.3. **Planning Authority Response**

- None.

6.4. **Observations**

- None.

7.0 **Assessment**

7.1. I consider that the main issues in this appeal are those raised in the grounds of appeal and by the first party in their response to the same. I am satisfied that there are no other substantive issues arising. The issues can be dealt with under the following headings:

- Principle of Development
- Impact on Residential Amenity
- Access and Traffic Safety
- Storage of Effluent
- Exempt Development
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. On the basis that the development in question is intended for agricultural purposes and land uses ancillary to the applicant's agricultural landholding, albeit currently proposed on his father's lands, and having regard to the appeal site being located within a rural area where the predominant land use is agriculture, I am of the opinion that agriculturally-related developments such as that proposed under this application are an inherent part of rural life and should generally be accommodated within such areas.

7.2.2. Indeed, Objective AG-01, Section 56.1 and Section 56.2 of the Mayo County Development Plan, indicate respectively that the Council will support the sustainable development of agriculture. In supporting agricultural development there are however other factors that need to be considered when assessing the suitability of these developments around the county and in particular Section 29.3 states that

rural enterprises such as agriculture will be considered in all rural areas subject to no adverse impacts (e.g. noise, odour, dust, light pollution and traffic) on neighbouring properties and the environment including visual amenity. The suitability of a given proposal will therefore be determined by an examination of the above factors. These are examined in greater detail under the sections below.

7.3. Impact on Residential Amenity

7.3.1. Having inspected the site, I acknowledge the appellant's concerns in relation to the impact of the proposed development on their adjacent property in terms of proximity and related impacts from farm related activities. The appellant raises concerns under each of the subheadings listed below which have been dealt with separately:

7.3.2. Privacy and proximity

The subject site forms part of a larger field within the applicant's father's landholding, the total area of this landholding has not been specified by the applicant but according to the landholding map submitted comprises two larger fields and two smaller plots closer to Matthew Walsh's house (applicant's father).

The appellant claims that the proposed slatted shed, which is located 45m from the rear and side of their property will lead to overlooking of the main living areas in their house and thus will impact on their privacy. The applicant in response to this states that the siting of the shed was chosen at a lower level than that of the dwellings in the vicinity, to ensure there would be no overlooking. Having visited the site and examined the plans, I note the proposed shed's FFL of 98.3m and top ridge height of 104.085m. The appellant's dwelling house has a FFL of approx. 100.4m and a ridge level of 107.15m. Based on the fact that the development is for a farm shed with no higher level windows or platforms, I see no opportunity for the development to significantly overlook any property in the vicinity.

In addition to this, I note condition no. 2 of the Notification of Decision to grant, related to landscaping and the requirement for the applicant to submit a revised site layout and landscaping plan to shelter the development, in particular along the southern boundary of the site. I understand this condition was attached to minimise the visual impact of the development on the nearby residential properties. I would consider these measures satisfactory in order to minimise the visual impact of the development.

7.3.3. Impact on light

The appellant claims that the proposed shed with a top ridge level of 104.085m would block the availability of light in the afternoon and evenings to the 4 windows and door on the northern and western side of her dwelling house, which provide daylight to her living areas. I note that the height of the proposed shed which is over 3 metres lower than that of the appellant's house. In addition, I note the sheds orientation on site, as well as the separation distance of 45m between the proposed shed and the appellant's dwelling house. In conclusion, I would not expect there to be any significant negative impact on the availability of sunlight to the appellant's property as a result of the development.

7.3.4. Odour, noise and artificial lighting from agricultural activity

The appellant raises concerns in relation to the possible odours and noise from activities connected with both lambing activities and also the storage of effluent on site in the tank beneath the slatted shed. In response to these concerns the applicant has stated that sheep sheds are not considered a particular nuisance in terms of smells to adjacent properties and that this type of development would only generate what could be considered nuisance odours as result of the slurry storage tank being agitated and emptied, an event which would be carried out during a single day, on an annual basis. The applicant also states that the prevailing wind which is from the south west, would normally carry away any unpleasant smells, this is contrary to what the appellant claims as she states the prevailing wind hits the rear of her dwelling and therefore the odours would impact upon her residential amenity.

In addition to the impacts of odours, the appellant also argues that her residential amenity will be impacted as a result of noise from the lambing and general farm machinery that would be required to operate on site. In addition to this it is anticipated that artificial lighting will be required throughout the night during periods of lambing activity. The applicant states that he intends to house sheep in the proposed shed for an average of 8 weeks during Spring each year, and that for the remainder of the year the sheep and lambs will be kept outside as the weather permits. The applicant stresses that for health reasons it is best to minimise the time spent by sheep in sheds. He also states that during the housing and lambing period that there is minimal machinery work needed and that any work required can be

done in normal working hours. In addition, activity at night will only be pedestrian movements and should not generate nuisance noise for neighbouring dwellings.

Section 29.3 of the Mayo County Development Plan states that agriculture development '*shall be considered in all rural areas subject to no adverse impacts (e.g. noise, odour, dust, light pollution and traffic) on neighbouring properties and the environment including visual amenity*'. In addition to this Objective AG-01 of the plan highlights that it will be necessary for agricultural development to demonstrate that it will not have significant adverse effects on residential amenity or visual amenity. While it is considered the visual amenity of the neighbouring properties can be addressed via improved landscaping on site, the impacts on the residents of neighbouring dwellings as a result of noise and smell may not be as easily alleviated. While I note the applicant's justification for the shed close to his dwelling and the fact that he currently has no shed within his ownership suitable to cater for the lambing needs, I do not consider the location of the proposed shed at the location given justified given that other more appropriate locations may exist on the landholding presented. While I acknowledge that the landholding presented is within the applicant's father's ownership, I also note that the applicant has stated that this land will be transferred to him in due course, this would therefore imply that alternative more suitable locations with greater separation distances from residential properties may be available. The current proposal located within 45m of the neighbouring dwelling and 75m of the next nearest dwelling house (apart from the applicant's) would in my opinion have a significant impact on the residential amenities of those living in this rural area. While acknowledged that farming activity is part and parcel of rural life and that the activities proposed on the current appeal site may be limited to certain periods of the year, it is still not possible to mitigate the expected noise, odours and artificial lighting impacts from the development. Therefore, the development would conflict with Section 29.3 and Objective AG-01 of the Mayo County Development Plan.

7.4. Access and Traffic Safety

The proposed development is to be accessed by an existing field entrance, via a newly constructed private lane leading westward from the public road. As regards the issue of road safety, I note that the public road is lightly trafficked and the

additional traffic arising from the proposed development is not likely to give rise to any hazard. The applicant proposes to set back the existing stonewall along the family landholding by 1-4m, for a distance of approximately 20m, to achieve the minimum 90m sightlines required. Details of landowner consent (from applicant's father) for the proposed development have been submitted as part of the application. Taking the above into account, I consider the access arrangements proposed satisfactory.

7.5. Storage of Effluent

7.5.1. The development would include facilities for storing foul effluent. The percolation characteristics of the soil on the site are not, therefore, directly relevant. In any event foul waste would not be generated by the proposed storage facility, but by sheep housed within the slatted shed. The management of effluent arising from agricultural activities and the undertaking of landspreading is governed by the European Union (Good Agricultural Practice for Protection of Waters) Regulations, 2017 and the applicant will be required to construct the structure in accordance with the relevant Department of Agriculture, Food and the Marine (DAFM) specifications. Subject to compliance with these Regulations, DAFM specifications and if the Board are minded to grant permission the imposition of suitable conditions in this regard, I am satisfied that the proposed development would not give rise to a risk of water pollution or represent a threat to public health.

7.6. Exempt development

7.6.1. I note the appellant's reference to exempt development. The appellant appears to be referring to Schedule 2 Part 3 (Exempted Development – Rural) (Agricultural Structures) of the Planning & Development Regulations, 2001 (as amended) which sets out a number of Conditions and Limitations which must be complied with in order for certain structures to be exempt from the requirement to obtain planning permission, including a requirement that they be situated more than 10 metres from a public road and more than 100 metres from a third-party house unless the written consent of the owner has been obtained. The Conditions and Limitations apply only where exempted development is proposed. That is not the case in the current application as the slatted sheep shed is part of the planning application. All planning matters relevant to this proposed development have therefore been considered as part of the current appeal assessment.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of the proposed sheep shed and 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.

8.0 Recommendation

- 8.1. I recommend that permission is refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to the location and proximity of the proposed development within 75m of two neighbouring residential properties, it is considered the proposed slatted sheep shed, by reason of the noise, odour and light pollution that would be generated from the development would seriously injure the residential amenities of property in the vicinity and would constitute an inappropriate use on this site. The proposed development is therefore considered to be contrary to Objective AG-01 and Section 29.3 of the Mayo County Development Plan 2014-2020 and would, therefore, be contrary to the proper planning and sustainable development of the area.

Máire Daly
Planning Inspector

11th November 2020