



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308081-20

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<b>Development</b>	Change of use from slatted shed to agricultural storage shed of organic compost and biosolid materials.
<b>Location</b>	Rookhill, Newbridge, Co. Galway.
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	20196
<b>Applicant(s)</b>	Denis Delaney
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Thomas Noone
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	17/11/20
<b>Inspector</b>	Adrian Ormsby

## 1.0 Site Location and Description

- 1.1. The appeal site is located in Rookhill in the rural townland of Newbridge in County Galway, c. 22km north of Ballinasloe village and c.20km Southwest of Roscommon town. The site is accessed from the north side off a local road that runs from south east to north west that links the R363 Regional Road to the N63 National Road. The local road primarily serves agricultural lands, farmyards and one-off houses. The surrounding area is generally characterised by gently undulating agricultural fields bounded by a mix of ditches, walls, hedgerows and trees. The River Shiven is located just to the south of the local road c. 25m south of the application site and c.102m from the building subject to the application.
- 1.2. The appeal site is stated to measure 1.59ha and comprises an agricultural farmyard with associated buildings. The site is accessed by an existing agricultural entrance with a walled splayed entrance to the roadside boundary. West of the entrance there is a concrete rail fence. To the east the walled splay continues to form the boundary and another entrance to a single storey house to the south east of the application site. This house appears to be within the family landholding. C. 80m east of the existing agricultural complex there is another single storey style house. This house is located 15-20m east off the site boundary and appears to belong to the appellant.
- 1.3. The site includes a number of agricultural building. The building subject to this application is located to the north west of the site and is a 7.4m high to pitch and 4.2m high to eaves pitch roof structure finished in a dark grey cladding. This building is 23.78m wide and 19.7m deep with a floor area of 451.2sq.m

## 2.0 Proposed Development

- 2.1. The development comprises the following:
  - The change of use of existing slatted shed to agricultural storage shed for storage of organic compost and biosolids material during winter months
  - The floor space of the proposed change of use is 451.20 sq. m
- 2.2. Following a request for Further Information the following details has been submitted.

- Confirmation that the sludge/biosolids will be received from Irish Water Facilities in the area. These will be pre-treated at the IW facilities.
- Approximately 2000 tonnes will be stored on site at any one time with an annual storage capacity of 8000 tonnes.
- A maximum of 1.08 vehicular movements a day and a haul route map.
- A Nutrient Management Plan
- A revised site layout plan showing soakpits and drainage arrangements.
- A map identifying the landholding

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. The planning authority decided to grant permission on the 29/06/20, subject to six conditions of a standard nature, including the following:

- C.3 & 4 measures to control and manage surface waters and wastewater
- C.5 & 6 restrictions on spreading and in accordance with EU Regulations 2018 and the submitted Nutrient Management Plan.

### **4.0 Planning Authority Reports**

#### **4.1. Planning Reports**

- Following an initial request for further information the Planner's report raised no major concerns over the development. The report recommended that permission be granted subject to conditions which is consistent with the Notification of Decision to Grant Permission.

#### **4.2. Other Technical Reports**

- Environment Report: None on file, it is noted the Planners Report states The Environment Section has- "No objection to development subject to the application by the applicant to Environment Section for a certificate under the Sewage Sludge Facility Regulations, (S.I. 32 of 2010) (Report on file) .

#### 4.3. Prescribed Bodies

- None

#### 4.4. Third Party Observations

- None

### 5.0 Planning History

- ABP-307711-20- Change of use from slatted shed to agricultural storage shed. Application for leave to appeal, 19/08/20 Grant
- 06/5529- A slatted shed, 26/03/2007, Grant
- 96/839- hayshed horse stables and dungsted, 15/07/1996, Grant.

### 6.0 Policy Context

#### 6.1. National Guidelines

##### 6.1.1. The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009.

Section 5.28 deals with 'Assessment of minor proposals in areas of flood risk'.

#### 6.2. Galway County Development Plan 2015-2021

The subject site is not zoned in the Development Plan.

Chapter 11 is titled Agriculture, Fishing, Marine Resources & Forestry and sets a number of policies and objectives aimed at supporting sustainable agricultural developments including-

Policy AFF 3 – Sustainable Development of the Countryside-

*'Facilitate the sustainable development of the countryside. The Council recognises that the diversification of appropriate uses on rural landholdings may be necessary in order to ensure the continued viability of agriculture.'*

- And Objective AFF 2 – Rural Diversification which states-

*‘Galway County Council shall support those who live and work in agriculture and/or related activities in rural areas and who wish to remain on their land holding. Accordingly the Council will favourably consider rural diversification intended to supplement farm income where the activity remains ancillary and compatible to the ongoing agricultural use of the farm and does not have an adverse impact on residential amenity.....’*

Chapter 13 is titled Development Management Standards & Guidelines. Section 13.10 sets out Guidelines for Agriculture Development. Of relevance are DM standard 33- Agricultural Buildings and DM standard 34- Agricultural Effluent.

### **6.3. Natural Heritage Designations**

SAC- Carrownagappul Bog SAC (001242) is located c. 5km west of the site.

SPA- River Suck Callows SPA (004097) is located c. 5.5km to the east of the site.

NHA- Suck River Callows (000222) is located c. 5.5km to the east of the site.  
Castle Ffrench East Bog (001244) is located c. 4.6km to the south east of the site.

Castle Ffrench West Bog (000280) is located c. 4.7km to the south east of the site.

pNHA- Carrownagappul Bog (001242) is located c. 5km west of the site.

### **6.4. EIA Screening**

- 6.4.1. Having regard to the limited nature and scale of the proposed development it is considered that 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.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

7.1.1. Following on from an application for Leave to Appeal one third party appeal has been received, which can be summarised as follows-

- No Site Notice was erected for the development and the application should have been invalidated.
- The appellants dwelling house is directly opposite the proposed development, less than 18m from the site and less than 20m from some of the lands where it is proposed to spread the sludge.
- Concerns are raised in relation to odour and the negative impacts on health.
- The roads proposed for the haulage route are substandard and the bridge over the Woodbrook River is only wide enough to take one car and is not suitable for lorries. Photos of the bridge are submitted.
- The volume of extra traffic on a poor road is a major safety concern and will reduce the quality of life and reduce the value of properties.
- There is a history of leakages from lorries, tractors and slurry spreaders bringing sludge to and from the site.
- The area for the proposed development has a history of flooding. The road and some houses in the area have flooded in the past. Photos of flooded lands are submitted
- The proposed development is being viewed locally as a Commercial Activity.

### **7.2. Applicant Response**

- None

### **7.3. Planning Authority Response**

- The Planning Authority did not respond to the grounds of appeal.

#### 7.4. **Observations**

- None

### 8.0 **Assessment**

#### 8.1. **Main Issues**

8.1.1. I consider the main issues in determining the appeal are as follows-

- Principle of the Development
- Residential Amenity
- Flooding
- Road Network
- The Site Notice
- Appropriate Assessment

#### 8.2. **Principle of the Development**

8.2.1. The site is located within a rural area where the predominant land use is agriculture. The site is also an established farmyard agricultural complex and the proposal is for the change of use of an existing building for agricultural storage of organic compost and biosolid materials. The applicant has detailed that the materials are to be sourced from Irish Water facilities in the area and are to be treated at Irish Water facilities before transport to the application site.

8.2.2. I am satisfied that the nature of use of the proposed development is for agricultural purposes, is consistent with the pattern of development in the area and is supported by Agricultural Policy AFF 3 and Objective AFF2 of the Development Plan.

#### 8.3. **Residential Amenities**

8.3.1. The appellant raises concerns over odour from the proposed development and in particular from land spreading due to the proximity of the applicant's lands to the

appellant's home. It is stated these impacts will affect residential amenity and devalue property.

- 8.3.2. Having considered the Development Plan DM Standard 33 it is noted that the proposed development is for change of use of an existing building that is already in agricultural use. This building is located c. 150m west of the appellants home. In this regard I have no concerns from odour or depreciation of the value of property.
- 8.3.3. Following a request for further information the applicant has submitted a map identifying some of the lands under the control of the applicant and a Nutrient Management Plan (NMP) for the agricultural complex on site. The eastern boundary of these lands appears to adjoin the lands of the appellant. These lands are agricultural in nature.
- 8.3.4. Appendix 3 of the NMP identifies lands which are to be used for spreading of the 'sludge/biosolids'. Having reviewed these maps, it is not possible to determine where these lands are in the context of the site. However, I note the NMP has been accepted by Galway County Council. I also note that the response to further information states that all land under the applicant's control are under Folio GY2979F & GY28463F and a significant amount of land is identified in the 1:2500 map also submitted in response to Further Information.
- 8.3.5. Notwithstanding the deficiencies of the maps submitted with the NMP, I am cognisant that land spreading would be required to be in accordance with the provisions of SI No.605 of 2017 - European Union (Good Agricultural Practice for Protection of Waters) Regulations, 2017, as amended by SI 65 of 2018, in order to ensure that surface water and groundwater resources in the wider area are not polluted as a result of spreading activities.
- 8.3.6. Odours resulting from the proposed development and subsequent land spreading are in my opinion entirely reasonable and consistent with the general agricultural nature of the area. Accordingly, the proposed development would not have an unreasonable impact on the residential amenities and would not devalue property in the vicinity.



## 8.4. Flooding

- 8.4.1. The appellants has raised concerns in relation to Flooding stating the road and some houses in the area, including the applicant's house have flooded in the past. Photos of lands flooded are submitted and it is indicated these are directly across from the site. The site is located just north of the River Shiven. The building subject to the application is c.102m north of the river.
- 8.4.2. I have reviewed the OPW flooding maps online and note there is no record of a single flood event or a recurring flood event at the site. The Planners Report also states the site is not within a flood risk area.
- 8.4.3. The proposed development is for change of use of an existing agricultural building. Having regard to Section 5.28 of the 2009 Flooding Guidelines which states-

*'Applications for minor development, such as.....most changes of use of existing buildings.....are unlikely to raise significant flooding issues...'*

The proposal is minor and is unlikely to raise significant flooding issues.

- 8.4.4. Notwithstanding this, it is also noted the provisions of SI No.605 of 2017 - European Union (Good Agricultural Practice for Protection of Waters) Regulations, 2017, as amended by SI 65 of 2018 place separate restrictions in terms of land spreading in relation to land susceptible to flooding and subsequent water pollution.

## 8.5. Road Network

- 8.5.1. The appellant has raised concern in relation to traffic movements to the site, the substandard nature of the road network and subsequent road safety.
- 8.5.2. The applicant has detailed that at maximum capacity there will be no more than 1.08 movements a day. As such, it is clear the proposed development will not result in a significant increase in traffic visiting the site.
- 8.5.3. Having regard to the existing agricultural use at the site, the likely existing traffic movements and proposed traffic movements, I am satisfied that the road network can cater for the additional traffic from the proposed development. Furthermore, having regard to the proposed traffic movements there are no traffic safety concerns arising from the use of the established agricultural entrance onto the local road.

## **8.6. Site Notice**

- 8.6.1. In terms of procedural matters and the alleged irregularities in terms of the erection of the site notice, I note that application was validated by the planning authority.
- 8.6.2. Having not made a submission to the Planning Authority, the appellant applied to the Board for Leave to Appeal under ABP-307711-20. This leave was granted by Order dated 19/08/20.
- 8.6.3. I am satisfied the appellant has had the opportunity to make his representations as set out in this appeal. The above assessment represents my de novo consideration of the relevant planning issues material to the proposed development.

## **8.7. Appropriate Assessment**

- 8.7.1. Having regard to the nature of the proposed development, and the operations of the existing agricultural complex, the existing arrangements for storage of foul effluent generated at the application site and the surface water discharge arrangements to soak pits, 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 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. It is recommended that permission should be granted, subject to conditions, for the following reasons and considerations.

## **10.0 Reasons and Considerations**

Having regard to the established agricultural use of the site, the nature, scale and appearance of the development, the nature of the receiving environment, the pattern of development in the vicinity and the provisions of the Galway County Development Plan 2015-2021, 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. 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 carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 02<sup>nd</sup> day of June 2020, 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. The existing structure to be used for the storage of organic compost and biosolids material, 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 (if any) to be housed in this structure at any time of the year.
  - b. The arrangements for the collection, storage and disposal of slurry / organic compost / biosolids.
  - c. 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.

3. All foul effluent and slurry generated by the development and within the site 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.

4. All uncontaminated roof water from this building and all buildings in the site 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.

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

5. Slurry/sludge/biosolids associated with the development shall be stored within the building at all times until it is to 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.

6. A minimum of 18 weeks storage shall be provided in all underground storage tanks on the site. 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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Adrian Ormsby  
Planning Inspector

26<sup>th</sup> November 2020