



An
Bord
Pleanála

Inspector's Report ABP-308617-20

Development	Permission for the construction of (i) a cubicle shed with loose area and underground tank (ii) walled silage slab. and all associated site works.
Location	Carrigatogher. Nenagh, Co Tipperary.
Planning Authority	Tipperary County Council.
Planning Authority Reg. Ref.	20/1008
Applicant(s)	Raymond and Michael Delaney
Type of Application	Permission.
Planning Authority Decision	Grant Permission subject to conditions.
Type of Appeal	Third Party v Decision
Appellant(s)	Bridget Delaney
Observer(s)	None
Date of Site Inspection	22nd January 2021.
Inspector	Fergal Ó Bric

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.9 hectares and comprises a working farm yard with a slatted cubicle shed, milking parlour, loose sheds, open silage slab, dungstead and effluent tank. The appeal site is located within a rural area approximately 5 kilometres south-west of Nenagh, 1.3 kilometres west of the Motorway junction of the M7 with the N52. The site comprises an established farmyard, with the family farm-house located approximately thirty metres north east of the proposed cubicle shed, at its nearest point. The farmyard is located on the northern side of a local county road, the L-6050-1 which has a carriageway width of approximately three metres. There are a number of individual dwellings in the vicinity of the farmyard, further north-east and south-west of the appeal site.
- 1.2. The appellants dwelling is located immediately south-west of and adjoining the existing farmyard enclosure.

2.0 Proposed Development

Planning permission is sought for the construction of (i) a cubicle shed with loose area and underground slatted effluent tank 1,062 square metres (sq. m.) and (ii) a walled silage slab of approximately 390 sq. m. (30 metres by 13 metres) and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

By order dated 16th October 2020 Tipperary County Council granted planning permission subject to five conditions. The following is a summary of the pertinent conditions:

Condition number 3: Management of contaminated and uncontaminated surface water run-off.

Condition number 4(a): Management of noise and dust during construction and demolition works.

Condition number 4(b): Maintain public roadway in a clean, tidy and safe condition.

Condition number 4(c): No construction or demolition activity on Sundays, Bank or public holidays.

Condition number 4(d): Specified hours for construction and demolition works from Monday to Saturday.

3.2. Planning Authority Reports

The planners report noted that the appeal site comprises an established farmyard and that the proposed development is located on the eastern side of the existing farm buildings, would comply with Policy ED7 of the Development Plan. The Planner Officer noted that the appellants residential property is located west of the existing farm buildings. The Planner carried out an Environmental Impact Assessment (EIA) screening exercise and concluded that the development would not be of a class provided for under Parts (1) or (2), Schedule 5 of the Planning and Development Regulations, 2001, as amended. An Appropriate Assessment (AA) screening exercise was also conducted by the Planning Officer, it concluded that AA was not required in this instance. A grant of planning permission was recommended subject to conditions, summarised in Section 3.1 above.

3.3. Third Party Observations

One submission was received from a third party. The observation raised issues which are similar to those raised within the third-party appeal received by the Board.

4.0 Planning History

- Planning Authority reference number 135/10181. In 2013, planning permission was granted for an extension to the milking parlour.

- Planning Authority reference number 065/11683. In 2006, planning permission granted for the construction of a slatted cubicle shed, adjacent to existing cubicle shed, effluent tank and associated works.

Planning Enforcement:

- Planning Authority reference number TUD 07/74. In 2007, Case investigated regarding possible pollution and the file was subsequently closed.

5.0 Policy Context

5.1. Local and National Policy

5.2. Development Plan

The North Tipperary County Development Plan 2010 (as varied) refers.

Relevant policy includes:

- Policy ED 7: Protecting Agricultural Practices.
 - (a) To protect farms and high-quality agricultural land from proposals for development where such would result in negative impacts upon their viability.

5.3. EUROPEAN COMMUNITIES (GOOD AGRICULTURAL PRACTICE FOR PROTECTION OF WATER) REGULATIONS 2014

- 5.3.1 The Regulations provide statutory support for good agricultural practice to protect waters against pollution. The Regulations place certain obligations on occupiers of agricultural holdings in relation to farmyard management, collection and storage of manures, slurry, soiled water etc, nutrient management and prevention of water pollution. They also set out minimum requirements for storage, set limits on the land application of fertilisers and establish periods when land application of fertiliser (organic and chemical) is prohibited.

5.3.2 Under the Regulations, the country is divided into four areas with varying storage period requirements for livestock manure (Schedule 3). Prohibited spreading periods are set out in Schedule 4. The appeal site is within an area, which specifies a minimum storage period of 16 weeks. The land application of waste is prohibited between the period from October 15th to January 31st for organic fertiliser (other than farmyard manure) and from November 1st to January 31st for farmyard manure.

5.4. Natural Heritage Designations

None relevant.

6.0 The Appeal

6.1 Grounds of Appeal

6.1.1 The appeal is submitted by Bridget Delaney, who resides immediately south-west of the farmyard enclosure. The grounds of appeal are summarised as follows:

- The proposed development would be located less than fifty metres from her dwelling.
- The existing farmyard and proposed cubicle shed would at a much higher level than her property.
- The natural gradient for the flow of water and surface water from the farmyard is into her property.
- Contamination of her water supply and saturation of her property arises from the farmyard.
- The proposed development would result in an intensification of noise, machinery and animal activity and adversely affect the value of her property.
- The applicants' could develop their farm at alternative locations, which have not been duly considered and the alternatives would not result in interference with her property.

6.2 Planning Authority Response

None received.

6.3 First Party Response to third party appeal submission

The submission made by the applicants Raymond and Michael Delaney addresses the grounds of appeal as follows:

- The proposed development will not immediately adjoin the property of Ms. Delaney.
- The proposed development would be located on the opposite side of the farmyard enclosure.
- The choice of location was based on the recommendation of a farmyard design planner who considered all options for the suitable location of the development.
- The appeal site was considered the most suitable in terms of minimising disturbance to the surrounding area, including the property of Ms. Delaney.
- The proposals would allow for a consolidation of farm buildings in proximity to each other.
- The proposals would move the centre of the farmyard away from Ms. Delaney's property.
- The existing farmyard buildings would block the view of the proposed development from Ms. Delaney's property and should result in a reduction in noise emanating from farm activities.
- The slope of the existing farmyard is angled away from Ms. Delaney's property and therefore no contamination of water supply or saturation of property arises from the farmyard activities.
- The development would be constructed to grant specification, therefore all slurry and effluent generated would be collected in the slatted tank.
- The value of Ms. Delaney's property would not be affected, given that her dwelling is located adjoining an existing farmyard for generations.

- The proposed development is necessary to meet with animal welfare requirements and Department of Agriculture, Food and the Marine Guidelines.

7.0 Assessment

7.1. I consider the key issues raised in the appeal may be considered under the following broad headings:

- Principle of Development
- Residential Amenity.
- Other Issues
- Appropriate Assessment.

7.2. Principle of Development

7.2.1. The appeal site is located on unzoned lands in a rural area, as defined within the North Tipperary County Development Plan 2010 (as varied). The appeal site forms part of a large landholding, located further west and north-east of the farmyard area. which is split between two parcels on either side of the L-6050-1. Therefore, a consolidation of agricultural facilities is essentially what is being proposed. The applicant has stated that the development is essential for compliance with animal welfare requirements and the Department of Agricultural, Fisheries and the Marine Guidelines.

7.2.2. The proposed development would provide for the rationalisation of an existing dairy enterprise and streamlining of an established agricultural use. I consider that the consolidation of the established agricultural use on the site is an appropriate use in this rural area where the predominant land use is agriculture and therefore the principle of development is acceptable.

7.3. Residential Amenity

7.3.1. The appellant sets out that the proposed development would adversely impact upon her residential amenities by reason of visual impact, increased noise, increased farm

activity, surface water run-off and effluent that would be generated on the appeal site.

- 7.3.2. The existing access to the farmyard enclosure is located immediately east of the appellants residential property. There are existing loose sheds, a milking parlour and slatted cubicle shed all located within the existing farmyard enclosure, approximately 20 metres east of the appellants dwellings, at the nearest point. There is a significant fall in levels from north-west to south-east on site, a fall of approximately 12 metres over a distance of approximately 85 metres, approximately 1;7. The applicants' state that the development would be subject to grant aid and therefore, would have to demonstrate compliance with surface water management guidelines set out by the Department of Agriculture, Fisheries and the Marine. I consider that the issue of surface water management is something that can be addressed by means of an appropriate planning condition
- 7.3.3. The applicants' are proposing to construct an underground slurry storage facility underneath the proposed cubicle shed with a stated slurry storage capacity of 458 cubic metres. In terms of slurry emanating from the development and run -off, the development would have to adhere to current animal welfare and Department of Agriculture, Fisheries and the Marine Guidelines, and these would ensure that any run-off from the development would be managed on site within the slatted unit and would therefore, not result in contamination of neighbouring bored wells or properties. As regards impact on the adjacent residential dwellings in terms of odour and noise, I find no evidence to support the assertion that significant impacts on established residential amenity will arise as a result of the development.
- 7.3.4. The issue of depreciation of property value was raised within the appeal submission. The applicants' contend that depreciation of property values is not an issue in this instance, given that appellant has resided next to the farmyard enclosure for generations. In the absence of any substantive evidence to the contrary presented in this case, I do not consider that this ground of appeal should be upheld.
- 7.3.5. In conclusion, I am satisfied that the amenities currently enjoyed by the neighbouring residents would not be adversely impacted upon by the proposed development and

that the satisfactory management of surface water and effluent would be of benefit to their amenity.

7.4. Design and Layout

- 7.4.1. The proposed development would be located east of the existing farm buildings within the farmyard enclosure. The applicants have stated that this location was chosen based on the guidance and recommendations of their farmyard design planner. It would be problematic to construct the cubicle shed on the western side of the existing farmyard buildings, due to the limited space available within that part of the yard. Therefore, I am satisfied, from a practical perspective, that the location of the slatted shed and walled silage slab to the north-east of the yard is appropriate, given that there is sufficient space to construct the proposed development and the proposals would also be further removed from the appellants property at this location.
- 7.4.2. As regards the visual impact of the development, the site comprises an established farmyard and notwithstanding the substantial scale of the cubicle shed structure, it would not be unduly prominent in this locality. The provision of the walled silage slab is in my view reasonable. The requirement for good agricultural practices will in my view appropriately mitigate impact on amenities beyond the site boundaries. The proposed slatted cubicle shed would be located on the eastern side of the existing farm buildings, which would block visibility of the proposed development from the appellants dwelling. The proposed farm building would have a maximum ridge height of 9.9 metres, consistent with that of the adjoining slatted cubicle shed, and is considered acceptable as this height allows for access for high loader farm machinery.
- 7.4.3. The proposed development provides a cubicle shed for livestock housing, associated effluent collection tanks and isolation box shed and ancillary works. I consider that the proposal provides for improvement of existing practices and provides for significant environmental improvement and is therefore reasonable. I conclude that, subject to good agricultural practice in accordance with the European Union (Good Agricultural Practices for the protection of Waters) Regulations 2014 and compliance with standard environmental conditions the proposed development would not result

in water or other environmental pollution and would be in accordance with the proper planning and sustainable development of the area.

7.5. Appropriate Assessment

Having regard to the nature and scale of the proposed agricultural development and the absence of a pathway connecting the appeal site to a Natura 2000 site, it is considered that 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 for the development be granted subject to the following conditions.

9.0 Reasons and Considerations

- 9.1. Having regard to the rural location of the site; the existing established farm yard; the existing character and pattern of development in the vicinity; and to the policies and objectives of the North Tipperary County Development Plan 2010 (as varied), it is considered, subject to the conditions set out below, that the proposed development would not seriously injure the residential 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 to the Planning Authority on the 8^h day of September 2020 except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The slatted shed shall be used only in strict accordance with a management schedule to 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 Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2014 (SI No 31 of 2014), 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.

Reason: In order to avoid pollution and to protect residential amenity.

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

Reason: In the interest of public health.

4. Water supply and 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. In this regard-

- (a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and
- (b) all soiled waters, shall be directed to the slatted storage tank.
Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of environmental protection, public health and to ensure a proper standard of development.

5 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. 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Fergal Ó Bric
Planning Inspectorate

9th February 2021