



An
Bord
Pleanála

Inspector's Report

ABP-309005-20

Development	Retention of milking parlour complex, water harvesting area and associated works as constructed.
Location	Ballyeightragh, Dungourney, Co. Cork,
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	206158
Applicant(s)	Ballyeigha Farm Ltd.
Type of Application	Permission to retain.
Planning Authority Decision	Grant Permission for retention.
Type of Appeal	Third Party
Appellant(s)	Colm & Ann Griffin.
Observer(s)	None.
Date of Site Inspection	4 th February 2021.
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to a rural agricultural site located within the townland of Ballyeightragh approximately 3.5km to the north east of Dungourney Village and 11km to the northeast of Midleton in east County Cork. The appeal site (3.029hectares) relates to a well-established dairy farm complex which operates as part of an overall landholding of 151hectares. The dairy enterprise relates to 410 dairy cows, and 100 cattle aged 6 to 18 months.
- 1.2. The appeal site is occupied by a large agricultural complex with livestock sheds, associated storage, haybarn and machinery sheds and a recently constructed milking parlour with rotary milking system (which is the subject matter of the appeal). The southern end of the site includes the older structures including former dwellinghouse now used as stores and the former milking parlour. The first party dwelling adjoins to the east while a third-party dwelling (owned by the third-party appellant) is located to the southwest. The appeal site has road frontage to the southern end and along the western boundary. Access to the milking parlour is provided via a recently constructed entrance and access road from the west.

2.0 Proposed Development

- 2.1. The application which was submitted to Cork County Council on 2 October 2020 involves permission for retention of milking parlour complex water harvesting area and associated works as constructed.
- 2.2. The application relates to a regularisation of a previously permitted development. 17/6002. The milking parlour constructed at 62.5mx22m instead of the permitted size of 56.57mx18.7m. At the southern end of the milking parlour a raised platform area extending the full width of the milking parlour building and extending 5m at the southwestern end and 3m at the south-eastern end. This area is used for the purpose of rainwater harvesting from the roof runoff. The milking parlour has been constructed with mass concrete walls and green profile sheeting.

2.3. I note that unsolicited additional drawings and information was submitted by email on 30th October 2020 regarding animal housing, slurry and soiled water storage facilities and elevational drawings. ¹

3.0 Planning Authority Decision

3.1. Decision

By order dated 25th November 2020 Cork County Council issued notification of its decision to grant permission for retention and 2 no conditions were attached. Condition 2 referred to compliance with the conditions of planning permission 17/6002 and 15/4321.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's report recommends permission subject to conditions consistent with the subsequent decision.

3.2.2. Other Technical Reports

Environment report indicates no objection subject to compliance with conditions of previous permission 17/6002.

Area Engineer's report no objection subject to conditions.

3.3. Prescribed Bodies

No submissions.

3.4. Third Party Observations

3.4.1 Submission by Sean R McCarthy, Consulting Engineer on behalf of Mr Colm Griffin and Mrs Ann Griffin owners of the dwelling to the south of the application site.

¹ It is noted that the drawings are mistitled eastern elevation where it is apparent that these are western elevation drawings.

- Application wording is deficient and potentially misleading.
- Inaccuracies on the submitted drawings noted.
- Slurry storage capacity is inadequate.
- Dwelling is within 23m of the development.
- Building should be enclosed to ensure noise and odour is reduced.
- Ground levels on the southern side of the parlour have been raised and used as a passageway.
- Surface water runoff to adjacent dwelling site.
- Windows on western elevation unnecessary as there is translucent sheeting on the roof.
- Noise, light and odour emissions.
- Soakpit location not demonstrated.
- Elevation of area for water harvesting to milking parlour floor level is unnecessary.

4.0 Planning History

17/6002 Permission for construction of milking parlour complex. Change of layout to part of development permitted under Planning Ref 15/4341 and construction of a new agricultural entrance and associated site works. Condition 19. Required that the existing agricultural passage accessed from the western boundary of the site shall be permanently closed off prior to first use of the milking parlour complex.²

15/4341 Permission for construction of a slatted cubicle house, milking parlour complex, slurry tank and associated site works.

15/4344 Permission for relocation of cattle underpass, construction of soiled water tank and associate site works.

² Access formerly adjacent to the appellant's property has been eliminated and replaced with a newly constructed access road to the north-west.

07/10746 Permission for construction of extension to cubicle and calving house, overground slurry tank with reception tank, 2 no silage pits and ancillary works.

EF/18/257 Enforcement File in relation to the site.

5.0 Policy Context

5.1. Development Plan

The Cork County Development Plan 2014 refers.

EE 8-1 County Development Plan Objective

1: Agriculture and Farm Diversification

Encourage the development of a dynamic and innovative, sustainable agricultural and food production sector by:

- Encouraging the development of sustainable agricultural and infrastructure including farming buildings;
- Prioritising the development of sustainable rural housing to support working farmers and their employees. See Chapter 4 Rural Coastal and Islands;
- Encouraging farm diversification through the development of other sustainable business initiatives appropriate to the rural area; and
- Supporting appropriate proposals for sustainable tourism development. See Chapter 8 Tourism.

GI 10-1 EI Water Framework Directive and River Basin Management Plans.

Protect and improve the County's water resources and ensure that development permitted meets the requirements of the relevant River Basin Management Plan and does not contravene the objectives of the EU Water Framework Directive.

GI 11-1 Protect the County's waters from agricultural pollution in accordance with the Nitrates Directive (91/676/EEC) through the implementation of the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2010 (SI 610 of 2010) or any future revised / additional requirements and ensuring that all agricultural development shall comply with those Regulations.

GI 10-2 Surface Water Protection. Protect and improve the status and quality of all surface waters throughout the County, including transitional and coastal waters.

5.2. **Natural Heritage Designations**

The site is not within a designated area. The nearest such sites are Great Island Channel SAC (circa 12km to the south. and the Blackwater River Cork Waterford SAC circa 10km to the north.

5.3. **EIA Screening**

Having regard to the nature and scale of the 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.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1 The appeal is submitted by Sean R McCarthy, Consulting Engineer on behalf of Mr Colm Griffin and Mrs Ann Griffin the owners of the neighbouring residence to the southwest.

- Unsolicited information submitted by the applicant and assessed by Cork County Council. Third party was not afforded the opportunity to make any submission in respect of this further information.
- Drawings submitted are incorrectly labelled. Elevation entitled eastern elevation is not accurate.
- Application should have specifically referred to retention and alteration.
- Application form refers to 28,000 laying hens. Inappropriately assumed by the Environmental officer to be a typo.
- Applicant states there was a pre planning meeting which the planner denies.

- No details provided regarding the amount of silage produced.
- Adverse impact on the appellant's property.
- Ground levels raised and surface water being directed to appellant's property. Water ingress on buildings shown in photographs attached to the appeal.
- Significant increase in noise, odour and lightspill.
- Application should have been invalidated.

6.2. Applicant Response

6.2.1 The response by O Callaghan Engineering and Design Ltd. on behalf of the first party is summarised as follows:

- Proposal is in accordance with the objectives of the County Development Plan.
- New milking parlour contains slurries and soiled waters in compliance with the Nitrates Directive.
- Unsolicited additional information relates to clarification of details already submitted.
- Reference to laying hens is clearly a clerical error.
- Nearest window is in excess of 60m from the third-party dwelling and faces in a westerly direction.
- Landscaping to the southern boundary will develop and further screen the development and mitigate any possible noise.
- Calculations of slurry storage a matter for agreement with local governing body.
- Numerous pre planning discussions during site inspections by representatives of the local authority.
- Amount of silage produced not relevant to the application.
- Surface water being contained from the roof from gutters and downpipes and piped to rainwater harvesting system for use for parlour washings. An overflow

system is piped underground to soakpits across the road to the extreme south of the site.

- Noise claims are unsubstantiated. The old dairy was far closer to the third-party dwelling. New parlour reduces milking time from 6 hours to 3 hours per day. New plant and machinery also much quieter.

6.3. Planning Authority Response

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

7.0 Assessment

- 7.1 I have examined the file, considered the prevailing local and national policies, inspected the site and assessed the proposal and all submissions. I note that the main concerns raised within the grounds of appeal refer to the potential negative impact on the established residential amenity of the adjacent dwelling to the southwest of the site with particular reference to noise and odour and lightspill impact. On the issues raised with regard to the inaccuracies or errors on application details (noting in particular setback distance to third party dwelling and reference to 28,000 laying hens and mislabelled elevational drawings) it is acknowledged that there were some inaccuracies and errata however these were clarified during the course of the application and I am satisfied that the submitted layout plans and drawings plans are adequate for the purpose of assessment. As regards the assertion that the application should have been invalidated and that third party rights were infringed by Cork County Council's acceptance and consideration of the unsolicited additional information submitted during the course of the application it is

evident that this unsolicited additional information related to a clarification of details already submitted and I consider that third party rights were in no way infringed.

7.2 The appeal site is part of a well-established overall farm holding and it is evident that the works carried out improve the efficiency and viability of the farm and reduce the possibility of negative environmental effects. The milking parlour was permitted as part of previous permission 17/6002 and the current appeal case seeks to regularise amendments to the development in terms of the enlarged size (62.5mx22m) and provision of the rainwater harvesting area to the southern end.

7.3 The appellant's property which is the nearest dwelling is located within approximately 23m of the milking parlour. I note that as part of the development carried out on the site the former access along the northern boundary of the appellant's property was eliminated and landscaping provided along the common boundary. I am satisfied that the screening provided appropriately mitigates visual impact which is not significant in terms of that arising over the permitted parlour.

7.4 As regards other potential negative impacts on residential amenity, I note the established nature of this farm complex and rural / agricultural character of the immediate area where there is a tradition of farming practice with associated farm buildings and structures, and also having regard to the extant agricultural buildings and the practice already established on the appeal site. I do not consider that any significant increased loss of residential amenity or other nuisance arises. As regards the windows to the western elevation of the milking parlour building given the separation distance to the dwelling no negative impact arises. I consider that subject to ongoing good farm management and practice no significant negative amenity impacts are likely.

7.5 On the matter of surface water run-off, the first party has indicated that surface water is collected from the roof of the milking parlour and harvested for use in dairy washing. An overflow system is piped underground to soakpits across the road to the south of the site. As regards allegations of raised ground levels to the south of the milking parlour I note that the Cork County Council Environment report notes no evidence of raised ground levels and also makes reference to submissions by the

third-party appellant to a previous application which indicated that the level of the former adjacent passage on the appeal site was 2m above the floor level of the outbuildings. On the basis of the information provided it is evident that the development subject of the current appeal has no impact in terms of surface water run off to the appellants site.

- 7.6 On the issue of appropriate assessment screening under the Habitats Directive (92\43\EEC) having regard to the nature and scale of the proposed development and nature of the receiving environment, the possible impacts arising from the project relate to possible impacts arising from farm waste. As the proposal relates to an existing farm enterprise with provision for adequate effluent storage and compliance with SI No 605/2017 – European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017 I consider that it is reasonable to conclude that there is no potential for significant effects and that therefore Appropriate Assessment is not required. 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 Recommendation

I have read the submissions on file, visited the site and had due regard to the provisions of the Development Plan and all other matters arising. I recommend that planning permission for retention of the development as set out be granted subject to the following conditions.

Reasons and Considerations

Having regard to the nature and extent of the proposed development and to the history of on-site agricultural activity, to the existing character and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development to be retained would not seriously injure the amenities of the area or of property in the vicinity and would therefore be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by further information submitted on 30th October 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. A minimum of 16 weeks storage shall be provided in the underground storage tanks.

Reason: In the interest of environmental protection and public health.

3. The milking parlour shall be used only in strict accordance with a management schedule which shall be in accordance with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2017 (SI No 605 of 2017),

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

4. Slurry generated by the proposed 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 Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2017 (SI No 605 of 2017).

Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of water courses.

5. 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, to soakaways and (b) all soiled waters shall be directed to the slatted storage tank.

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

6. All foul effluent and slurry generated by the proposed development and in the farmyard shall be conveyed through properly constructed channels to the 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.

Bríd Maxwell
Planning Inspector

24th March 2021