



An  
Bord  
Pleanála

## Inspector's Report ABP-310182-21

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<b>Development</b>	Extension of hardstanding area, security lighting and boundary fencing
<b>Location</b>	Court, Kildimo, County Limerick
<b>Planning Authority</b>	Limerick City & County Council
<b>Planning Authority Reg. Ref.</b>	21/190
<b>Applicant(s)</b>	O'Carroll Haulage and Crane Hire Ltd.
<b>Type of Application</b>	Retention Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	O'Carroll Haulage and Crane Hire Ltd.
<b>Date of Site Inspection</b>	15 <sup>th</sup> June, 2021
<b>Inspector</b>	Kevin Moore

## 1.0 Site Location and Description

1.1. The site of the proposed development is located in a rural area approximately 1km east of the village of Kildimo in County Limerick. It has frontage onto a local road to the west and the site extends northwards as far as the N69 National Secondary Road. There is an existing office and work building at the south-western end of the site associated with a plant hire operation. The hardstanding area comprises an area of approximately 0.25ha finished in concrete and 0.84ha finished in stone chippings. Steel fencing has been provided along the site's road frontage and there is floodlighting along the boundaries. There is extensive parking of vehicles and machinery on the site. A building and its associated curtilage is located immediately south of the appeal site and relates to the business of Derek Walsh Camper Centre.

## 2.0 Proposed Development

2.1. The proposed development would comprise the retention of a hard standing area, security lighting and boundary security fencing for parking of plant. The development incorporates a land area of 1.09 hectares.

## 3.0 Planning Authority Decision

### 3.1. Decision

On 14<sup>th</sup> April, 2021, Limerick City and County Council decided to refuse permission for the proposed development for three reasons relating to flood risk, location in an unserviced rural area, and visual impact.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planner noted planning history, development plan provisions, and reports received. It was considered that the fencing was out of keeping with its rural location and the use of floodlighting was injurious to the rural character of the area. It was noted that a previous application on the site was withdrawn following a recommendation to refuse due to flooding concerns. The Physical Development

Directorate report was acknowledged. The scale of the development was considered to be unacceptable due to it being located in an unserved rural area. It was submitted that the applicant should relocate to zoned land and the unauthorised works should be removed. A refusal of permission was recommended for three reasons.

### 3.2.2. Other Technical Reports

The Roads Design Office stated that it had no observations to make.

The Operations and Maintenance Services requested the applicant to put measures in place to manage surface water from entering the public road.

The Physical Development Directorate submitted it had significant flood risk concerns, noting the site is located within a Flood Zone A, there were insufficient details in the application, and no attenuation details had been provided.

The Environment Section had no objection to the grant of permission.

### 3.3. Prescribed Bodies

Transport Infrastructure Ireland stated that it had no observations to make.

The Office of Public Works noted the site is bounded by Channel C1/9 of the Maigne Outfall Scheme for which maintenance responsibility lies with the OPW. A condition to be attached with any grant of planning permission was set out.

## 4.0 Planning History

### P.A. Ref. 19/267

An application for permission for the importation of soil and stone for the raising of an agricultural field to improve the agricultural output of the field was withdrawn.

I note the Planner' report and the extensive planning history relating to developments at this location.

## 5.0 Policy Context

### 5.1. Limerick County Development Plan

#### Economic Development

Objectives include:

**Objective ED O25: Expansion of existing industrial or business enterprises in the countryside**

*It is the objective of the Council to normally permit development proposals for the expansion of existing industrial or business enterprises in the countryside where:*

- a) the resultant development is of a size and scale which remains appropriate and which does not negatively impact on the character and amenity of the surrounding area; and*
- b) the proposal demonstrates that it has taken into account traffic, public health, environmental and amenity considerations and is in accordance with the policies, requirements and guidance contained in this plan.*

#### Flood Risk

Objectives include:

**Objective IN O36: Minimise threat and consequences of flooding**

It is the objective of the Council to avert, or where this is not possible, to minimise the threat of flooding in new developments and existing built up areas. Priority will be given to the protection of vulnerable uses that would be seriously affected by the consequences of flood events. The Council will have regard to Government Guidelines, 'The Planning System and Flood Risk Management' and OPW data and advice in the assessment of all development proposals and any subsequent amendments.

### 5.2. EIA Screening

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. The submission of an EIAR is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of the appeal may be summarised as follows:

#### Reason 1

- Objective IN 036 of the County Development Plan is noted. A flood risk assessment for the site prepared for the previous application P.A. Ref. 19/269 is attached.
- Reference is made to areas for further improvement under its ISO 45001 Occupational Health and Safety Management Standard.
- The appellant did not realise that permission was required to extend the concrete area and to install a porous stone area as they were not raising the level of the site.
- The 5m strip requested by the OPW is provided to facilitate access / maintenance of the Maigne outfall scheme.
- The application under 19/269 was considered appropriate as it was unlikely to be adversely impacted by flood waters in the event of a defence embankment failure. The works proposed to be retained, which represents only 29.9% of that site, would have a more reduced impact.

#### Reason 2

- The appellant has been in operation at this location for over 70 years and employs 27 people locally.
- It is within a small area with planning for industrial use. Reference is made to planning history at this location.
- Light industrial use already exists on the site and the application does not extend that use. The alterations are for health and safety reasons, supporting the business.

### Reason 3

- The appellant is happy to plant a privet hedge along the boundary of the local road outside the security fence to replace the removed hedgerow. This will provide screening, will strengthen the rural character of the site, and integrate it into its surroundings.

## **6.2. Planning Authority Response**

I have no record of any response to the appeal from the planning authority.

## **6.3. Further Submissions**

Niall Collins TD requested that he be informed of the decision.

## **7.0 Assessment**

### **7.1. Introduction**

- 7.1.1. I consider that the principal planning issues relating to the proposed development are the rural location and flooding impact.

### **7.2. The Rural Location**

- 7.2.1. The site of the proposed development is in a rural area, accessing a minor local road where the maximum speed limit applies. The site lies immediately south of the N69 National Secondary Road where the maximum speed limit applies for that road. The existing premises is a haulage and crane hire business with large machinery and associated vehicles required to enter and exit this site. The principal land use in this area is agriculture. There is a small business premises immediately to the south of the site. However, it would be mistaken to suggest that there is any form of a planned, orderly industrial estate-type use at this location.
- 7.2.2. The proposed development allows for a very substantial extension of the surfaced area of the site to be utilised for the parking and holding of vehicles and plant

associated with the established business. Such a development would allow for a significant expansion of the facility itself as plant and machinery are core components of the business. I note that the existing development, prior to the provision of the increased surfaced area, could reasonably have been determined to be a relatively small enterprise in terms of its physical footprint. It is evident that if one allows the proposed development one is accepting a likely significant expansion of the facility and, in my opinion, it would likely encourage and facilitate further development of these lands and further expansion of the business premises.

7.2.3. The key question to arise, therefore, is whether this rural location could be considered appropriate to facilitate substantial expansion of the business. I first note that this is an unserviced rural area. It is also my submission to the Board that the implications of permitting the proposed development would be significant in terms of its impact on the road network at this rural location, inclusive of the national route, and because of the impact on the amenities of this rural area. It is clear that the expansive surfacing of the site would facilitate more intensive activities on the site, which would be of an industrial-type nature in a rural setting and which would likely generate greater volumes of vehicular movements of plant and machinery into and out of this site onto the road network as the business expands. It is also clear that the expanded surfaced area has culminated in a substantial loss of roadside hedgerow and its replacement with fencing compatible with an industrial-type use. While there is some hedgerow abutting the national road, the premises are generally exposed when viewed from the road network. A privet hedge backplanted behind the fence would likely do little to minimise the exposure of this expansive surface area and the associated parking and containment of large vehicle and machinery. There has also been the introduction of lighting which increases visibility of the site and drainage provisions have been made on lands prone to flooding, with likely potential implications for adjoining lands and watercourses due to the substantial filling undertaken.

7.2.4. While I acknowledge that the business has been operating at this location for many years, I am of the opinion that facilitating, and thus encouraging, the expansion of a development of this nature in this rural area is not best placed. The established business can reasonably be viewed as light industry and one which should not be

encouraged in this rural area. It is not a compatible land use with agricultural uses which prevail in this area and its functioning would have negative impacts on road users and the road network by the nature of the traffic generated by the business. The established nature of the premises cannot reasonably justify the expansion of the development footprint on this site, which would facilitate potentially significant intensification at this site. If the existing business seeks to expand significantly in a manner such as that proposed it may be more appropriate to be considering relocation to a serviced area where its needs and development intentions could be met.

- 7.2.5. Finally, I note the provisions of Limerick County Development Plan as they relate to economic development. Objective ED 025, which refers to the expansion of existing industrial or business enterprises in the countryside, seeks to normally permit expansion proposals. However, this is subject to the scale and size of the development remaining appropriate and not negatively impacting on the character and amenity of the area, as well as the proposal taking into account traffic, public health, environmental and amenity provisions. Given this proposal could only be viewed as likely facilitating significant intensification of the business activities at this location, the adverse impacts on the rural character of the area that result, and the likely increased vehicular activity on the public road network, and the N69 in particular, it could reasonably be concluded that the proposed development would be in conflict with Objective ED 025 of the Development Plan.

### 7.3. Flooding Impact

- 7.3.1. I note that site of the proposed development is drained by Channel No. C1/9 of the Mague Outfall and is subject to increased flood risk. I note that the OPW request that due consideration should be given to this flood risk. I acknowledge from the planning authority's reports that the site is located within Flood Zone A according to flood extent mapping and OPW indicative fluvial flood mapping. Clearly a development of this nature, i.e. the substantial filling of land prone to flooding, has implications for flooding in this area, reducing the storage area for flood waters and



having potential impacts on neighbouring lands by displacement of flood waters elsewhere.

- 7.3.2. I acknowledge that a flood risk assessment was not provided for the development the subject of this appeal, i.e. for what was actually carried out, and that there was reliance upon an assessment for another proposed development. I further note that there is no comprehensive understanding of the nature and extent of the fill used and of the drainage network serving this location and there are no comprehensive details on the attenuation of waters or a detailed drainage management scheme for this site.
- 7.3.3. I note *The Planning System and Flood Risk Management Guidelines for Planning Authorities*, published by the Department of the Environment, Heritage and Local Government. The objectives of these Guidelines include seeking to avoid inappropriate development in areas at risk of flooding and seeking to avoid new developments increasing flood risk elsewhere. Flood Zone A is acknowledged as having a high probability of flooding. According to the Guidelines, most types of development are considered inappropriate in this zone and development should be avoided and only considered in exceptional circumstances. The proposed development is not an exceptional circumstance. It is again noted that a flood risk assessment was not undertaken for the proposed development and no Justification Test has been applied. The proposed development is clearly in conflict with the provisions of the Flood Risk Management Guidelines. Furthermore, it constitutes development of unzoned land in a rural area prone to flooding which is not designated for the use proposed.
- 7.3.4. Finally, I note that it is an objective of Limerick County Development Plan to avert, or where this is not possible, to minimise the threat of flooding in new developments and to have regard to Government Guidelines, 'The Planning System and Flood Risk Management' and OPW data and advice in the assessment of all development proposals (Objective IN 036). The proposed development, with a clear lack of understanding of the flood threat posed and the conflict with the Flood Risk Guidelines, can reasonably be viewed to be in conflict with the Development Plan objective.

## 7.4. Appropriate Assessment

- 7.4.1. I note that the site of the proposed development lies a short distance west of the Lower River Shannon SAC (Site Code: 002165) and the River Shannon and River Fergus Estuaries SPA (Site Code: 004077). The SAC and SPA have an extensive range of Qualifying Interests and Special Conservation Interests. There would likely be connectivity with these European sites via the adjoining watercourses which drain to the main riverbody. The nature and extent of the proposed works associated with this development, with importation of materials and substantial filling of the site, would potentially effect the water quality of the European sites downstream of this development site. I note that no consideration has been given to this issue by the applicant.
- 7.4.2. Acknowledging that there would be no direct impacts on the European sites, it is not understood if there would be any indirect effects on the SAC and/or SPA. In the event of the Board considering a grant of permission for the proposed development there would be a need to seek further details from the applicant and, at a minimum, a screening for appropriate assessment from the applicant would be considered necessary in this instance.

## 8.0 **Recommendation**

- 8.1. I recommend that permission is refused in accordance with the following reasons and considerations.

## 9.0 **Reasons and Considerations**

1. The site of the proposed development is located in an unserved area within the rural hinterland of Limerick City. It is an objective of the current Limerick County Development Plan to normally permit development proposals for the expansion of existing industrial or business enterprises in the countryside subject to the resultant development remaining an appropriate size and scale, the development not negatively impacting on the character and amenity of the

surrounding area, and the proposed development demonstrating that it has taken into account traffic, public health, environmental and amenity considerations (Objective ED 025). This objective is considered reasonable.

Having regard to:

- the remote, unserviced rural location of the proposed development,
- the proximity of the site to serviced lands in settlements in the wider area,
- the significant intensification of industrial / commercial type activities that would potentially arise from the proposed development,
- the substantial filling and extent of additional surfaced area of land and its associated fencing and perimeter lighting,
- the likely additional traffic that would be generated and associated movement of plant and machinery on the public road network in this area, and
- the lack of basic public infrastructure to serve the established and proposed development,

it is considered that the proposed development would conflict with the objective of the planning authority, would undermine the rural amenity of the area, would be contrary to the sustainable development provisions of Limerick County Development Plan in relation to industry and enterprise, would result in increased industrial and commercial development where there are significant infrastructural deficiencies to meet the needs of such development, inclusive of intensification of traffic volumes on the rural road network, and it would set an undesirable precedent for developments of a similar nature in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The site of the proposed development is located in an area subject to increased flood risk, an area which is determined to be in Flood Zone A from flood extent mapping and available OPW indicative fluvial flood mapping. The objectives of *The Planning System and Flood Risk Management Guidelines for Planning Authorities* include seeking to avoid inappropriate development in areas at risk

of flooding and seeking to avoid new developments increasing flood risk elsewhere. The Guidelines also recommend that most types of development are inappropriate in this zone and development should be avoided and only considered in exceptional circumstances. In addition, it is an objective of Limerick County Development Plan to avert, or where this is not possible, to minimise the threat of flooding in new developments and to have regard to Government Guidelines, 'The Planning System and Flood Risk Management' and OPW data and advice in the assessment of all development proposals (Objective IN 036).

Having regard to:

- the siting of the proposed development within Flood Zone A,
- the substantial filling of the land,
- the lack of understanding of the nature of the fill, drainage provisions for the site, and the effects on adjoining lands,
- the lack of a development-specific flood risk assessment,
- the development being on unzoned land in a rural area prone to flooding which is not designated for the use proposed, and
- the proposed development not being an exceptional circumstance,

it is considered that the proposed development would conflict with the Flood Risk Management Guidelines, would be contrary to the objective of Limerick County Development Plan, and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Kevin Moore  
Senior Planning Inspector

29<sup>th</sup> June 2021