



An
Bord
Pleanála

Inspector's Report ABP-310582-21.

Development	Construction of slatted cattle shed, with slurry storage tank.
Location	Lakyle, O'Callaghan's Mills, Co. Clare.
Planning Authority	Clare County Council.
Planning Authority Reg. Ref.	21/148.
Applicant(s)	Thomas Meehan.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party v Grant of permission
Appellant(s)	Anne Fallon Hussey
Observer(s)	John Hussey.
Date of Site Inspection	13/10/2021.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located in the rural area, approximately 2.5km to the east of the village of Kilkishen in the townland of Lakyle, O'Callaghan's Mills, in east Co. Clare and within a sparsely populated area, comprising primarily of agricultural land. There are a number of one-off houses in the vicinity, as well as other farm holdings.
- 1.2. The subject site is currently occupied by an existing, and previously permitted slatted shed. There is an existing cottage with other outbuildings located to the east of the site, which are used as stores and a barn. The site, which includes the full landholding, has a stated area of 27 hectares and the existing slatted shed has a stated floor area of 350m², with the existing slatted tank having a capacity volume of 265m³. There is an area of 25 acres available for slurry spreading.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices construct a slatted unit with an underground slurry storage tank for housing livestock on farm, all at Lakyle, O'Callaghan's Mills, Co. Clare.
- 2.2. The application included plans, particulars and completed planning application form. The submitted planning application form advises that the slatted shed will have a gross floor area of 230m² and the tank will have a volume of 218m³. It is submitted that the purpose of the application to provide better management of the applicants existing stock. I note that there is no requirement for silage effluent collection as well wilted round silage bales only are used on the site and there is no dairy stock. The proposed development does not provide for any soiled yards.
- 2.3. The shed for is required for the housing of the existing livestock on the farm which include 34 suckler cows and their progeny. The existing slatted house currently houses 15 beef cows, 30 young cattle and 10 calves. The applicant advises that effluent from the development will be disposed of using his own effluent tanker, and waste will be spread on lands from March to September.
- 2.4. Following the submission of the application, unsolicited further information was received by Clare Co. Council which set out the requirements for the shed in terms of accommodating the current stock numbers on the farm. The letter sets out the

options considered for the location of the shed. It is submitted that the proposed development will not cause any additional odour issues and the design facilitates an adequate air flow for livestock.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to 7 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, third party submissions, planning history and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The initial Planning Report notes that the principle of the development is acceptable but has raised concerns in terms of the potential impact on residential amenities of the area. The inaccuracies in the submitted site layout plan were also noted. The report considers that the development will not give rise to traffic hazard issues and that the development will not be prejudicial to public health, noting that the impact of the proposed development on the health and well-being of nearby residents has been raised in third party observations. The report considers that no visual impacts arise given the rural setting and the established use of the site as well as the mature roadside vegetation present. No flood risk is noted.

The Planning Officer report notes the third-party submission and recommends that further information be sought with regard to the potential relocation of the shed to the rear of the existing shed in order to mitigate the concerns in relation to residential amenity raised. A request for further information is recommended in relation to corrected plans and a response to the residential amenity issues raised including the potential to relocate the shed to the south / south-west of the existing shed. The

report notes that any relocation of the proposed unit will require the submission of a new planning application.

Following the submission of a response to the further information request, the Planning Officer accepted the submission of the applicant that as he works alone, the proposed location for the shed is the safest in terms of moving stock from one shed to the other. It was also noted that the proposed location will minimise the requirement for rock breaking during the construction process. The final POs report notes that rural areas are generally dominated by agricultural uses and that it is reasonable to expect agricultural activities taking place in proximity to any rural residence, even if the occupiers are not directly involved in farming/agricultural practices.

Having regard to the established use of the site and the rural location, the report concludes that the proposed development is acceptable, and the Planning Officer recommends that permission be granted for the slatted shed, subject to 7 conditions. This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

3.2.2. Other Technical Reports

Killaloe Municipal District: Submitted report advises no observations or comments to be made on the application.

3.2.3. Prescribed Bodies

None.

3.2.4. Third Party Submissions

There is 1 no. third party objection/submission noted on the planning authority file from Ms. Anne Fallon Hussey. The issues raised reflect those raised in the third-party appeal and are summarised in section 6 of this report.

The objections to the PA are summarised as follows:

- The maps submitted show the location of her home inaccurately.
- The proposed development will make her life intolerable due to the proximity to her bedroom and kitchen.

- The existing unit gives rise to fumes, mist and odours and seriously impacts on the amenity of residential property and the immediate area, including the roads, devaluing property.
- The existing shed was constructed without consultation.
- Health issues are attributed to the presence of the slatted shed.
- Suggestions for relocation were offered with no success.
- Potential traffic hazards due to increased tractor / slurry tank traffic.
- No proposals to mitigate the visual impact or odours from the development.
- There was no slatted unit when the objector moved to the area, and no one would choose to live so close to two slurry tanks.

3.2.5. **Elected Members Representations:**

Cllr Alan O'Callaghan made representations to Clare County Council on this application.

4.0 **Planning History**

The following is the relevant planning history pertaining to the subject site:

PA ref: 09/544: Permission granted to the applicant to construct a slatted unit with creep for housing livestock at Lakyle, O'Callaghan's Mills, Co Clare.

Adjacent sites to the north:

PA ref: 17/380: Permission granted to Ms. Ann Hussey to relocate and upgrade wastewater treatment system percolation area and all associated site works.

PA ref: 16/993: Permission granted to Ms. Ann Hussey to construct dwelling house, wastewater treatment system, percolation area, entrance and all associated site works.

5.0 Policy and Context

5.1. Development Plan

5.1.1. The Clare County Development Plan 2017 – 2023, is the relevant policy document relating to the subject site. The site is located in the open countryside, in a rural area where there is no specific zoning afforded to the site. The site is located within the countryside outside the 'Areas of Special Control'.

5.1.2. The following sections of the CDP relate to agriculture:

- **CDP8.32:** Deals with Agricultural Waste. It is an objective of the Development Plan:
'To ensure that the disposal of agricultural waste is carried out in a safe, efficient and sustainable manner having regard to the environment and health and safety of individuals, and in compliance with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2009 (as amended), S.I. No.101 of 2009, the Litter Pollution Act 1997 and the European Communities (Water Policy) Regulations 2014 (SI No. 350 of 2014).
- **A1.11 - Agricultural Developments:**
The rural countryside is a natural resource with agricultural activity being particularly important. In considering proposals for agricultural development (walls, fences, yards, stables, sheds, slurry pits etc.) the Planning Authority will have regard to the Department of Agriculture document Guidelines and Recommendations on the Control of Pollution from Farmyard Wastes together with the following:
 - Siting and design that is keeping with the surrounding area
 - The use of muted coloured materials
 - Grouping of buildings will be encouraged
 - Adequate effluent storage facilities
 - The Planning Authority will require adequate provision for the collection, storage and disposal of effluent produced from agricultural developments.

The European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2014 set out the requirements for storage of farm effluents and the minimum holding periods for storage of farm wastes. In Clare the holding period required for the purposes of calculating waste storage facilities is 18 weeks. It is permitted to spread soiled water all year round, thus the minimum holding period is 10 days. For silage the short-term storage period is 3 days. All agricultural developments must be designed and constructed in accordance with the Minimum Specifications as set out by the Department of Agriculture, Food and the Marine.

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within any designated site. The closest Natura 2000 site is the Danes Hole, Poulnalecka SAC (Site Code: 000030) which is located approximately 0.9km to the south-east of the site. The Slieve Bernagh Bog SAC (Site Code: 002312) lies approximately 6.7km to the east. The Slieve Aughty Mountains SPA (Site Code 004168) is located approximately 8.5km to the north, the Lower River Shannon SAC (Site Code: 002165) and the River Shannon and River Fergus Estuaries SPA (Site Code: 004077) 13.4km to the west of the site.
- 5.2.2. The Doon Lough NHA (Site Code: 000337) lies approximately 700m to the east and the Cloonlough More Bog NHA (Site Code: 002307) lies approximately 2.5km to the north of the site.

5.3. EIA Screening

- 5.3.1. The Board will note that the subject appeal relates to the construction of a slatted unit with an underground slurry storage tank for housing of livestock within an existing farmyard in the rural area of east Co. Clare.
- 5.3.2. Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) sets out the class of developments which provide that mandatory EIA is required. The proposed development is not of a scale or nature which would trigger the need for a statutory EIAR. It is therefore considered that the development does not fall within any cited class of development in the P&D Regulations and does not require mandatory EIA.

5.3.3. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. I also note the requirements of Article 103(1)(a) and (b) of the Planning and Development Regulations 2001, as amended in this regard. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.3.4. Having regard to:

- (a) the nature and scale of the development,
- (b) the existing uses associated with the subject site, and
- (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded 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

This is a third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The issues raised reflect those raised during the PAs assessment of the proposed development and are summarised as follows:

- The appellant is impacted by the operation of the existing slatted unit which causes air-borne odours, fumes and mists.

- Since the shed was constructed in 2009, the appellant has been hospitalised 5 times with COPD problems. She has never smoked and considers that the shed contributes to its severity.
- The existing unit is just 23m from the public road and impacts on the amenities of walkers and cyclists.
- The proposed slatted unit, at 53.3m away will double the impact on the appellants quality of life.
- The appellant approached the applicant to consider placing the unit to the south or back-to-back with the existing unit as a reasonable proposal but was rejected by the applicant.
- There is inadequate screening of the existing unit from the public road as the existing trees are deciduous.
- The appellant has lived in the area for 25 years and fully accepts that farming activity is a large part of rural life. She is requesting that reasonable consideration be given to her as a neighbour.

It is asked that the Board refuse permission for the proposed shed. It is further submitted that should the Board wish to do so, provision could be made to grant permission for a future development which include the mitigation measures outlined in the appeal. There are enclosures with the appeal, including a submission from Mr. Eugene Hyland & Assoc Consulting Engineers which is summarised as follows:

- The proposed development has a total lack of sympathy and consideration of residents in the area.
- The development will seriously and adversely impact the residential amenity of the existing house.
- It is submitted that Clare Co. Co. did not deal with the application in a fair and balanced way. No concession was made to mitigate the appellants concerns.
- Clare Co. Co accepted the appellants proposal to locate the unit to the rear of the existing and wrote to the applicant requesting that the unit be moved. The matter was not pursued following the submission of the applicants' response to the request.

- The applicants' reasons for not relocating the unit are dubious and unsubstantiated as follows:
 - There is no technical basis for the suggested that the relocation would affect airflow.
 - Rock was encountered in the original development and would be encountered here. No supporting evidence was submitted to confirm the existence of rock.
 - Movement of animals between sheds/applicant working on his own is not an issue as normally, there is little or no movement of animals between sheds.
 - The issue that relocating the shed to the rear would involve a considerable extra excavation due to the higher levels of the ground is considered and it is submitted that whilst there would be an increase in excavation if both floor levels were to be the same, it would not be substantial, and the outcome would be substantially better.
 - The appellants COPD will worsen from the significantly increased contributing smells, fumes and mists from the slatted units.
- Location of slatted unit:
 - It is submitted that in general, all other slatted units in the area are 300/400m from the roadways and are constructed away from houses.
 - Notes the incorrect site layout plan submitted with the original application which showed the appellants' property further from the shed.
- Planning Conditions:
 - The conditions do not address proposals to mitigate the visual impact and odours that the development will have on the area.
 - The reference to the existing mature trees which partially screen the existing farm buildings do not adequately screen off the existing shed.
 - The development requires evergreens to reduce its impact all year round.

The submission states that if the unit is moved to the rear of the existing unit on the site, the appellant will immediately withdraw her objection.

6.2. First-Party Response to Third-Party Appeal:

6.2.1. In response to the third-party appeal, the applicants' agent submits as follows:

- The proposed shed is constructed to handle existing stock on the farm. It is not agreed that the extra slatted shed will double the impact on the appellant. With more storage capacity, there will be less need for agitation of slurry and as a result, there will be less issues around odour at those times.
- When initially looking at potential sites for the shed, the applicant looked at all alternatives. It was decided that the most suitable is as proposed when all issues were factored in, including:
 - Flow and movement of animals between the present and proposed shed.
 - Air flow through the sheds.
 - Potential impacts on cost such as the risk of meeting rock
 - Ground levels to facilitate digging of the proposed slatted tank.
- The ground level to the south-west is significantly higher than the floor level of the existing shed.

6.3. Planning Authority Response

The Planning Authority submitted a response to the first party appeal requesting that the Board uphold their decision and advising no further observations.

6.4. Observations

There is one observation noted in relation to the subject appeal, from Mr. John Hussey. The observation is summarised as follows:

- The site is located across the road from the observers' fathers' home.
- There are no details re the collection and disposal of surface water run-off from the roof and yard areas.
- There is a waterway to the west side of the applicants' site. Contaminated surface water from the site will discharge into the waterway, which in turn

discharges into the Ahaclare River which feeds Cashel Lake, the source of fresh water for the East Clare & Broadford areas. This should not be allowed.

- No notice is ever given during agitation and removal of slurry and the observer and his family must stay indoors during this time.
- Clare Co. Co. did not comply with the 100m rule. There are options to build these buildings at a safer distance from residential homes and the public road.
- No environmental study was sought to ascertain the impact on the environment.
- Issues of flooding and overflow on this site are submitted.
- There is no protection from the deciduous trees and the buildings can be seen from the road.
- The fumes and gasses from the existing shed seriously impact on the surrounding area because of inadequate proper protection from a green screen and method of spreading. The proposed shed will double the impact on the environment and people.
- Issues with the maps.
- Farming causes most of the greenhouse gasses and ABP is requested to ensure that the application meets the highest standards.
- The proposed unit is not the norm as most are located at a distance from public roads and residential buildings.
- The PA did not show fairness or balance in their report.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Third Party Issues
3. Other Issues
4. Appropriate Assessment

7.1. Principle of the Development:

- 7.1.1. The subject site is located within the open countryside and the appeal before the Board seeks to construct a slatted cattle shed at this rural location and within an existing farm yard.
- 7.1.2. The Clare County Development Plan 2017 – 2023, is the relevant policy document relating to the subject site and I note Section A1.11 of the CDP which relates to agriculture and states:
- The rural countryside is a natural resource with agricultural activity being particularly important. In considering proposals for agricultural development (walls, fences, yards, stables, sheds, slurry pits etc.) the Planning Authority will have regard to the Department of Agriculture document Guidelines and Recommendations on the Control of Pollution from Farmyard Wastes together with the following:
 - Siting and design that is keeping with the surrounding area
 - The use of muted coloured materials
 - Grouping of buildings will be encouraged
 - Adequate effluent storage facilities
 - The Planning Authority will require adequate provision for the collection, storage and disposal of effluent produced from agricultural developments.
- 7.1.3. The European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2014 set out the requirements for storage of farm effluents and the minimum holding periods for storage of farm wastes. In Clare, the holding period required for the purposes of calculating waste storage facilities is 18 weeks. It is permitted to spread soiled water all year round, thus the minimum holding period is 10 days. All agricultural developments must be designed and constructed in

accordance with the Minimum Specifications as set out by the Department of Agriculture, Food and the Marine.

- 7.1.4. In the context of the proposed development, the Board will note that slatted shed will have a gross floor area of 230m² and the tank will have a volume capacity of 218m³. It is submitted that the purpose of the application to provide better management of the applicants existing stock. I note that there is no requirement for silage effluent collection as well wilted round silage bales only are used on the site and there is no dairy stock. The proposed development does not provide for any soiled yards.
- 7.1.5. The shed for is required for the housing of the existing livestock on the farm which include 34 suckler cows and their progeny. The existing slatted house currently houses 15 beef cows, 30 young cattle and 10 calves. The applicant advises that effluent from the development will be disposed of using his own effluent tanker, and waste will be spread on lands from March to September. The lands for spreading are identified. The principle of the agricultural development at this location is considered acceptable.

7.2. Third Party Issues

- 7.2.1. The third-party appellant has raised a number of concerns in relation to the proposed development and in particular, the impact of the proposed development on the residential amenities of her home. It is submitted that since the construction of the existing shed on the site, the appellant has had health issues due to air-borne odours, fumes and mists. Given the proximity of the proposed shed to her home, it is submitted that the impact will be intolerable. I also note the indication that the appellant sought to mitigate the concerns by requesting that the proposed unit be located to the rear of the existing unit in a back-to-back layout, but that this proposal was rejected by the applicant. The appellant considers that the proposed development represents a lack of sympathy and consideration of residents in the area.
- 7.2.2. The Board will note that the Planning Authority raised this issue with the applicant as part of the further information request. The response of the applicant who presented their reasoning for the proposed location, noting that alternative locations were looked at before the lodging of the application for the proposed location. I note that

the appellant does not accept the arguments made for the proposed location and considers that the conditions attached to the grant of planning permission do not address the visual impacts arising. In terms of the issues raised, the following is noted:

- Visual Impact:

The applicant has indicated that the existing roadside boundary of the site is not adequate to mitigate the visual impacts of the existing and the proposed shed. This is due to the fact that the trees are deciduous and therefore they do not screen the shed adequately over the full year. It is requested that evergreens be planted to reduce the visual impact all year round.

Having undertaken a site inspection, I can confirm that the roadside boundary of the subject site comprises mature trees which offered sufficient screening of the existing sheds on the site such that, on the date of my site inspection (October 2021) I initially drove past and missed the site. While I accept that the site may not be screened all year round, given the very rural location of the site, I would consider that the existing roadside boundary is adequate and appropriate to its setting.

The existing farmyard appeared well maintained and the existing buildings, other than the old cottage which sits perpendicular to the public road, are set back approximately 25m from the roadside boundary. I would acknowledge that the buildings may not be perceived as being particularly attractive in and of themselves but having driven the roads in the vicinity of the site, there are many examples of agricultural buildings in the wider area. The agricultural buildings are not so excessive as to give rise to any significant visual impact in this rural context.

- Location of Slatted Unit:

I note the appellant, and observer, makes reference to the 100m rule with regard to the locating of farm buildings in relation to existing residential properties. In this regard, I would suggest that this comment arises in terms of Part 3 of Schedule 2 of the Planning & Development Regulations 2001 as amended which deals with Exempted Development – Rural. Classes 6 to 10 of the Regs. relate to agriculture, which includes the said distances within the Conditions and Limitations column 2 of the Regulations. As permission has been sought, the

applicant is not relying on the exempted development provisions and my assessment is based on all of the information available to me on the file, together with my site inspection.

In terms of the proposed development, it is clear that the subject site has comprised a farmyard for many years. In this instance, I do not consider it unreasonable to grant permission for the proposed development and given the information on file, I would accept that the proposal will not give rise to additional animals being housed at the site. As such, I would not consider that a grant of permission will 'double' the impact of the farmyard on the adjacent residential properties, or the environment as suggested. The Board will note the submission of the applicant in relation to the additional storage reducing the need for agitation of slurry and as a result, there will be less issues around odours. In addition, I note the appellants concerns that the existing unit on the site impacts on the amenities of walkers and cyclists, particularly during agitation and extraction of slurry. While I acknowledge this issue, I would again note the very rural location of the subject site, where the predominant use of the wider area is agriculture. I would not consider the impacts arising in this regard to be so significant as to warrant a refusal of planning permission in this instance.

- **Alternative Layout Proposal:**

The Board will note that the appellant has indicated efforts to work with the applicant with regard to mitigating the impacts of the proposed development on her home and her health. I also note that Clare County Council raised the suggested alternative layout as part of their further information request to the applicant.

While I acknowledge that the appellant does not accept the arguments made by the applicant with regard to alternative layouts, I would note that any such amendment, should the Board be so minded to consider same, would require the making of a new planning application. Overall, I do not consider it necessary to amend the site layout as submitted, and I consider that the proposed development is acceptable as proposed.

7.3. Other Issues

7.3.1. Procedural

The Board will note that the initial maps submitted with the application identified the existing houses across the road from the site inaccurately. This matter was addressed following the request for further information.

The Board will also note that the third party has submitted that it would appear that the assessment of the proposed development by the PA was arrived at without due consideration of third-party concerns. Having considered the PAs planning report, together with the planning history of the site, I am satisfied that the PAs decision was arrived at following a logical and reasonable assessment of the development, which had full regard to the impacts of the development on adjacent properties.

7.3.2. Roads Issues

The Board will note the location of the site in a rural area which is sparsely populated, although I did note a small number of one-off houses and farm holdings. I also note the existing use of the site as a farmyard and acknowledge that the proposed shed relates to the provision of better stock management rather than proposals to provide for additional animals. I am satisfied that the development, if permitted, does not give rise to roads and traffic concerns.

7.3.3. Flood Risk

The third-party observer to this appeal has suggested that the site, the subject of this appeal, has issues in relation to flooding and overflow during the wet, winter months. In this regard, the Board will note that the subject site does not lie within a Flood Zone A or Flood Zone B area. I also note that the applicant has indicated that he has no knowledge of the site flooding in the past. Having undertaken a site inspection, I did not notice any evidence of flooding at this location.

7.3.4. Development Contribution

The Clare County Council Development Contribution Scheme sets out the nature of developments which will attract a contribution levy under the S48 scheme.

Agricultural Buildings are identified in the 'Other Non-Residential Development'

section of the scheme where it is stated that 'Roofed Structures – hay barns, slatted sheds, other storage units not housing livestock (applicable only to developments of structures which are greater than 800m²) will be liable at a rate of €5 per m². As the floor area of the shed the subject of this appeal falls below the 800m² floor area, the subject development is not liable to pay development contribution.

8.0 Appropriate Assessment

8.1. Introduction

- 8.1.1. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.
- 8.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The site is not located within any designated site and the development the subject of this appeal is not directly connected with or necessary to the management of a European site. The Board will note that an Appropriate Assessment Screening Report was not submitted as part of documentation for permission for the proposed development following a previous decision by the Board. Screening for AA was carried out by the Planning Authority.
- 8.1.1. In accordance with these requirements the Board, as the competent authority, prior to granting a consent must be satisfied that the proposal individually or in combination with other plans or projects, is either not likely to have a significant effect on any European Site or adversely affect the integrity of such a site, in view of the site(s) conservation objectives.
- 8.1.2. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:
- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).

- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

8.2. Consultations

- 8.2.1. With regard to consultations, the Board will note that no concerns were raised with the Planning Authority with regard to AA. The observation submitted to the Board following the submission of the third-party appeal raises concerns in relation to environmental impacts due to the proximity of the water course to the subject site and its connectivity to Castle Lake, which is the public water supply source for East Clare.
- 8.2.2. The Planning Authority included an AA Screening report as part of its assessment of the proposed development. I note that the assessment considers the likely zone of impact to be no greater than 3km.

8.3. Screening for Appropriate Assessment

- 8.3.1. The applicant did not prepare an Appropriate Assessment Screening Report as part of the subject application. The site is not located within any designated site. The closest Natura 2000 site is the Danes Hole, Poulnalecka SAC (Site Code: 000030) which is located approximately 0.9km to the south-east of the site. The Slieve Bernagh Bog SAC (Site Code: 002312) lies approximately 6.7km to the east. The Slieve Aughty Mountains SPA (Site Code 004168) is located approximately 8.5km to the north, the Lower River Shannon SAC (Site Code: 002165) and the River Shannon and River Fergus Estuaries SPA (Site Code: 004077) 13.4km to the west of the site.
- 8.3.2. In terms of AA, the Board will note that the development is not directly connected or necessary to the management of a European Site. There are 9 Natura 2000 Sites occurring within a 15km radius of the site. I am satisfied that following sites can be screened out in the first instance, as they are located outside the zone of significant impact influence because the ecology of the species and / or the habitat in question is neither structurally nor functionally linked to the proposal site. There is no potential

impact pathway connecting the designated sites to the development site and therefore, I conclude that no significant impacts on the following sites is reasonably foreseeable. I am satisfied that the potential for impacts on the following 8 Natura 2000 sites can be excluded at the preliminary stage:

Site Name	Site Code	Assessment
Slieve Bernagh Bog SAC	002312	Site is located entirely outside the EU site and therefore there is no potential for direct effects.
Slieve Aughty Mountains SPA	004168	
Lower River Shannon SAC	002165	No habitat loss arising from the proposed development.
River Shannon and River Fergus Estuaries SPA	004077	
Ratty River Cave SAC	002316	No disturbance to species.
Newgrove House SAC	002157	
Lough Gash Turlough SAC	000051	Screened Out
Glenomra Wood SAC	001013	

8.3.3. I consider that the following Natura 2000 sites, located within 15km of the subject site, can be identified as being within the zone of influence of the project, for the purposes of AA Screening, as follows:

- Danes Hole, Poulnalecka SAC (Site Code: 000030)

8.4. Qualifying Interests for Natura 2000 Sites within Zone of Influence

8.4.1. The subject site is located within a rural area and the location of the proposed building is within an existing farmyard fronting onto the L-3008 local road, approximately 2.5km to the east of the village of Kilkishen in Co. Clare. The existing farmyard includes an existing slatted shed and a number of sheds and outbuildings. There are a small number of existing one-off houses and farm holdings in the vicinity, including two houses immediately across the public road from the site.

8.4.2. There is a small watercourse to the west of the site which runs in a south-westerly direction for a distance of 200m before turning east towards the Ahaclare River,

approximately 1km to the east. The site is not located within any designated site. The site does not appear to contain any of the habitats or species associated with any Natura 2000 site.

- 8.4.3. The following table sets out the qualifying interests for the identified Natura site within the likely zone of impact, the Danes Hole, Poulnalecka SAC (Site Code: 000030):

European Site	Qualifying Interests
<p>Danes Hole, Poulnalecka SAC (Site Code: 000030):</p> <p>Located approx. 0.9km to the south-east of the site</p>	<ul style="list-style-type: none"> • Caves, not open to the public [8310] • Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] • Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]

- 8.4.4. The Danes Hole, Poulnalecka SAC site consists of a small fossil cave in the banks of the Ahaclare River situated within a wood approximately 4 km west of Broadford, Co. Clare. It is a winter hibernation site and also a mating site of the Lesser Horseshoe Bat. A nearby summer roost for the bat and the commuting routes between the two are also included.
- 8.4.5. The entrance to the cave is relatively small and leads into a chamber approximately 2 m wide and less than 2 m high. All the bats hang from the roof of this chamber. The entrance to the cave is sheltered by thick vegetation. Total length of the cave is approximately 50 m. The cave ends in a sump, though there is no sign that the water floods other parts of the cave. The cave is located within Poulnalecka Wood, which is a broadleaved wood consisting of Oak (*Quercus* sp.), Birch (*Betula* sp.) and Holly (*Ilex aquifolium*). This woodland provides important foraging habitat and shelter for the bats. Felling in Poulnalecka Wood would be a cause of concern.
- 8.4.6. In November 1998, 250 Lesser Horseshoe Bats were counted at the cave, making the site one of international importance. In the national context this site is considered important because it is one of the most eastern points in the distribution of this bat in Ireland.

8.5. Conservation Objectives:

8.5.1. The Conservation Objectives for the relevant designated sites are as follows:

European Site	Conservation Objectives
Danes Hole, Poulnalecka SAC (Site Code: 000030): Located approx. 0.9km to the south-east of the site	<ul style="list-style-type: none">• The NPWS has identified a site-specific conservation objective to maintain the favourable conservation condition of the following Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets:<ul style="list-style-type: none">◦ Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [1365]• The NPWS has identified a site-specific conservation objective to restore the following species listed as a Qualifying Interest, as defined by a list of attributes and targets:<ul style="list-style-type: none">◦ Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]• The NPWS notes that Caves not - open to the public (8310) is integrally linked to lesser horseshoe bat (Rhinolophus hipposideros) (1303) as part of the habitat for the species; therefore, a separate conservation objective has not been set for the habitat in Danes Hole, Poulnalecka SAC.

8.6. Potential Significant Effects

8.6.1. In terms of an assessment of Significance of Effects of the proposed development on qualifying features of Natura 2000 sites, having regard to the relevant conservation objectives, I would note that in order for an effect to occur, there must be a pathway between the source (the development site) and the receptor (designated sites). As the proposed development site lies outside the boundaries of the European Sites, no direct effects are anticipated. With regard to the consideration of a number of key indications to assess potential effects, the following is relevant:

- Habitat loss / alteration / fragmentation: The subject site lies at a remove of some 0.9km from the boundary of any designated site. As such, there shall be no direct loss / alteration or fragmentation of protected habitats within any Natura 2000 site.

- Disturbance and / or displacement of species: The site lies within a rural environment. While no qualifying species or habitats of interest, for which the designated sites are so designated, have been identified as occurring at the site, and I note that the site is not located within or immediately adjacent to any Natura 2000 site, the Board will note that the site lies within the foraging range for both of the bat roosts identified within the Danes Hole, Poulnalecka SAC. The closest roost site is approximately 1.3km from the site. I also note that the site lies proximate to potential foraging grounds for the Lesser Horseshoe Bat, for which the SAC is so designated. These potential foraging sites lie approximately 300m to the south-east, and 500m to the north-west of the site.

Having undertaken a site inspection, I am generally satisfied that the site the subject of the proposed development is appropriately located and having regard to the nature of the construction works proposed, noting no proposals to remove trees to facilitate the shed, there is little or no potential for disturbance or displacement impacts to species or habitats for which the identified Natura 2000 sites have been designated.

- 8.6.2. The principal risk to water quality from the proposed development relates to the potential impacts on surface water quality arising from slurry. Excess nutrients entering watercourses would potentially impact the trophic status of the affected water body. In this regard, the Board will note the location of a land drain to the west of the site, which feeds into the Ahaclare River to the east. It is submitted that the slatted tank will have a capacity of 218m³, which together with the existing unit in the farmyard with a capacity of 265m³, will provide a surplus capacity of 161m³ given the animal numbers to be housed. The numbers of animals to be housed are provided within the application form and it is submitted that the extra capacity will facilitate the housing of animals for a longer period if required during adverse weather conditions. The surplus capacity will also avoid any risk of the storage facility being exceeded in the event of long winters. Having regard to the presence of the existing farmyard, and the lack of any evidence that there has been any discharge from the site to date, I am generally satisfied that a grant of permission in this instance will not give rise to any significant impact on the water quality of the adjoining watercourses as a result of the development.

8.6.3. In terms of land spreading, the applicant has included details of identified fields, which generally consist of improved grassland, which are currently used for spreading. I also note that spreading slurry is controlled by separate legislation and the EU Nitrates Directive. Given the indication that the proposed slatted unit is proposed to better manage the existing livestock numbers on the farm, I am generally satisfied that a grant of permission in this instance will not give rise to any significant impact on any of the qualifying interests or the integrity of any designated Natura 2000 site as a result of the development.

8.7. In Combination / Cumulative Effects

8.7.1. Given the nature of the proposed development, being the construction of a slatted unit with an underground slurry storage tank within an existing farmyard, I consider that any potential for in-combination effects on the Danes Hole, Poulnalecka SAC, or water quality in adjoining watercourses can be excluded. In addition, I would note that all other projects within the wider area which may impact the Danes Hole, Poulnalecka SAC would also be subject to AA.

8.8. Conclusion on Stage 1 Screening:

8.8.1. I have considered the NPWS website, aerial and satellite imagery, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude that on the basis of the information available, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the European Sites identified within the zone of influence of the subject site. As such, and in view of these sites' Conservation Objectives a Stage 2 Appropriate Assessment is not required for these sites.

9.0 Recommendation

- 9.1.1. Having regard to the rural location of the site, together with the pattern of development in the area and the provisions of the Clare County Development Plan 2017-2023 (as varied), it is considered that, subject to the compliance with the conditions set out below, that the proposed retention of the constructed slatted cattle shed, site entrance and all associated site works, would not seriously injure the general or residential amenities of the area and would be acceptable in terms of traffic safety and convenience. 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, 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. 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 a storage tank.

Drainage details shall be submitted to and agreed in writing with the planning authority, within 3 months of this grant of planning permission, and the applicant shall submit written confirmation, accompanied by photographs, to demonstrate that said works have been satisfactorily undertaken.

No animals will be housed in the slatted shed until such time as this condition is complied with.

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

3. The slatted shed shall be used only in strict accordance with a management schedule which shall 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 Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2017, as amended, 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 (including the public road, where relevant).

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

4. 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.

5. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains, streams or adequate soakpits and shall not discharge or be allowed to discharge to the foul effluent drains, foul effluent and slurry storage tanks or to the public road.

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

6. 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 Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2017, as amended.

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

7. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

A. Considine
Planning Inspector
14/10/2021