



An
Bord
Pleanála

Inspector's Report ABP-310630-21

Development	Construction of a milking parlour and dairy with ancillary underground dairy washing tank and cow handling facilities
Location	Tinnaranny , New Ross , Co Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	2139
Applicant(s)	Edward Conway
Type of Application	Permission.
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Patricia O Neill.
Observer(s)	None
Date of Site Inspection	31 st of August 2021.
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. Tinneranny is located north west of New Ross town in a rural within Co. Kilkenny in close proximity to the River Barrow and River confluence which is located less than 1km to the north and east of the site. The area is rolling landscapes with mature hedgerows along narrow country row.
- 1.2. The subject site is within a large farming landholding. The main family house is located on the opposite side of the road to the proposed site, and adjacent to the house is the main farmyard. The site is a greenfield site with no agricultural structures.
- 1.3. Open fields form the site boundary, and there is a mature hedge along the roadside boundary. The site slopes south-eastwards away from the road.
- 1.4. The local road fronting the site is 3-3.5metres in width, with mature hedgerows and tress on both sides. There are stone walls and embankments along the roadside boundary.
- 1.5. The site is currently under grass used for silage/ grazing.

2.0 Proposed Development

- 2.1. The proposal is for:
 - A new milking parlour and dairy; with ancillary underground dairy washing tank and cow handling facilities,
 - cow cubicle house with ancillary underground slurry storage tanks, covered feed passages;
 - Loose animal house to include calving boxes and isolation boxes;
 - Silage pit
 - Concrete apron and all associated site works;
 - A new farm entrance to public road.
- 2.2. The further information received on **6th of May 2021** indicated the farmyard on a site at lower contour level, with a section drawings. A new screen planting of native trees to be provided.

There is no proof O'Neill ancestral home is located within the landholding. There are no protected structures on the property.

Soiled yard areas designated

Drainage systems of the public road indicated

3.0 **Planning Authority Decision**

3.1. **Decision**

Kilkenny Co. Co. granted planning permission for the development subject to 10No. planning conditions most of which are standard agricultural developments.

3.2. **Planning Authority Reports**

3.2.1. ***Planning Reports***

- The site is not located within any important designation/ protected area.
- The site forms part of a 56Ha landholding which is subdivision of a larger landholding. The overall landholding crosses both sides of the local road.
- The scale of the proposal is reduced from planning reference P20/584, and the development is north of the previous application.
- The sightlines are acceptable. The applicant has overcome the previous reason for refusal.
- Extensive further information was requested, to relocate the proposed yard south-west on lower contours, the former Eugene O'Neill homestead is of cultural importance, soiled yard areas

3.2.2. ***Other Technical Reports***

Parks Section –(i) Old Maps illustrate tree lined laneways and avenues near the site and smaller field patterns. The enlargement of the fields has eroded much of the retail of the historical landscape.

(ii) The proposed development will have a significant visual impact from a wider viewpoint more so than up closer. There is scope to relocate the development to the

south-west corner of the site, where there were no historical settlements present. If that is not feasible, then the retention of all existing hedgerows and installation of new screen planting is critically important.

(iii) Screen planting should be native Scots pine with alder, oak and birch.

Environment: All soiled yard areas need to be identified, and all separate surface water channels identified. Detailed calculations regarding the slurry tank, and water supply arrangements.

Roads Department: The type of local road associated with the site is normal for agricultural activities. The revised access arrangements from the previous refusal area considered to be reasonable. Further information is required regarding anticipated traffic movements, surface water drainage is a concern, the soakpit associated with the interceptor drain has not been identified.

3.3. Prescribed Bodies

No responses.

3.4. Third Party Observations

There was a large volume of objections (10No.) to the proposed development:-

- The proposal will severely damage the archaeology of Tinnaranny. There could be archaeological settlements.
- Homestead of famous stage and screen actor James O'Neill is in Tinnaranny, and he is father to Eugene O'Neill a Nobel Prize winning author.
- The destruction of the lane, stone walls and hedgerows would destroy any evidence of the past
- The lane is used for walks and drives, as it is very unique and attractive and it is very narrow fronting the subject site
- Why don't the applicants keep the land associated with the planning application for the suckler to beef enterprise and keep the new dairy enterprise at the existing farmyard.

- It is a bad future for the L7497 when construction traffic start, then milk tankers, waste disposal machinery, meal and fodder deliveries
- Pre-famine walls
- Location of well

4.0 Planning History

Planning Reference: 20/584

Planning permission was refused on an adjoining site for a milking parlour and dairy etc on the grounds of visual impact and traffic hazard.

5.0 Policy Context

5.1. Development Plan

Kilkenny County Development Plan 2014-2020

Section 6.2.4 Agricultural Developments

A high standard of design and maintenance will be required in all developments in rural areas.

Agricultural developments will be constructed and located to ensure there is no threat to pollution to ground or surface waters

Buildings and Structures in visually sensitive areas will be required to:-

- Be sited as unobtrusively as possible;
- Be clustered to form a distinct and unified feature in the landscape ;
- Utilise suitable materials and colours;
- Utilise native species in screen planting.

Figure 8.2 Landscape Character Assessment

The site is located in an Upland Area

5.2. Natural Heritage Designations

The site is not within a designated area.

SITECODE 002162

SITE_NAME River Barrow and River Nore SAC
is less than 1KM to the north and east of the site.

5.3. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature of the site, 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

The appellant is Patricia O'Neill, Tinneranny. The ground of her appeal can be summarised as follows:-

- The appellant states the area has significantly historical and cultural connections, and the proposed development will negatively impact on the history and cultural significance of the entire surrounding area. It will decimate the stone walls and hedgerows and ruin the L7497
- The subject site is within 5minutes of the South East Greenway in Kilkenny. The proper planning o the area is vitality important.
- There is no need to over-industrialise the area along the laneway. The residential amenities and recreational pursuits on L7497 stand to be compromised under the proposed plan, particularly as the applicant has so many sites available to him within his landholding of 130hectareas.
- Prior to the famine, Mary and Edmund O'Neill lived in Tinnaranny. The area needs to be preserved. Mary and Edmunds son James became a successful

American actor, and grandson became a Pulitzer Prize winning and Nobel Prize winning author.

- L7497 includes views of the River Barrow, sights of the Blackstairs Mountains, Mount Leinster.
- The proposed development will detract from the landscape and adversely affect the established rural character.
- The proposed dairy enterprise could lead to unrestrained development of lands around the subject site.

6.2. Applicant Response

It is not the family's intention to interfere any historical or cultural connections of Tinnaranny. There are no internal hedges or stone walls to be removed for the construction of the proposal. The entrance was agreed with the 90metre sightlines, with no loss of roadside definition.

There will be no impact to the South East Greenway as a result of the proposal which is 4km from the site.

The proposal is a modest scaled agricultural development in a rural area and will not have an adverse on the visual impact of the area.

The O'Neill family may have come from the area, there is no proof the homestead is located on the landholding. There are no burdens associated with the entire landholding. There is no protected structure. The stone wall been referred to by the appellants is not within the site area.

The land or the site is not within a designated landscape or protected area.

The proposal is not industrial it is the modernisation and rationalisation of a family farm business. All farming practices comply with EU legislation. The Conway family own the two dwellings nearest the site.

The Conways were farming in the area before the third-party appellants moved to the area and built houses. The noise and odours associated with the farm existed long before the appellants moved into the area 10-15 years ago.

The proposal will not infringe on anyone's enjoyment of the countryside.

To place the dairy at the existing farm would mean extra traffic and machinery on the road on a daily basis. The proposed development is to consolidate the landholding within the 56Ha on the opposite side of road.

The Conway family have been wished well by all other neighbours and the community for converting from dry stock to dairy.

6.3. Planning Authority Response

There is no further comment from the planning authority to the appeal.

7.0 Assessment

7.1. Introduction

The appeal file states the applicant owns 130.73Ha in Tinneranny, which he has been farming for 45 years. The OS map accompanying the planning application outlines the entire family landholding, and this is relevant to the proposed location of the new dairy farmyard. The farm is to be split to provide succession for two sons. It is intended that one son will run the existing farmyard, and the other son will run the new farmyard (i.e. the current proposed development) on 56Ha of land on the opposite side of the road to the existing family home and extensive farmyard. The subject site is centrally located within the subdivided 56ha and it will host the new dairy yard.

7.2. Cultural and Historical Significance of the Area

There was strong local objection to the proposed development at planning application stage (11 No. third party submissions in total). The main crux of the objections and the grounds of appeal is the claim, the subject site is beside the former homestead of Edmund O'Neill, whose son became a famous author and their grandson Eugene O'Neill became a Pulitzer Prize winning and Nobel Winning playwright.

The Board referred the proposal to An Chomhairle Ealaíon (The Arts Council), An Taisce, Fáilte Ireland, The Heritage Council, and the Department of the Environment for comment. There were no submissions received from the Prescribed Bodies during the statutory period.

There is no concrete evidence indicating that the O'Neill homestead is located on the applicant's landholding, however it is generally accepted it is located within the Tinnaranny area of New Ross. There are no protected structures on the landholding.

Given the lack of technical evidence, and submissions from the governing bodies, the Board cannot justify overturning the planning authority's decision to grant planning permission on the basis of a negative impact to the historical and cultural value of the area.

7.3 **Visual Impact**

The general area is countryside west of the River Barrow, and although elevated above the level of the river it is not highly visible from the wider panorama. The local road is narrow and lined with mature hedges and trees. It is picturesque and tranquil. The appeal file states the area is used for local walks, cycling, and the local golf club and Greenway is in close proximity to the site.

The area is not the subject of any scenic landscape or amenity designations. In the Kilkenny County Development Plan 2014-2020 as per Figure 8.2 Landscape Character Assessment, the site is located within an 'Upland' area. As part of the further information request (23/03/2021) the applicant was asked to reposition the proposed yard onto a lower position on the landscape. The revised location was included in the response to the further information date stamped 6th of May 2021, moving the new dairy yard further southeast on the subject site with a considerable setback between the yard boundary and the existing roadside hedgerow.

Much of the existing hedgerows are to be retained and additional indigenous landscaping will be provided. The existing farmyard on the opposite side of the local road to the subject site, is positioned on a higher ground level and is a more expansive site. In my opinion, the existing farmyard, it does not detract from the overall visual qualities of the area. An agricultural farmyard is typical of rural landscapes in Ireland, and the buildings will not look misplaced or detract from the visual qualities of the area. The landowner's family home is a vernacular-style two storey dwelling on the opposite side of the road to the subject site. The dwelling's siting and design is tastefully executed and in keeping with visual qualities of the

area. On balance, I consider the applicants demonstrate a clear understanding and appreciation for the visual qualities of Tinnaranny.

7.4 **Road Safety**

There was a previous planning application relating to the landholding for the same development on a different site which was refused on visual and traffic ground, **planning reference 20/584**. The subject site is located north of the previous proposal and this current application addresses previous reasons for refusal. The current proposal includes a new access onto the local road to serve the dairy farm. The road frontage is straight and sightlines are acceptable. The local road is narrow at 3.5metres however it is typical of a local rural road. The Kilkenny Roads Engineer examined the proposal and deemed it to be acceptable on traffic safety grounds. The surface water from the proposed entrance will be collected into an inceptor drain, into a soakpit for clean water, which is included on the site layout drawings and supported by soil suitability tests.

7.5 **Environmental**

The further information submission included all clean/ soiled yard areas, feed areas with appropriate piped drainage systems to separate both clean and soiled water. The buildings and underground tanks have been designed to the *Department of Agriculture Food and Marine Specifications S101 and S123*.

A schedule of detailed calculations demonstrating that the proposed slurry tank can accommodate the run-off and scrapings from all soiled/ dirty yard areas, collection yards, silage aprons, cubicles, feed areas etc.

7.6 **Appropriate Assessment**

On the issue of appropriate assessment I note that the proposed development is located in close proximity to the confluence of the River Nore and River Barrow, therefore it is within 1km of the River Nore and River Barrow SPA site. Having regard to the nature, scale, and location of the proposed development which includes the collection and containment of all soiled water within the subject site, the nature of the receiving environment, and the separation distance to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the

proposed development would not 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 the planning authority's decision to grant planning permission for the proposed development be upheld by the Board.

9.0 Reasons and Considerations

Having regard to:

(a) the provisions of the Kilkenny County Development Plan 2014-2020,

(b) the existing use of the landholding for farming purposes,

(c) the pattern of development in a rural area,

(d) the revised proposals submitted as further information on the 6th of May 2021

considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, would not be prejudicial to public health, would not give rise to water pollution and 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 as amended by the further documentation received by the planning authority on the 6th of May 2021, 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, prior to commencement of development.

Reason: In the interests 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:

(a) Details of the number and types of animals to be housed.

(b) The arrangements for the collection, storage and disposal of slurry.

(c) Arrangements for the cleansing of the buildings and structures (including the public road, where relevant).

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

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. A minimum of 16 weeks storage shall be provided in the underground storage tank. Prior to commencement of development, details showing how it is intended to comply with this requirement shall be submitted to, and agreed in writing with, the planning authority.

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

7. Details of the finishes of the new farmyard sheds, the location of fencing of paddocks and other areas and the design shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to allow the planning authority to assess the impact of these matters on the visual amenity of the area before the development commences.

8. The proposed development shall be undertaken in compliance with all environmental commitments made in the documentation supporting the application.

Reason: In the interests of clarity and to ensure the protection of the environment.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including but not limited to, hours of working, noise and dust management measures, surface water management proposals, the management of construction traffic and off-site disposal of construction waste.

Reason: In the interests of public safety, residential amenity and protection of the environment.

10. Prior to the commencement of the development, the developer shall agree in writing, full details regarding culverting the proposed entrance, provisions of adequate sightlines, and finishes to the proposed splayed entrance to be in keeping with the existing stone wall along the roadside boundary.

Reason: In the interests of traffic safety and visual amenity.

11. The farmyard site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder.

(ii) Details of screen planting which shall not include cupressocyparis x leylandii.

(iii) Details of roadside planting which shall include indigenous planting and shall not include prunus species.

(b) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

12. 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.

Caryn Coogan
Planning Inspector

21st of September 2021