



An
Bord
Pleanála

Inspector's Report ABP-311144-21

Development	To construct an extension to an existing cattle shed with slatted tanks, calf house and ancillary works.
Location	Clogheenduane, Ballinhassig, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	21/4843
Applicant(s)	James Murphy
Type of Application	Permission
Planning Authority Decision	Grant, subject to 14 conditions
Type of Appeal	Third Party -v- Decision
Appellant(s)	Steve Rawbone & Camilla Bywater
Observer(s)	None
Date of Site Inspection	14 th October 2021
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located in the townland of Clogheenduane, which lies 3.7 km to the east north-east of Inishannon and 5.6 km to the south-west of Ballinhassig. The surrounding countryside is of gently undulating topography and it is predominantly in agricultural use. The site is accessed off the local road network to the south of the N71.
- 1.2. The site itself is of regular shape and it extends over an area of 0.3 hectares. This site encompasses the farm yard, which serves the applicant's surrounding 38-hectare farm, and it is composed of a cattle shed with an adjoining general store and an adjacent smaller cattle shed. These buildings lie in the western half of the yard. The eastern half is composed of a concrete hardstanding upon which wrapped bales of fodder are stored.
- 1.3. A public right of way runs alongside the southern boundary of the site. This right of way links the local road to the west with a historic grave yard to the east. That portion of it which lies to the west of the site affords access off its northern side to 2 two-storey dwelling houses. The appellants reside in the more westerly of these dwelling houses. A parallel private lane to the south provides a dedicated link between the local road and the site.

2.0 Proposed Development

- 2.1. The proposal would entail the following elements:
 - The existing cattle shed (474 sqm) would be extended to the east by 331 sqm and to the west by 115 sqm. The former extension would extend the existing covered space available for cattle and it would be served by new underground slatted slurry tanks with a capacity of 429 cubic metres. Its eaves and ridge heights would be higher than those exhibited by the existing cattle shed, i.e. 4.2m compared to 3m and 9m compared to 5.35m. The latter extension would provide a calf house. It would be of elongated form under a mono-pitched roof.
 - As a consequence of the new build, an existing underground slatted slurry tank adjacent to the south-eastern corner of the existing cattle shed would

become redundant and so it would be back filled. (Another existing slatted slurry tank, which serves the smaller cattle shed, would be retained).

- 2.2. A note on the submitted plans states that the farm carries 30 suckler cows, 10 heifers, and 60 weanlings (cattle aged 6 – 18 months). As extended under the proposal, the cattle sheds would allow the wintering indoors of the applicant's entire herd without the need to use any outside hard standings.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was granted, subject to 14 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The following further information was requested:

- Submitted plans should show what was permitted under 16/4504. Additionally, the following points need to be addressed:
 - The location of third-party wells within the vicinity of the site,
 - Capacity of permitted slatted tank (229 cubic metres) to be allowed for, and
 - Submitted plans to show the permitted slatted tank.
- Business plan to gauge extent of any intensification and attendant impacts upon residential amenity.
- Permitted and proposed slatted tanks would result in over capacity?

3.2.2. Other Technical Reports

- Cork County Council

- Environment: Following receipt of further information, no objection, subject to conditions. The advice also includes a response to the objectors (appellants) letter of objection to the application.
- Area Engineer: Defers to Environment.

4.0 Planning History

- 16/4504: Extend slatted tank into an existing cattle shed: Permitted. This permission was the subject of an application to the Board for leave to appeal (LV3309), which was denied as “it has not been show that the development in respect of which a decision to grant permission has been made will differ materially from the development as set out in the application for permission by reason of conditions imposed by the planning authority to which the grant is subject.”
- 21/5021: 5-year time extension to 16/4504: Permitted.

5.0 Policy and Context

5.1. Development Plan

Under the Cork County Development Plan 2014 – 2020 (CDP), the site is shown as lying within Landscape Character Type 6(a), Broad Fertile Lowland Valleys, in which the landscape value and sensitivity are deemed to be high, and the landscape importance is categorised as County.

Policy Objective EE 8-1 of the CDP states:

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

- *Encouraging the development of sustainable agricultural and infrastructure including farming buildings...*

5.2. Natural Heritage Designations

Cork Harbour SPA (004030)

5.3. EIA Screening

The project is essentially to extend an existing cattle shed. Under the Planning and Development Regulations, 2001 – 2021, it is not one that comes within the scope of any of the classes of development, which are the subject of EIA.

6.0 The Appeal

6.1. Grounds of Appeal

Steve Rawbone & Camilla Bywater of Ragbridge House

Attention is drawn to the appellants original letter of objection and in particular the following points are highlighted as grounds of appeal:

- The appellants dwelling house lies beyond the nearest dwelling house to the applicant's farm yard, which is presented as being either 4m or 8m away in successive planning applications. The appellants dwelling house would appear to be 20m away. Teagasc advice states that the distance between farm buildings and non-farm dwelling houses should be at least 100m.
- The farm yard poses a risk to the appellants two children. It is unfenced and existing/proposed slurry tanks are especially hazardous. The applicant does not reside on-site and his response time to stock that have broken out can be up to an hour.
- As it is, occasionally the smell from the applicant's farm yard can prevent washing from being hung out to dry. With the proposed intensification, the incidence of smells would have a greater impact on the amenities of the appellant's residential property.
- Given the appellants amenity concerns, the advice of a local valuer is that the value of their residential property would suffer.

The other points raised at the application stage related to the following:

- Teagasc advice states that farm buildings should be sited more than 10m from public roads. The proposal would infringe this distance.

- Teagasc advice states that slurry tanks in new and existing farm yards should be sited, variously, 60m and 30m away from wells. Given the intensification of use that would arise from the proposal, it should be regarded as a new farm yard and the appellants' neighbour's well would be only 55m away.
- Teagasc advice states that slurry tanks in new and existing farm yards should be sited, variously, 50m and 10m away from watercourses. Given the intensification of use that would arise from the proposal, it should be regarded as a new farm yard and the distance from it to the nearest watercourse would be either 47m or 42m away, as cited in successive planning applications.
- Leakage from the proposed slurry tank may lead to pollution, e.g. natural springs and a river lie down slope from the farm yard. The suitability of this yard for slurry production is questioned.
- Under 16/4504, the applicant's herd would double in number from 45 to 90. Under the current proposal it would rise further to 100. The capacity of existing/proposed slurry tanks would be 480 cubic metres, whereas 325 cubic metres would suffice for 100 cattle. Further increases with their associated impacts on residential amenity are thus anticipated.

6.2. Applicant Response

Response disallowed as it was received outside the statutory time period.

6.3. Planning Authority Response

No further comments.

6.4. Observations

None

6.5. Further Responses

None

7.0 Assessment

7.1. I have reviewed the proposal in the light of the Cork County Development Plan 2014 – 2020 (CDP), relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Intensification of use,
- (ii) Residential amenity,
- (iii) Water, and
- (iv) Appropriate Assessment.

(i) Intensification of use

7.2. The current application was preceded by application 16/4504, which proposed the installation of an underground slatted slurry tank in the applicant's existing cattle shed. Permission was granted and, under application 21/5021 which was lodged on 19th April 2021, extended for a further 5 years. In 2016, the applicant stated that his existing herd comprised 15 suckler cows, 15 calves and 15 weanlings (cattle aged 6 – 18 months), i.e. 45 cattle, and that his proposed herd would comprise 30 suckler cows, 30 calves, and 30 weanlings, i.e. 90 cattle.

7.3. Under the current application, which was lodged on 6th April 2021, the applicant states that the farm carries 30 suckler cows, 10 heifers, and 60 weanlings, i.e. 100 cattle, which is described as a "full stocking rate".

7.4. Under the earlier proposal, the applicant envisaged being able to winter his existing suckler cows and calves in the main cattle shed. However, he now states that should his current proposal be granted permission, he would not go ahead with the earlier proposal. The change in this respect is attributed to concern over the lack of headroom in the existing cattle shed to allow modern machinery to manoeuvre within it, e.g. for the purpose of cleaning. Consequently, the eastern extension now proposed would have higher eaves and ridge heights to ensure adequate headroom.

7.5. I note the differences in the applicant's herd size in 2016 and that which either pertains at present or could pertain under a "full stocking rate". I note, too, that whereas the adaptation of the existing cattle shed previously proposed would have

allowed the existing smaller herd size to be wintered indoors, the extension of this shed as now proposed would be needed if the larger herd size is to be wintered indoors.

- 7.6. Clearly, the current proposal would facilitate an intensification in the use of the farm yard in winter months. The proposed extensions would lead to a substantial increase in the floor space and volume of agricultural buildings comprised in this yard. However, existing buildings would be retained and so the proposal would not entail the redevelopment of the farm yard only the expansion in its capacity to accommodate cattle in accordance with modern farming practice. I, therefore, consider that it would be unreasonable to regard this proposal as entailing in effect the development of a new farm yard, as suggested by the appellants, and with it the application of separation distances that would normally pertain to such an eventuality.
- 7.7. I conclude that the proposal would entail an intensification in the use of the farm yard. I conclude, too, that this proposal would entail the extension of existing buildings rather than their redevelopment to provide a new farm yard.

(ii) Amenity

- 7.8. The appellants raise several amenity concerns, which can be summarised as follows:
- Their dwelling house is 20m away from the applicant's farm yard rather than the 100m recommended as a minimum by Teagasc for non-farm dwelling houses,
 - The public right of way would be within 10m of the proposal, contrary to the advice of Teagasc,
 - The farm yard poses an accident risk to their children and, as the applicant resides off-site, his response time to, e.g. cattle breaking out, is slow,
 - Odours from the farm yard can militate against washing being dried. With intensification such incidents would increase, and
 - The proposed slatted slurry tank would lead to the devaluation of their property.

- 7.9. With respect to the appellants' first concern, I note that the rear extension to their dwelling house is just over 20m away from the site and that within this site, which coincides with the existing farm yard, the proposed calf shed and the extension to the main cattle shed would be 35m and 54m away. (Between the appellants' extended dwelling house and this site there is another dwelling house). In the light of the discussion under the first heading of my assessment, I do not consider that it would be reasonable to apply a 100m separation distance intended to guide the siting of a new farm yard to the existing farm yard and its development as proposed.
- 7.10. With respect to the appellants' second concern, the proposal would not encroach upon the public right of way and its proximity to this right of way would not bring the buildings comprised in the farm yard appreciably closer to the same. Again, in the light of the discussion under the first heading of my assessment, I do not consider that it would be reasonable to apply a 10m separation distance intended to guide the siting of a new farm yard to the existing farm yard and its development as proposed.
- 7.11. With respect to the appellants' third concern, questions of health and safety and response times by the applicant pertain at present and they would not be appreciably affected by the proposal, e.g. there are slatted tanks in-situ at present, just as there would be in the future.
- 7.12. With respect to the appellant's fourth concern, odours emanate from the farm yard from time-to-time at present, e.g. due to the existing slatted tanks. Such odours are inevitable in rural areas and their incidence can be expected to vary with fluctuations and changes in farming practices. Under the proposal, the additional slatted tanks would be installed to the east of the existing cattle shed and so a minimum of 58m away from the appellants' extended dwelling house. This dwelling house lies to the west north-west of the site and, as the prevailing wind is from the south-west, odours from this site tend to be blown to the north-east and so away from it.
- 7.13. With respect to the appellant's fifth concern, given the existing baseline set out above, I do not anticipate that the proposed net increase in the volume of slatted tanks and the greater incidence in odours that may arise would affect the value of the appellants' property.
- 7.14. I conclude that the proposal would be compatible with the existing amenities of the area.

(iii) Water

- 7.15. Under application 16/4504, the applicant submitted a hydrological study, which identified the bored wells to the west of the site, which serve the farm yard and the two dwelling houses in its vicinity. This study established that the site has a Groundwater Protection Response of R1 and so it lies within the lowest risk category under the EPA's guidelines. A site investigation indicated a T value of 28 and sub-soils composed of gravelly silt, which were unsaturated and of moderate permeability. Groundwater flow is to the north-east and so the site lies downstream of the bored wells. The proposed slatted tanks then and now would, likewise, be downstream. The study concluded that these tanks would be sited outside of the Zone of Catchment radii for the bored wells and so their presence would be compatible with the safe functioning of these wells.
- 7.16. Under the current proposal, slatted tanks would be sited in positions further away from the bored wells than was previously proposed, i.e. between 61.5m and 78.5m, distances that are greater than would have pertained under the previous proposal. The appellants contend that a 60m separation distance should be adopted. Again, this distance is relevant to a new farm yard. Nevertheless, the proposed slatted tanks would achieve it.
- 7.17. A stream lies to the north of the site. This stream flows westwards. It would be a minimum of 48.5m away from the proposed slatted tanks. The appellants contend that a 50m separation distance should be adopted. Again, this distance is relevant to a new farm yard. Ten metres is the separation distance for an existing farm yard.
- 7.18. The appellants draw attention to the lower level of the stream compared to the site and they question whether the installation of slatted tanks would be suitable within this site. In this respect, I note the existence of such tanks at present, and I note, too, that, under the proposal, cattle housed for the winter months would not have access to the open yard. Consequently, waste would be managed entirely within the extended cattle shed. I consider that, provided the proposed slatted tank is the subject of a leakage detection system, the proposal would not pose any appreciable risk to the stream. I consider, too, that stormwater run-off should be directed to soakaways.

- 7.19. The appellants also draw attention to the size of the applicant's herd and the volume of the existing and proposed slatted tanks. Thus, the herd would require to be served by 325 cubic metres while the tanks would have a total capacity of 480 cubic metres, i.e. 429 cubic metres comprised in the proposed slatted tanks and 51 cubic metres comprised in the retained existing slatted tank. The appellants, therefore, anticipate that the herd size would be greater than that cited by the applicant.
- 7.20. The applicant responded under further information to the above difference in figures by stating that the higher than needed capacity would allow for more flexibility if he needs to winter cattle for longer periods. The Planning Authority's Environment consultee advised that the proposed capacity would be adequate, and he drew attention to the minimum of 16 weeks slurry storage requirement that is imposed by the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017. He also drew attention to the applicant's farm and the suitability of the majority of his lands for the recovery of slurry by land spreading.
- 7.21. Under the OPW's flood maps, the site is not the subject of any identified flood risk.
- 7.22. I conclude that the proposal would, subject to conditions with respect to a leak detection system and a stormwater drainage system, not raise any water issues.

(iv) Appropriate Assessment

- 7.23. The project is essentially to extend a cattle shed in the applicant's existing farm yard. The site is neither in nor near to any European sites and I am not aware of any source/pathway/receptor routes between it and any such sites that lie elsewhere in the wider area of the County. Accordingly, no Appropriate Assessment issues would arise.
- 7.24. Having regard to the nature, scale, and location of the proposal, the nature of the receiving environment, and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposal 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

That permission be granted.

9.0 Reasons and Considerations

Having regard to the Cork County Development Plan 2014 – 2020 and the planning history of the site, it is considered that, subject to conditions, the proposal would lead to an intensification in the use of the existing farm yard, which would fulfil Objective EE 8-1 of the Development Plan and which would be compatible with the amenities of the area. This proposal would not raise any water or Appropriate Assessment issues. It would, therefore, accord with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 28th & 29th days of June 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>(a) Details of a leakage detection system to be installed underneath the proposed slatted slurry tanks shall be prepared.</p> <p>(b) Details of a comprehensive stormwater drainage system, including soakaways, to serve the farm yard with the proposed extensions in-situ shall be prepared.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>

3.	<p>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 hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
4.	<p>All foul effluent and slurry generated by the proposed development 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 right of way.</p> <p>Reason: In the interest of public health.</p>
5.	<p>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.</p> <p>Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of watercourses.</p>
6.	<p>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.</p> <p>Reason: In the interest of environmental protection and public health.</p>

Hugh D. Morrison
Planning Inspector

16th November 2021