



An
Bord
Pleanála

Inspector's Report ABP-312715-22

Development	Retention permission for concrete slab as constructed and permission for shed incorporating 2 stables and relocation of existing field entrance.
Location	Crobally Lower, Old Parish, Dungarvan, Co. Waterford.
Planning Authority	Waterford County Council
Planning Authority Reg. Ref.	21776
Applicant(s)	Neilus O' Donoghue
Type of Application	Permission and Retention Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Colman and Elaine Quinn
Observer(s)	None
Date of Site Inspection	28 th October 2022

Inspector

Emer Doyle

1.0 Site Location and Description

- 1.1. The site of the proposed development is located in a rural area at Crobally Lower, approximately 4.5km to the north east of Ardmore, Co. Waterford.
- 1.2. The site has a stated area of 0.39 hectares and comprises of an existing cottage and shed which are separated from agricultural lands by a timber post and rail fence. A concrete slab has been recently constructed on the agricultural lands. The predominant land use in the area is agriculture with sporadic housing along local roads. There is a neighbouring dwelling to the west of the site.

2.0 Proposed Development

- 2.1. Permission sought for the following:
 - Retention of concrete Slab.
 - Construction of Agricultural shed with a stated area of c. 84m².
 - The ridge height of the shed is 4.16m.
 - The shed comprises of 2 stables, a storage area, a wash stall, a tack room and a feed room.
 - Relocation of existing entrance.
- 2.2. Further Information was submitted to the Planning Authority dated the 20th of December 2021 as follows:
 - Details of applicant's lifelong association with horses and justification for stabling 2 No. horses.
 - Revised site layout map indicating sightlines of 55m in both directions together with location of septic tank in the ownership of applicant and neighbouring borehole.
 - Photographs of site to demonstrate sight distances.
 - Details in relation to proposed effluent together with details of slurry spreading on adjacent lands and letter of consent from landowner.
 - Landscaping proposals.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 7 No. standard conditions.

Condition 2 (g) required that the entrance and associated wing walls shall be constructed of sod and stone faced masonry or natural stone and shall not exceed 1.2m in height.

Condition 6 (a) required that all new site boundaries other than road and wing walls shall be constructed of a raised earthen berm measuring 1 metre in height and planted with naturalised hedgerow species.

4.0 Planning Authority Reports

4.1.1. Planning Reports

- The first planner's report dated 9th of August 2021 considered that the proposed development was appropriately scaled for the site and appropriately located and would be acceptable in principle if the applicants could submit details of landholding and that there were no redundant buildings that could be used for storage purposes.
- The second planner's report dated the 9th of November 2021 considered that the applicant had adequately demonstrated land ownership/holdings and the requirement to build the shed at this location.

4.1.2. Other Technical Reports

- **Agricultural Scientist- Environment Section:** No objection subject to conditions.

4.2. Prescribed Bodies

4.2.1. No reports.

4.3. **Third Party Observations**

- 4.3.1. One third party observation was submitted to the Planning Authority which is similar to the grounds of appeal.

5.0 **Planning History**

- 5.1.1. I am not aware of any relevant planning history on the site.

6.0 **Policy Context**

6.1. **Development Plan**

Waterford County Development Plan 2022-2028

Section 6.1 of Volume 2 sets out policy for Rural Development

Development Management DM32

- Agricultural buildings/ structures be sited as unobtrusively as possible, and
- The design, scale, siting and layout of agricultural buildings should respect, and where possible, enhance the rural environment.
- Appropriate materials and colours are used. The use of dark colours, notably, dark green/ reds and greys are most suitable for farm buildings.
- The planting of shelter belts will be required to screen large scale sheds and structures.
- Buildings should generally be located a minimum of 100 metres from the nearest dwelling other than the applicants dwelling.
- The Council will generally seek to cluster agricultural buildings and structures together, and siting to assimilate effectively into the landscape.
- Any proposals for farmyard developments must make provision for runoff, and where there is a danger of groundwater or surface water contamination, the Council will require appropriate treatment of runoff. The Council shall have regard to the European Communities (Good Agricultural Practice for Protection of Waters)

Regulations 2009 (S.I 101 of 2009) in relation to acceptable agricultural practice standards.

6.2. Natural Heritage Designations

6.2.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- Helvick Head to Ballyquin SPA Site Code 004192 c. 200m from the site.
- Ardmore Head SAC Site Code 002123 c. 4.8km from the site.
- Blackwater River SAC Site Code 002170 c. 4.6km from the site.

6.3. EIA Screening

6.3.1. Having regard to the nature and scale of the development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The grounds of appeal can be summarised as follows:

- Concerns regarding borehole as the borehole is located c. 78m from the proposed development and not 120m as stated in the application documentation.
- Concerns regarding visual impact.
- Condition 6 (b) of the Planning Authority decision appears to be an error as it refers to a dwelling. No dwelling is proposed at this location.
- It is considered that inadequate screening is proposed and should ABP decide to grant permission, a condition requiring comprehensive screening is required.

- Map 5 as submitted to the Planning Authority dated the 20th day of December 2021 shows that almost the entire frontage of the site will be removed to achieve sightlines. It is considered that it is not appropriate to grant permission for the new entrance at this location.

7.2. Applicant Response

7.2.1. The response from the applicant can be summarised as follows:

- The borehole was located in accordance with the planning documentation and it was assumed that the appellants had constructed their borehole in accordance with their planning permission. A copy of the site layout granted permission is included in this response.
- The holiday home built by the appellants is located in an agricultural area and bounded on three sides by farmland. Livestock grazing the lands have free access to the strip of farmland between the applicant's land and the appellant's land and can pollute the stream on these lands.
- The conditions imposed and the comprehensive landscaping proposals submitted in response to the Further Information Request will ensure no adverse visual impact. Along my western boundary, I have planted a row of native whitethorn and I plan to plant additional screening once the shed is built.
- The use of the word 'dwelling' in condition 6 (b) is clearly a 'typo' and should be disregarded.
- If the proposed development is carried out as per submitted proposals, there will be no danger of any impact on either the stream or the appellant's site.
- The size of shed proposed is the minimum required for a two horse operation.
- No hedgerow existing on the roadside bank and hence none was removed.

7.3. Planning Authority Response

- None.

7.4. **Observations**

- None.

8.0 **Assessment**

8.1. The main issues that arise for consideration in relation to this appeal can be summarised as follows:

- Visual Impact
- Impact on Public Health
- Appropriate Assessment

8.2. **Visual Impact**

8.2.1. The main concerns raised by the appellant in relation to visual impact relate to concerns regarding the size of the shed, the impact in a beautiful coastal location and the removal of hedgerow in order to achieve sightlines.

8.2.2. The proposed shed has a ridge height of 4.16m and a floor area of 83.57m². A justification of the need for the development was submitted in response to the Further Information Request. In a letter to the Planning Authority, the applicant outlined that he has a long history of involvement in the equine industry and is currently a freelance equine instructor to competition riders. He also keeps a number of younger horses to produce, train and sell on. This involves buying unbroken 3 year olds, breaking them and schooling them to competition standards. They are kept stabled during the competition season. The appeal response considers that the size of shed proposed is the minimum size required for two horses. In my view, the shed size proposed is of low profile and relatively small in size and not excessive or dominant in the landscape at this location. I note that the site is located in coastal landscape as outlined on Map A8.1 of the Appendix 8 of the Waterford City and County Development Plan, however I note that it is located on a local road in a rural location and is not a designated scenic route or a protected view outlined in Section 5 of Appendix 8.

- 8.2.3. I would also note that agricultural buildings of this scale and type are common in this part of rural County Waterford and there are already a number in the surrounding area.
- 8.2.4. In terms of landscaping, I note that the response from the applicant states that he removed overgrown neglected leylandii trees, rebuilt the banks and carried out extensive planting of native hedging which will in time screen the appellants view. It is stated that no hedgerow existed along the roadside bank and hence, none was removed - the existing bank was cleaned of weeds and grass. It is stated that condition 6 (b) of the Planning Authority which refers to 'the first planting season following the completion of the dwelling' is clearly a 'typo' and should be disregarded.
- 8.2.5. The site is very bare and exposed at present with some newly planted hedgerow. I accept that the applicant removed scrub and cleaned the existing roadside hedge of weeds and grass and there was little screening from the roadside boundary even prior to the removal of same. Landscaping proposals were submitted to the Planning Authority in response to the Further Information Request and planting has already been carried out on the western and northern boundaries. The appeal response states that it is proposed to carry out additional planting once the shed is built. I am of the view that whilst the shed proposed is low in profile and of a modest scale, additional landscaping would be required at this location.
- 8.2.6. The proposal is of a standard agricultural design with a mix of concrete and metal cladding for the walls and roof. Whilst the structure will be visible from some surrounding areas, I do not consider that the placement of such a structure and its associated activity in a strongly agricultural rural area would be seriously injurious to the visual amenities of the area. Having regard to the site topography, the existing boundary planting and additional planting proposed, and the presence of similar structures in the surrounding area, I am satisfied that the proposed development will not have a detrimental impact on the visual amenities of the area.

8.3. Impact on Public Health

- 8.3.1. The appellants object to the proposed development on the grounds that it would impact on public health and contaminate their borewell which is located c. 86m from the site.

- 8.3.2. The response from the applicant states that the reason the well was indicated in the location shown was that it was assumed that the appellants had constructed their dwelling in accordance with the permission granted to that under PA Reg. Ref. 05/1451. The site layout granted permission is included in the appeal documentation and whilst it is not to scale, it indicates a well on the other side of the dwelling over 100m from the proposed shed.
- 8.4. Details of effluent, soiled water, slurry and dung arising from the proposed development are indicated in the agricultural development form submitted in response to the Further Information Request. It is proposed that slurry spreading will be every 3 months or as required between March and December. The applicant has entered into an agreement with a neighbour to spread slurry on neighbouring land and a letter of consent has been submitted to the Planning Authority. Effluent arising from the proposed development will be collected and stored in a 3600 litre tank and carried off site by a slurry tanker.
- 8.5. I was unable to gain access to the gated house which is stated in the appeal to be a holiday home but according to the appellants, the borehole is located c.86m from the proposed shed. Condition 4 (a) of the Planning Authority requires that all foul effluent generated by the proposed and existing agricultural development shall be conveyed through properly constructed channels to the proposed and existing storage facilities and no effluent shall be allowed to discharge to any stream, river watercourse or to lands. Condition 4 (b) of the Planning Authority requires that the slurry effluent and farm yard manure shall be disposed of in such a manner at such intervals and locations as to ensure that it does not cause pollution of any watercourse or source of water supply and is in accordance with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2014.
- 8.6. It is my view that these conditions would protect public health and residential amenity, prevent pollution of watercourses and ensure the satisfactory storage and disposal of waste material. I note however that the relevant regulations are now European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2017, as amended by SI 65 of 2018.

8.7. **Appropriate Assessment**

- 8.7.1. I have considered the proposed agricultural development in light of the requirements of S 177S and 177U of the Planning and Development Act 2000 as amended.
- 8.7.2. A screening report for Appropriate Assessment was not submitted with this appeal case. However, in their assessment of the proposed development, Appropriate Assessment Screening was undertaken by Waterford County Council as part of their planning assessment, and a finding of no likely significant effects on a European site was determined. Waterford County Council concluded that the proposed development would not require the preparation of a Natura Impact Statement and Appropriate Assessment was not carried out.
- 8.7.3. It is proposed to retain a concrete slab, construct an agricultural shed and relocate an existing entrance.
- 8.7.4. There are no watercourses or other ecological features of note on the site that would connect it to European sites in the wider area.
- 8.7.5. The proposed development is not located within or immediately adjacent to any site designated as a European site. The subject site is located approximately 200m to the north of Helvick Head to Ballyquin SPA (Site Code 004192).
- 8.7.6. The qualifying interests for the Helvick Head to Ballyquin Spa are (A017) Cormorant, (A103) Peregrine, (A184) Herring Gull, (A188) Kittiwake, and (A346) Chough.
- 8.7.7. The conservation objectives for the SPA are to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
- 8.7.8. Having regard to:
- the nature and scale of the proposed development (i.e. retention of existing concrete slab, construction of 2 stables and relocation of entrance)
 - the nature of the immediate receiving environment,
 - the existing use of lands (i.e. primarily agricultural lands),
 - no change of use of lands between the site and the SPA,
 - the separation distance between the site and the SPA,

- the relatively short-term construction phase,
- no discharge to any surface waterbody,
- no loss, fragmentation, disruption or disturbance to the SPA or its bird species either directly or indirectly.

I do not consider that the proposal would be likely to significantly impact the qualifying interests of the Helvick Head to Ballyquin SPA. Having regard to the nature and scale of the proposed development and its location relative to Helvick Head to Ballyquin SPA, it is not considered that the proposed development would be likely to result in significant effects either individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

10.0 Reasons and Considerations

- 10.1. Having regard to the established agricultural nature of the area, the scale and appearance of the proposed development, the nature of the receiving environment, the pattern of development in the vicinity and the provisions of the Waterford County Development Plan 2022-2028, subject to compliance with the conditions set out below, it is considered that it is considered that, subject to compliance with the conditions set out below, the development proposed to be retained and completed would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would constitute an acceptable use at this location. The development proposed would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 20th day of December, 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 and the development shall be retained in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed building shall be used solely for the housing of horses and ancillary uses. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, any change of use shall be the subject of a separate application for permission to the planning authority.</p> <p>Reason: In the interest of orderly development.</p>
3.	<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>
4.	<p>The following landscape measures shall apply to the site:</p> <p>(a) no new non-native tree species shall be introduced into the site or its boundaries,</p> <p>(b) any failures within a tree planting scheme within five years of planting shall be replaced, and</p>

	<p>(c) no invasive species shall be introduced into the site. Any invasive species occurring on the site shall only be dealt with any an invasive species specialist.</p> <p>Reason: In the interests of visual amenity and biodiversity</p>
5.	<p>All stable manure and foul waters generated by the proposed development and in the farmyard shall be conveyed through properly constructed channels to storage facilities for subsequent landspreading and no effluent or slurry shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road.</p> <p>Reason: In the interest of public health.</p>
6.	<p>All uncontaminated roof water from the 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.</p> <p>Reason: In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.</p>
7.	<p>The external finish of the proposed development shall be Juniper green or similar dark green colour unless otherwise agreed in writing with the Planning Authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>

Emer Doyle
Planning Inspector

31st March 2023