



An
Bord
Pleanála

Inspector's Report ABP-313480-22

Development	Change of use to commercial food processing facility. Construction of extension to same and all associated site works.
Location	Lurgan, Tubberclair, Glasson, Athlone, Co. Westmeath
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	21227
Applicants	Lurgan Foods
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	Gary & Claire Stack & Others
Date of Site Inspection	26 th September 2022
Inspector	Dolores McCague

Contents

1.0 Site Location and Description

1.1.1. The site is located at Lurgan, Tubberclair, Glasson, Athlone, Co. Westmeath, north of Athlone, in rural Co Westmeath.

2.0 Proposed Development

2.1.1. The proposed development is the described as the change of use of existing stables to a commercial food processing facility; permission is also sought to construct an extension to same; the extension will include storage space, meeting room, staff facilities and toilets. The proposal also includes a new effluent treatment system, percolation area, upgrade of existing access road, parking spaces and all associated site works and drainage

2.1.2. Application documents include – document titled screening for appropriate assessment.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority (PA) decided, dated 11th April 2022, to grant permission subject to 10 conditions, including conditions:

- no. 7 water supply

The water supply, a well, shall be provided of adequate capacity to serve the dwelling house and shall comply with the standards set down in the European Communities (Drinking Water) Regulations (no. 2) 2007 (SI. No. 278 of 2007)

- no. 10 (iii) This applicant shall obtain a discharge licence. All trade effluent from this development shall be in accordance with the emission limits of this licence.

- no. 10 (iv) A Food Waste Management Implementation report providing information on the use, type, quantity, origin, management arrangements and destination of food waste, shall be submitted to the Planning Authority for approval.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The first planning report recommending further information, which issued, includes:

The site is located within a very rural and scenic part of Glasson and accessed off a narrow local road. The established use of the existing structure and associated lands appear to be related to the applicant's leisure as opposed to an agricultural/equestrian business.

Re. policy objective 9.33 - the proposed change of use is not dependent on the subject location nor directly relates to the existing use i.e. agricultural field.

Notwithstanding, the principle of the development is open for consideration at this location and the applicant should be invited to demonstrate the manner in which the proposal complies with CPO 9.36.

Clarify the planning status of the structure on site.

Sightlines

Compliance with CPO 9.36 and status of existing stable structure.

3.2.3. Other Technical Reports

3.2.4. Area Engineer – further information re. sightlines.

3.2.5. Environment – conditions.

3.2.6. CFO – conditions.

3.3. Prescribed Bodies

3.3.1. Irish Water – conditions

3.4. Third Party Observations

3.4.1. Third Party Observations on the file have been read and noted.

3.5. Further Information

3.5.1. A request for further information issued 22 June 2021 on the following points:

1 – sightlines

2 a) demonstrate how the proposal complies with policy objective 9.36; and b) clarify the status of the existing stable structure.

3.5.2. A response submitted 17th August 2021, indicates the achievement of sightlines; states that the stables are exempt development; and refers to the alignment of the company, Lurgan Foods Limited, with the strategic pillars of Food Wise 2025. There is an existing stable/shed unit on the land since 2006. Since 2015 the building has been redundant, as the horse breeding business previously operating on the land has ceased.

3.5.3. A further request issued 19th August 2021, states that the question regarding the status of the existing stable structure has *not* been adequately answered.

3.5.4. A further response submitted 14th September 2021, reiterates the exempted status.

3.5.5. A further request issued 17th September 2021, states that the question regarding the status of the existing stable structure has not been adequately answered.

3.5.6. The applicants responded, 1st November 2021, that they intended to apply for retention of the stables; which they did under Reg ref 21/564.

3.6. Further Reports post FI Response

3.6.1. Area Engineer – 4th April 2022 - conditions including 2.4m x 90m sightlines.

3.6.2. Planning Report recommending permission – 6th April 2022, includes:

Regarding the further information response, 'it is stated' that Lurgan foods have acquired a temporary room within the Ferbane Food campus. This space has helped the business grow but it is too small and is temporary in nature. 'It is stated' that there are no alternative premises in Athlone and the business

requires a larger premises to expand and grow. The report notes the permission has been granted to retain existing stable structure under reg. ref. no. 21/564, (the reference should be to a decision to grant; the date of grant 11/04/22, is after the planning report). Recommending permission.

3.7. Third Party Observations

3.7.1. Third party observations on the file have been read and noted.

4.0 Planning History

21/564 retention of stables, granted, decision date, 11/04/22, (therefore grant 10/05/22).

233195 PA Reg Reg 08/1142 Construct dwelling, garage and treatment system with percolation area – withdrawn.

08/1061 Construct dwelling, garage and treatment system with percolation area – withdrawn.

07/1118 Construct dwelling, garage with stables and treatment system with percolation area – refused for 2 reasons: 1) policy to control non-essential dispersed residential development in rural areas; and 2) inappropriate design. Details supplied with the current appeal.

Pre-planning meeting 21/01/2021, via telephone call, advised that zoned serviced lands or start-up units within towns/villages more appropriate. Applicant advised financially not feasible. Rural diversification. Onus on applicant to submit justification.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Westmeath County Development Plan 2021-2027 is the relevant plan.

Relevant provisions include:

The distribution and location of new development in Westmeath is guided by the Settlement Strategy and the Core Strategy.

Lands are zoned in settlements for enterprise and employment.

For rural Westmeath the aim is to support the role of rural areas in maintaining a stable population base through a strong network of villages and small towns and strengthening rural communities by supporting a resilient rural economy and the sustainable management of land and resources.

Policy objectives include:

CPO 5.23: Seek to target investment and location of new business in the core areas of the County's settlements through sustainable targeted measures that address vacancy, encourage economic development and deliver sustainable reuse and regeneration outcomes.

CPO 5.48: Support key stakeholders, relevant agencies, sectoral representatives and local communities in sustainably developing the agri-food sector in Westmeath to ensure that the economic potential of the sector is secured for the benefit of the local economy, and national economy.

CPO 5.50: Encourage synergy between development of agri-food sector elements of the rural economy such as rural based tourism, rural economic diversification, and enterprise in rural villages.

CPO 5.29 provides for consideration of rural sites for enterprises or considered industrial projects, which, because of their size or other specific site requirements, sometimes require sites outside settlements.

Policy objectives seek the protection of farms and farmland.

In relation to farm diversification policy objectives include:

CPO 9.33: Encourage and facilitate agricultural diversification into agri-businesses such as organic foods, rural tourism and small to medium sized enterprises, subject to the retention of the holding for primarily agricultural use and the proper planning and sustainable development of the area.

CPO 9.34: Support the rural economy and initiatives in relation to diversification, agri business, rural tourism and renewable energy so as to sustain employment opportunities in rural areas.

CPO 9.35: Enhance the competitiveness of rural areas by supporting innovation in rural economic development and enterprise through the diversification of the rural economy into new sectors and services, including ICT-based industries and those addressing climate change and sustainability.

CPO 9.36: The development and expansion of appropriate new businesses in rural areas will normally be encouraged where:

- The scale and nature of the proposed new business are appropriate to the rural area and are in areas of low environmental sensitivity.
- The development will enhance the strength and diversification of the rural economy. The development involves the use of redundant or underused buildings that are of value to the rural area.

5.2. Natural Heritage Designations

5.2.1. Lough Ree SPA 004064, Lough Ree SAC 000440, c 2.7km straight line distance is the nearest Natura site.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity 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

6.1.1. Emma Pillion Planning have submitted the appeal on behalf of Gary & Claire Stack, Paul and Sara Ganly, John Joe Rushe, Damien Gill, Martin and Catherine Worley and David and Brigid Rushe.

6.1.2. The grounds includes:

- An outline of the policy context.
- The site is unzoned, unserviced and is accessible only by a local lane which serves farmers and their families.
- CPO 5.29 is quoted in full.
- The business commenced in the Ferbane Food Campus and having outgrown that it moved its operations to a 2,000 sq ft facility in Tullamore. Articles from local newspapers are attached.
- The business takes spent grain from craft breweries in the midlands and reuses the by-product to create brewers flour. It is borne from the need for the sustainable re-use of waste food by-products and appears in two short years to have proven results.
- The business is a food sector start up but is not an agri-food business as it does not produce commercial food through farming practices. Oxford English Dictionary: agri-food 'the commercial production of food by farming.'
- The site was originally for a dwelling but was refused. The equestrian centre was not sought and the stables remained unauthorised.
- The change of use is not acceptable in principal, contravening objectives 14, 15, 16, 18a, 23 and section 5.3 of the NPF; the Regional strategic outcomes of the EMRSES section 6; CPO 5.6, 5.8, 5.9, 5.10, 5.12, 5.29, 5.34, 5.50, 5.58, 9.33, 9.36, 16.49, 16.54 and sections 5.13.1, 5.13.10, 5.13.12 and 9.10 of the county development plan.

- The reality is that the proposal is commercial food processing on unserved lands. It would set an undesirable precedent. It bears no direct relationship with farming or the rural area in which it seeks to locate.
- There is a previous refusal for poor drainage characteristics of the site.
- Flood maps referred to as attached, are not provided.
- Poor drainage on the site, rushes and flat reeds. There is a stream to the north, which flows along the boundary with John Joe Rush, fed directly from surface water and groundwater from the site. Appellants are concerned regarding impacts.
- AA screening states the ecological status of the streams close to the site as poor.
- No examination of need for a discharge licence.
- The AA screening does not assess discharge.
- Lack of information for public, site is unsuitable.
- Public roads – previous Board decision; pre-planning advice; further information request, refer. The entire road frontage is 10m wide.
- Sightlines are restricted.
- The movement of non-essential commercial traffic would interfere with the free flow and safety of traffic on the third-class road.
- Regarding attempts to secure alternative premises, per FI response, it is noted from the Irish Times article dated 24/02/222 that the company has moved to a 2,000 st ft processing facility in Tullamore. There are suitable and available sites on the market, in Athlone, Tullamore, Kilbeggan, Mullingar, Ballymahon etc.
- The development would impact on residential amenity: noise, deliveries & collections, staff and waste collection traffic, visual intrusion; impact on value; overbearing form, odour, waste, noise and emissions. It is backland development.

6.2. Applicant Response

6.2.1. The applicant has responded to the grounds of appeal; which response includes:

- The development of the business is at an early stage, as it is in the process of transitioning from the incubation phase to a full scale commercial operation. The potential overheads associated with this phase can have a critical bearing on the success or failure of such businesses.
- Referring to development plan policy objective CPO 9.36 they state that the small scale nature of the proposed enterprise, serviced by a low volume of deliveries of raw materials by van, coupled with the fact that the manufacturing process is clean and would not lead to any environmental impact demonstrates that the proposed development is in accordance with CPO 9.36. It will harness the strategic potential of Co Westmeath and re-use and enhance redundant buildings.
- They set out the processes involved, stating that there will be no waste or excess substances. The milling equipment incorporates filters and vacuums, to prevent any dust emissions into the outside environment.
- The development is well set-back from the public road and is 52m from the nearest dwelling.
- They rely on the planner's report and the District Engineer's report in relation to roads and traffic safety, servicing, visual amenity, flood risk and appropriate assessment.
- The nature of the business is constantly changing and they now collect their raw material from a source in Galway instead of Trim. This increases the logistical advantage of the site in terms of distance from its primary suppliers in Galway, Athlone and Longford and to a lesser extent Stradbally Co Laois. The applicant is maximising the strengths of the strategic central location.
- Alternative locations – units were too big, too costly to rent and required significant costly upgrades.

6.3. Planning Authority Response

6.3.1. The planning authority has not responded to the grounds of appeal.

7.0 Assessment

7.1.1. I consider that the main issues which arise in relation to this appeal are: appropriate assessment, compliance with county development plan, traffic safety, waste and wastewater disposal, and residential amenity and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

7.2.1. Having regard to the nature and scale of the proposed development, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.3. Compliance with County Development Plan

7.3.1. The main provisions of the County Development Plan which are relevant to the proposed development are the settlement strategy, the provisions for exceptional enterprises, the provisions for diversification and those which refer to appropriate new businesses in rural areas.

7.3.2. The settlement strategy seeks to concentrate growth in the major settlements and to focus growth in rural areas into smaller settlements commensurate with their scale. The proposal which would be located in a rural area, not within a settlement, would not be in keeping with the settlement strategy.

7.3.3. The plan provides for consideration to be given to 'enterprises or considered industrial projects, which, because of their size or other specific site requirements, sometimes require sites outside settlements'. This provision does not apply to the present case. There is nothing in the nature of proposed use,

the specific site requirements or the size of the enterprise which require it to be located in this rural area or outside settlement.

7.3.4. The plan facilitates agricultural diversification into agri-businesses, rural tourism and small to medium sized enterprises, subject to the retention of the holding for primarily agricultural use. The planner's report states that 'the existing structure and associated lands appear to be related to the applicant's leisure as opposed to an agricultural/equestrian business'. The land appears to have been acquired as a potential site for a dwelling, for which permission was refused in 2007. The total holding, comprising land of variable quality, is only 2.7ha. in extent. The proposal would not involve the 'retention of the holding for primarily agricultural use'.

7.3.5. The development plan provision CPO 9.36 provides for the development and expansion of appropriate new businesses in rural areas normally being encouraged where:

- The scale and nature of the proposed new business is appropriate to the rural area and is in areas of low environmental sensitivity.
- The development will enhance the strength and diversification of the rural economy.
- The development involves the use of redundant or underused buildings that are of value to the rural area.

7.3.6. The area is of low environmental sensitivity, but it is not apparent that the scale and nature of the new business is appropriate to the rural area. The proposed use is seeking to move from an urban location in order to expand and, therefore, it does not appear to me that the scale and nature is appropriate to this unserved rural area, served by a narrow road.

7.3.7. The development includes the use of an agricultural building which is currently disused and which was the subject of a retention permission during the course of this application. While the existing building is of value to the owner, it is not, in my opinion, 'of value to the rural area'. Such a designation might for example refer to a vernacular building of some quality.

7.3.8. I consider therefore that the provisions of CPO 9.36 do not apply to the proposed development.

7.3.9. The proposed development is contrary to the policies and objectives of the County Development Plan and this is a reason to refuse permission.

7.4. Traffic Safety

7.4.1. The proposed development would generate additional traffic movements on this narrow rural road, which movements are not connected with a rural land use. Notwithstanding the availability of minimum sightlines at the site entrance the additional traffic movements on this substandard rural road would constitute a traffic hazard to vulnerable road users.

7.5. Waste and Wastewater Disposal

7.5.1. The nature and volume of the waste which will be produced and nature and volume of the wastewater to be disposed of, is not detailed in the application or appeal, notwithstanding the 8 step production process outlined in the response to the appeal, where it is stated that excess water from the brewers spent grains is created into liquid products used in the food service industry.

7.5.2. It is proposed to provide for wastewater using a package treatment system and a raised percolation area, for a PE of 4. The basis of the PE is not given.

7.5.3. Condition no. 10 (iii) requires the applicant to obtain a discharge licence.

7.5.4. The grounds of appeal states that there is a previous refusal for poor drainage characteristics of the site. It states that there is poor drainage on the site, with rushes and flat reeds, and that the stream to the north, which flows along the boundary with one of the appellants, is fed directly from surface water and groundwater from the site. The appellants are concerned regarding potential impacts on water. They also question the need for a discharge licence.

7.5.5. In my opinion the disposal of waste and wastewater arising from the proposed development is not adequately addressed in the application and appeal.

7.6. Residential Amenity

- 7.6.1. The grounds of appeal states that the development would impact on residential amenity: noise: deliveries & collections, staff and waste collection traffic; visual intrusion; impact on value; and other impacts: overbearing form, odour, waste, noise and emissions. It states that the proposal constitutes backland development.
- 7.6.2. The applicant's response refers to the distance of 52m to the nearest dwelling.
- 7.6.3. The proposed structures are the existing stable building, which is of modest scale, the erection of a slightly larger building, and a low level link between both. In my opinion the buildings could not be described as having an overbearing form.
- 7.6.4. The existing building is in a field which has boundary hedges. There are dwellings in the vicinity, both closer to the road and further from the road. I do not consider that the proposal constitutes backland development.
- 7.6.5. The site is in a rural area where the predominant land use is agriculture and where the noise and odour likely to arise would not be greater than that which would arise from an agricultural building. In my opinion the proposed development would not impact unduly on residential amenity.
- 7.6.6. I consider that the proposed development would not depreciate the value of property in the vicinity.
- 7.6.7. Considerations of residential amenity and property value should not be reasons to refuse permission.

8.0 Recommendation

- 8.1.1. In accordance with the foregoing I recommend that permission should be refused, for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the policies contained in the Westmeath County Development Plan 2021-2027, specifically those relating to Economic Development & Employment (Chapter 5) and Rural Westmeath (Chapter 9), to target new business to locations within settlements and to consider proposals in rural locations which have specific requirements to be sited outside settlements, in order to support towns and villages where development will make a greater contribution to the vitality of the county and where infrastructure and services are available; preserving rural areas mainly for agriculture and selected tourism and recreation uses. It is considered that the development proposed would contravene these policies by reason of the nature and scale of the proposal and the potential presented for traffic congestion and hazard on narrow rural roads. Accordingly, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

Planning Inspector

December 2022

Appendices:

Appendix 1 Photographs

Appendix 2 Westmeath County Development Plan 2021-2027, extracts.