



An  
Bord  
Pleanála

## Inspector's Report ABP314647-22

### Development

Construction of shed, waste water treatment system and percolation area, a bored well and upgrade of entrance and access road and for the retention of gravel area and all associated site works.

Location

Cragard/Curraderra, Barefield, Co Clare.

Planning Authority

Clare County Council.

Planning Authority Reg. Ref.

211259.

Applicant

Kieran Kelly.

Type of Application

Permission and retention permission

Planning Authority Decision

Grant of planning permission.

Type of Appeal

Third Party

Appellant

Carolyn Meaney.

**Observer(s)**

None.

**Date of Site Inspection**

17<sup>th</sup> August 2023.

**Inspector**

Derek Daly.

## 1.0 Site Location and Description

- 1.1. The proposed site is located off the R458 Barefield Crusheen regional route which was formerly the N18 Ennis-Gort National Primary Route and is approximately 2.5 kilometres north of the village of Barefield in County Clare. Access to the site is via a cul de sac private roadway off the regional road which leads south eastwards from the regional road. This access road has been upgraded to a wearing course level and has grass verges on both sides with some recent landscaping and planting of trees.
- 1.2. Aside from the entrance road to the site, the site is roughly rectangular in configuration and adjoins agricultural lands to the northeast, northwest and southwest. This area has a similar surface to the access road. At the time of inspection there was a cattle crush located in the northeastern corner of the rectangular area. There was some machinery and silages bales also located on this area. The remaining boundary adjoins the Ennis to Limerick railway line. There are no dwellings immediate to the site.

## 2.0 Proposed Development

- 2.1. The proposed development provides for the construction of shed with a stated area of 489.93m<sup>2</sup> which will be to store trucks and also provide facilities for staff. The shed is of a modern frame construction 24.775 metres by 20.375 metres with a maximum height to ridge level of 8.562 metres with finishes of plaster on the lower sections of the elevations and cladding on the upper sections. Three large steel doors are proposed two on the front elevation and one on the rear elevation.
- 2.2. A waste water treatment system and percolation area and a bored well is proposed and the proposal also provides for an upgrade of the existing entrance and access road including the provision of a passing bay and improved width at the junction with the regional road.
- 2.3. The proposal also includes the retention of gravel area on which the proposed shed will be located.

Further information was submitted on the 20<sup>th</sup> July 2022 in relation to works to reclaim land for agricultural purposes, vehicular movements in relation to the site, a

Construction Environmental Management Plan, drainage details including that the development will connect to the public water supply rather than drilling a private well, bunded areas for the storage of fuels, the submission of a landscaping scheme supplementing existing planting on the site, the submission of a noise survey indicating no additional noise mitigation measures are required and a new AA Screening report.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The decision of the planning authority was to grant permission subject to ten conditions.

Condition no.4 limits the use of the shed to storage of commercial vehicles and for light repair works.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The planning report dated the 26<sup>th</sup> January 2022 refers to development plan provisions, that the site is located in a “working landscape” and to submissions received. The report notes that the proposal would essentially change the established and permitted use from agricultural to commercial. It further indicates that having regard to the various objectives contained in the CDP the principle of the use is acceptable in the context of the economic development policies and objectives of the development plan subject to relevant safeguards. Further information was requested in relation to ground works on the site, vehicular movements, the submission of Construction Environmental Management Plan, drainage details, bunded areas for the storage of fuels, a hydrological report, the submission of a landscaping scheme, the submission of a noise survey and new AA Screening report.

The planning report dated the 30<sup>th</sup> August 2022 refers to the further information as submitted, to other submissions received and considers the proposal acceptable. It notes that the site in a response to third party submissions is not within a zoned area

as it is in the open countryside but that lorry depots are open for consideration in areas zoned agriculture. The report recommends permission given the site's location with significant road infrastructure nearby.

### 3.2.2. Other Technical Reports

The environment report dated the 26<sup>th</sup> January 2022 recommended further information.

The environment report dated the 27<sup>th</sup> July 2022 considers the further information acceptable and recommends conditions.

Iarnrod Eireann in a submission indicated no objections to the development.

## 4.0 Planning History

P20 950

Permission granted for an increase width of existing entrance to agricultural land, the upgrading and creation of an internal access road and on-site storage container in cattle crush. Condition no.3 limits the site to agricultural use.

## 5.0 Policy and Context

### 5.1. Development Plan

- 5.1.1. The operative plan is the Clare County Development Plan 2023-2029 (CDP) as adopted in April 2023. The file was assessed under the previous county development plan the Clare County Development Plan 2017-2023 and many of the submissions and reports refer to that plan.

It is noted that the adopted plan was the subject of a Planning and Development (Clare County Development Plan 2023-2029) Direction 2023 dated the 3rd August 2023. The subject site or matters specific to the site do not form part of the Direction as issued on the 3rd August 2023.

- 5.1.2. The appeal site is located in the open countryside and is not located within a settlement and as such has no specific zoning.

- 5.1.3. Chapter 3 of the 2023 CDP refers to Core Strategy and section 3.4.7 Economic Strategy which indicates that the plan sets out policies and objectives in support of the economic development of the County in particular in Chapter 6 Economic Development. The strategy provides for a concentration of new economic and employment development primarily within the main towns to bring balance across the County and improve the level of employment choice, while also ensuring there are lands zoned to provide appropriate scaled employment opportunities in smaller settlements.
- 5.1.4. Chapter 6 refers to Economic Development and section 6.1 to Strategic Aims. Among the strategic aims stated:
- To ensure that the benefits of economic growth and prosperity are spread to all parts of the County;
  - To maintain and promote County Clare’s broad economic and employment base; • To encourage, support and facilitate enterprise development at appropriate locations throughout the County.
  - To facilitate the diversification of the County’s rural economy and work practices.
- 5.1.5. Chapter 8 refers to Rural Development and Natural Resources and that the plan in objective CDP8.2 is to encourage growth and arrest the decline of rural areas through supporting the sustainable development of these areas by:
- a) Facilitating innovative rural enterprises and the diversification of the rural economy into new sectors and services including ICT based industries and those addressing climate change and sustainability;
  - b) To give favourable consideration to the sustainable development of existing and start-up rural resource-based industries in rural areas;
  - c) Supporting and facilitating proposals for new small-scale rural enterprises or extensions to existing small-scale rural based indigenous industries;
- 5.1.6. Chapter 14 refer to Landscape and section 14.1 to Strategic Aims. Among the aims are;
- To implement the ‘Clare’s Living Landscapes’ approach to landscape management and enhancement throughout the County;

- To utilise the 'Clare Living Landscapes' approach to ensure that development in the County takes place in the location / landscape deemed most appropriate.

Section 14.3.2.2 of the CDP refers to Working Landscapes which are those areas within 'Settled Landscapes' that contain pockets of concentrated development or a unique natural resource. The Plan identifies the Western Corridor - Ennis to Limerick Working Landscape which are all lands within 10km on either side of the N18/M18 except as excluded by Heritage Landscapes and the appeal site may be within or proximate to this designation but would appear to be within the settled landscape designation.

Map14A refers to landscape designations and the site is located within a working landscape.

CDP14.3 of the plan in relation to Western Corridor Working Landscape refers to an objective of Clare County Council:

- a) To permit development in these areas that will sustain economic activity, and enhance social well-being and quality of life subject to conformity with all other relevant provisions of the Plan and the availability and protection of resources;
- b) To ensure that selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design, are directed towards minimising visual impact;
- c) To ensure that particular regard should be had to avoiding intrusions on scenic routes and on ridges or shorelines. Developments in these areas will be required to demonstrate:
  - i. That the site has been selected to avoid visual prominence
  - ii. That site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, public amenities and roads
  - iii. That design of buildings and structures reduces visual impact through careful choice of form, finishes and colours and that any site works seek to reduce the visual impact of the development.

The CDP also indicates that many areas within the 'Western Corridor Working Landscape' contain ground and surface waters that are sensitive to the risk of

pollution and also coincide with areas identified for nature conservation. Applicants for planning permission are advised that rigorous standards will be applied at all stages of the evaluation of site suitability, site design and the design and management of all installations for the interception, storage and treatment of all effluents.

#### 5.1.7. Chapter 19 Land Use and Zoning

The zonings refer to lands within development boundaries and include an agricultural zoning and this zone is for the use of land for agricultural purposes and farming-related activities and to preserve the amenity of the town or village setting.

5.1.8. Appendix 2 refers to an Indicative Land Use Zoning Matrix. Lorry Parks are a use referred to in the matrix and is not provided for as a permissible use in any of the zonings but is open for consideration in a number of zonings including mixed use, commercial industrial, light industrial and agricultural. Under the provision of open for consideration the proposed use may be permitted where the local authority is satisfied that it is in compliance with the zoning objectives, standards and requirements as set out in the County Development Plan and with the guidance of other government bodies where appropriate, and will not conflict with the permitted, existing or adjoining land-uses in subject to its being accordance with the proper planning and sustainable development of the area.

#### 5.2. **Natural Heritage Designations**

None relevant.

#### 5.3. **EIA Screening**

5.4. Having regard to the nature and modest scale of the proposed development, its location and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appellant's grounds of appeal can be summarised as follows;

- The development is contrary to the policies and objectives of the Clare County Development Plan 2017-2023 as it contravenes the zoning of the area, it constitutes a major public health hazard and a road safety concern; is against the protection and preservation of the quality of the environment and would result in a risk of environmental pollution.
- The business is being relocated from a current depot in a 50 kph area to an agricultural site.
- Reference is made to the policies of the 2107 CDP and that the development would contravene CDP 19.3 contributing to the erosion of rural amenities of the area.
- Reference is made to PL.213954 and to the issue of traffic hazard and would increase traffic on the regional road and contribute to hazardous conditions at Barefield National School which is located on the R458.
- Reference is made to additional traffic by fossil driven vehicles and increased environmental pollution.
- Reference is made to visual impact from the removal of hedgerows impact on the rural environment.
- The development would impact on residential amenities and be a health hazard.
- There has been a disregard of planning laws since the developer acquired the lands.
- Reference is made to other refusals of permission by An Bord Pleanála, 302050, 303652 and 308009.

### 6.2. Applicant Response

The applicant in a response to the grounds of appeal can be summarised as follows;



- The submission refers to the applicant's interest in the lands and current haulage business and that the applicant's site in Ennis was impacted at upgrading works at the Claureen Roundabout necessitating the need acquire alternative lands for the haulage business.
- Policy CDP 19.3 does not apply to the proposed development as the site has no zoning objective.
- Reference is made to CDP 13.3 Western Corridor Landscape and that the CDP does not preclude the proposed use and the current development complies with CDP 13.3.
- The Planning Authority were satisfied in this regard that the development was not contrary to the CDP.
- The development will not impact on the amenities of the countryside.
- A detailed noise report was prepared which concluded no significant noise impact.
- Reference is made to the Inspector's report of PL18.233084.
- No night time activity is proposed.
- The proposed shed is 166 metres from the road and is screened and new planting to enhance existing screening is proposed.
- The development complies with road standards and there was no objections from the local authority.
- The development will have no impact on the school.
- The development is for the relocation of a business and not for increased levels of activity.
- The development will comply with codes of practice in relation to wastewater treatment, fuel storage and surface water drainage.
- The proposal will be provided with a mains water connection and not be served by a well as originally proposed.
- No EIA was requested and after screening the need for EIA was excluded.

- The works carried out on the site has not diminished the rural character of the area or removal of a substantial length of hedgerow.

### 6.3. **Planning Authority Response**

The Planning Authority in a response consider the principle of the development acceptable at this location and having considered the development the proposal is acceptable is located 170 metres from the road and not detrimental to the residential amenities of the area.

## 7.0 **Assessment**

- 7.1. The main issues in this appeal are development plan policy and principle of development; matters relating to the design and layout of the proposed development, impact on residential amenities and services. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

The issues are addressed under the following headings:

- Policy and principle of development
- Visual impact, design and layout of the proposed development,
- Impact on residential amenities,
- Services,
- The retention of gravel area on which the proposed shed will be located.
- Appropriate Assessment

### 7.2. **Policy and principle of development.**

- 7.2.1. The provisions of the current Clare County Development Plan 2023 -2029 outline the policy context. The site is not located within the development area boundary of any settlement and is in the open countryside.

- 7.2.2. The CDP does outline strategies and objectives in relation economic development and also in relation to rural areas with the overall aim of channelling development into towns and other settlements and that development should be appropriately located. In relation to Economic Development in section 6.1 of the CDP Strategic

Aims among the strategic aims is to encourage, support and facilitate enterprise development at appropriate locations throughout the County. In relation to Rural Development and Natural Resources as stated in objective CDP8.2 it is the objective to encourage growth and arrest the decline of rural areas through supporting the sustainable development of these areas by facilitating innovative rural enterprises and the diversification of the rural economy into new sectors; to give favourable consideration to the sustainable development of existing and start-up rural resource-based industries in rural areas and supporting and facilitating proposals for new small-scale rural enterprises or extensions to existing small-scale rural based indigenous industries.

- 7.2.3. In relation to the proposal under consideration it is not a rural resource based commercial activity or tied to the specific location of the appeal site or a rural area. It could be located within a zoned area of settlement. A lorry park which would approximate to the proposal under consideration in this appeal in the indicative land use zoning matrix in appendix 2 of the CDP although it does not specifically identify a zoning where such a use would be considered a permitted use does identify zonings where it this use would be open for consideration including mixed use, commercial, enterprise, industrial, light industrial and agriculture zonings within zoned settlements. The proposed use is a use which therefore I consider is appropriate to within a settlement and not the open countryside.
- 7.2.4. I would also note that in relation to the landscape designation of a working landscape that although CDP14.3 of the plan in relation to Western Corridor Working Landscape refers to general principles to permit development in these areas that will sustain economic activity, and enhance social well-being and quality of life subject to conformity with all other relevant provisions of the Plan and the availability and protection of resources and also to ensure that selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design, are directed towards minimising visual impact. While this provision in itself does not necessarily preclude the development proposed it cannot be stated that this designation proactively facilitates permitting all forms of commercial activity when considered in the context of the overall economic and rural strategies set out in the plan.

- 7.2.5. The thrust of Development Plan Policy is to encourage industrial and commercial development into settlements and I consider this policy reasonable and appropriate to proper planning and sustainable development. The appeal site is located in the open countryside and not approximate to any settlement development boundary. In Ennis and other settlements there are lands zoned for commercial and industrial development.
- 7.2.6. Having regard to these observations and considerations, while noting that the applicant has indicated that the provisions of the CDP in relation to working landscape do not necessarily preclude the development, as previously stated I consider based on Development Plan policy and strategic objectives alone in relation to economic development and rural areas there should be a presumption against the granting of permission for development of the nature proposed on the current appeal site.
- 7.3. Visual impact, design and layout of the proposed development.
- 7.3.1. Reference is made in the grounds of appeal to visual impact from the removal of hedgerows impact on the rural environment.
- 7.3.2. In response the applicant contends that the development will not impact on the amenities of the countryside and that the proposed shed is approximately 166 metres from the road and is screened and new planting to enhance existing screening is proposed.
- 7.3.3. The proposed development provides for the construction of shed with a stated area of 489.93m<sup>2</sup> with a maximum height to ridge level of 8.562 metres with finishes of plaster on the lower sections of the elevations and cladding on the upper sections. Although it is a large structure it is located a considerable distance from the public road and new planting and screening is present on the site. The site is not located within a visually sensitive area and large agricultural buildings occur in rural areas. Given the distance from the road I do not consider that issues of visual impact arise and the proposal can be accommodated without any adverse visual impact.
- 7.4. Impact on residential amenities
- 7.4.1. Reference is made to impact on residential amenities in the grounds of appeal. I would note that there are dwellings in the general area but there are no dwellings immediate to the proposed development. I would also note that a noise impact

arising from the proposed development was assessed based on a noise impact submitted. Although ambient noise levels in the area are low it is a working landscape with agricultural activity and the site is relatively close to the M18 motorway. There would be an increase in noise in particular at peak operation periods but there is nothing in the documentation submitted to suggest that the proposal would adversely impact on residential amenities.

## 7.5. Services

- 7.5.1. In relation to traffic the site fronts onto the R458 Barefield Crusheen regional route which was formerly the N18 Ennis-Gort National Primary Route where the 80kph speed limit applies. The R458 at the location of the access point onto the carriageway has a straight horizontal alignment and satisfactory vertical alignment with a wide carriageway and hard shoulders and was constructed to a national route specification but the road is now reclassified with the commissioning of the M18 motorway and the carriageway carries considerably less traffic as a result. Given the new classification the restrictions in relation to creation of access points have changed. I would note that no objections in relation to traffic were raised by the planning authority.

The entrance as constructed is I consider satisfactory in relation to sightline visibility and although the creation of any access onto a public road does increase the possibility of a traffic hazard the access does meet road design standards and I would not consider the access to be an issue.

Reference is made to potential impact on Barefield National School arising from the traffic generated by the development. The school is located over two kilometres from the site and although there would be peak periods of traffic movements at the school there is nothing to suggest that the public road network including in the proximity of the school cannot accommodate the level of traffic based on the documentation submitted generated by the proposed development.

- 7.5.2. In relation to water services arising from the proposed development it is proposed to connect to the public water supply. Details have been submitted in relation to foul drainage which indicate that a satisfactory system of effluent treatment can be provided to comply with current standards as required by the EPA Code of Practice

for Domestic Wastewater Treatment Systems and no trade discharges are proposed. I have no objection based on the documentation submitted.

7.5.3. In relation to potential impact on groundwater the proposals as submitted include provision for bunded areas for the storage of fuels with capacity within the bunded area 20% over and above the fuel tank capacity. There is also provision for the collection of collection and discharge of surface water within the site with provision for petrol interceptors of the hard surface areas and also for the collection and discharge of roof waters. I would have no objection to the proposals as submitted.

7.6. The retention of gravel area on which the proposed shed will be located.

7.6.1. The documentation on the file refers to ground works which are outside of the boundary area of the site under consideration and the response of the applicant clarified following a request from the planning authority by way of further information indicates that these areas are proposed for reclamation and do not form part of the commercial development proposed.

7.6.2. In relation to the works in place to accommodate the proposed shed on the basis that the proposed shed is considered to be an inappropriate use I would recommend that the retention of the gravel area should not be permitted.

#### 7.7. **Appropriate Assessment Screening**

7.8. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of receiving environment and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

### 8.0 **Recommendation**

8.1. I recommend that the development be refused.

### 9.0 **Reasons and Considerations**

9.1. It is the policy and strategic aim of the Clare County Development Plan 2023-2029 to encourage the location of industrial and commercial development into established and designated settlements. It is also policy to safeguard the rural amenities of the

county. These policies and aims are considered reasonable. Having regard to the location of the development proposed in an unserviced rural area outside of a designated settlement, it is considered that the development by itself and the precedent it would create for other services facilities, would conflict with the strategic aims of the County Development Plan in relation to economic development for the county and also in relation to rural areas and would therefore be contrary to the proper planning and sustainable development of the area

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Derek Daly  
Planning Inspector

1<sup>st</sup> September 2023