



An
Bord
Pleanála

Inspector's Report

ABP-314664-22

Development	Retention of agricultural shed and stables as constructed.
Location	Ballintubbert, Stradbally, Co. Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	22421
Applicant(s)	Joseph and Margaret O'Keefe
Type of Application	Permission
Planning Authority Decision	Grant with Permission
Type of Appeal	Third Party
Appellant(s)	Michael and Catherine Purcell.
Observer(s)	None
Date of Site Inspection	25 th of July 2023
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The shed and stable are located on a separate property to the rear of an existing dwelling and outhouses. The first building, a galvanised shed hosts straw, stables, and machinery. It is located at the end of a gravelled laneway.
- 1.2. Further south -west is a separate detached building which is a stable buildings.
- 1.3. The property has been erected alongside the common boundary wall of the third party appellant's property to the north of the site. The third party's dwelling is a large dwelling set deep into the site with stone outbuildings located alongside the common boundary with the subject site.
- 1.4. There is a 2m high boundary wall between the properties.

2.0 Development

- 2.1. Retention of existing shed (306sq.m.) and existing stables (179sq.m.)
- 2.2. There is no dungstead on the site. The cattle are straw bedded in the shed during the winter and there is no seepage from the straw bedding. The soled bedding is spread on the land during spreading season.
- 2.3. There are 15No. beef cattle wintered in the shed. There are 6No. horses in the stable block.

3.0 Planning Authority Decision

3.1. Decision

Laois Co. Co. granted planning permission for the development by Manager's Order dated 29th of August 2022 subject to 9No. standard agricultural planning conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The site is an existing farmyard with sheds and a hardstanding area.
- The landscape character is Lowland Agricultural Landscape Character Area.

- There is no planning history associated with the site.
- The principle of the agricultural development in a rural area is considered to be acceptable. There is remnants of an old farmstead on the site.
- The design, scale and specification is considered to be acceptable.
- The siting is not obtrusive and the finishes ensure the structures blend into the landscapes.
- No residential amenity will be negatively affected by the development.
- The third-party issue over the ownership of the laneway is a civil matter.
- There is no development contribution required.

3.2.2. **Other Technical Reports**

No objections from the Area Engineer or Water Services.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

The owners of the adjoining property objected on the following grounds:

- Unauthorized;
- Proximity;
- Concerns regards the spread of fire;
- Impact of effluent on water quality;
- Planning application has no details of wells or septic tanks;
- Overshadowing;
- Manure management;

4.0 **Planning History**

No relevant planning history.

5.0 Policy Context

5.1. Development Plan

Laois County Development Plan 2021-2027.

9.2 Agriculture

The Council recognises the importance of agriculture for sustaining, enhancing and maintaining a viable rural economy. The Council will support and facilitate agricultural restructuring and diversification within the framework of the 2020 Strategy (Department of Agriculture 2010), in order to integrate the sector more closely with rural development, in pursuit of environmental and social objectives. This approach accords with national policy as set out in the National Sustainable Development Strategy.

The Council supports the emphasis in the National Development Plan on investment, on measures for improving farm structures, including farm waste management, animal welfare, food quality and environmental protection, complementing the substantial investment in REPS. The optimum and environmentally sensitive use of land no longer required for agriculture will be a key issue over the Plan period. Where appropriate Laois County Council will support the production of energy crops on set aside land throughout the County.

DM RL 1 GENERAL CONSIDERATION FOR AGRICULTURAL BUILDINGS

Agricultural developments have the potential to impact on the environment and the landscape. The traditional form of agricultural buildings is disappearing with the onset of advanced construction methods and wider range of materials. Some new farm buildings have the appearance of industrial buildings and due to their scale and mass can have serious major visual impacts. In dealing with applications for agricultural developments the Planning Authority will have regard to the following:

- 1) Require that buildings be sited as unobtrusively as possible and that the finishes and colour used will blend the development into its surroundings.
- 2) The proposed developments shall meet with the requirements of the Department of Agriculture with regard to storage and disposal of waste.

- 3) The Council accepts the need for agricultural buildings and associated works (walls, fences, gates, entrances, yards) to be functional but they will be required to be sympathetic to their surroundings in scale, material and finishes.
- 4) Buildings should relate to the landscape. Traditionally this was achieved through having the roof a darker colour than the walls.
- 5) Appropriate roof colours are dark grey, dark reddish brown or a very dark green. Where cladding is used on the exterior of the farm buildings dark colours should be used.
- 6) Location and impacts on the road network and other associated uses
- 7) Ensure it does not have an undue negative impact on the visual/scenic amenity of the countryside and identify mitigating measures where required All agricultural buildings should be located an adequate distance from any watercourse to reduce the risk of contamination.

5.2. Natural Heritage Designations

There are no Natura 2000 sites within 15km of the subject site.

5.3. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

The appellants Michael and Catherine Purcell have submitted the following grounds of appeal:

- The development is extremely close to their dwelling, associated buildings and wells. They have no objection to agricultural practices but it is the location of the structures is the issue.
- There is risk to their property in terms of fire spread and contamination of drinking water.
- The development has a negative impact on the reasonable enjoyment of their dwelling.
- The appellants purchased their home in 2007. The applicants were bequeathed the adjacent farmland where the subject development is located.
- There is photographic evidence illustrating when there were no agricultural structures beside their property. The farmyard has been developed over the years without the benefit of planning permission.
- In 2018 the applicants built an agricultural shed within 100m of the appellants dwelling with written consent and without planning permission. The structure is a mono-pitched 4 bay span shed.
- The appellants spoke with the applicants at the time and were assured it would not be used for animal housing or the storage of straw because they were concerned about their well getting contaminated. Concerns were also raised regarding the potential for a fire.
- In March 2022 the applicant proceeded to extend the property. Pictures of the structure from the appellants property have been submitted.
- There is a window opens directly into the applicant's agricultural shed.
- The drawings do not show any drainage provision, either for surface water, soiled water or effluent. It is not possible to determine if the development complies with *Good Agricultural Practices for Protection of Water Regulations (S.I. 113 of 2022)* commonly known as the Gap Regulations. The drawings do not indicate existing wells or septic tanks. There has been a flawed analysis of the risks the development poses to the appellants drinking water supply. The appellant has two wells in serious risk of contamination. The wells are located 13m and 25m from the shed. The minimum distance for storage of

dung or effluent is less than 60metres. This should be taken from the boundary and not the current location of wells.

- The planning authority applied a blanket type of conditions to the permission. There was no proper assessment of the development. There has been no detailed deisgn including bung and effluent storage calculations.
- Regarding the existing entrance and it doe not represent the current arrangement accurately. The sightlines are not drawn correctly. The existing entrance is not recessed and is a traffic hazard. The existing entrance was widened in 2010. The previous entrance was a field entrance. The unauthorised developments have resulted in signifigant intensification in use of the deficient access point.
- No assessment of the fire risk the development poses being located on a party wall. The open sided building contains agricultural machinery and hay and straw. The applicant's property has windows and a doorway which open onto the agricultural shed. These openings were not shown on the drawings. The applicant constructed the shed without any regard to the presence of these openings or subsequent loss of light to the applicant in addition to the loss of lights.
- The planning authority appear to rely on their own assessment that a historic farmyard existed on the site of the agricultural shed. This assessment is flawed since it takes no account of the fact that the property is now split and the historic farmyard which is consistent only of a pigsty was not in use for a considerable period of time. The appellants had a reasonable expectation that a farmyard would not be established immediately adjacent to the property boundary and within 14m of their dwelling. It is reasonable to assume that if a planning application had been made for the farmyard at this location that it would have been refused given its proximity to the dwelling house in separate ownership and the availability of alternative sites on the landholding. The planning authority has failed to justify their opinion that the appellant's amenity has not been affected by the construction of an animal housing structure on the property boundary within 14m of the appellants dwelling.

- Permission should be refused for the development. A roof shed at the location that acted as a haybarn off a lean-to shed that consisted of cow stalls. It was always a working farm and the sheds were constantly in use.
- During construction the appellants expressed concern relating to the storage of fuel and hay/ straw as their oil burner is in close proximity. No objection was made at that time.

6.2. Applicant Response

The applicant Mr. Joe Okeefe has responded to the third party appeal.

- The applicants inherited the 11 acres where the shed is located.
- The attached photographs reveal there was always.
- The applicant agrees the walls have been squared off using 6inch blocks however the appellants are not affected by this.
- There is no fuel being stored on the property, its is for the storage of equipment only.
- There is one tractor which is refuelled at the local garage.
- The construction of the second part of the shed is for the storage of hay and straw and is further away from the appellants property.
- The construction of the shed is over 12inches from the appellants property. Avoiding any possibility of damage. In fact, the roof on the appellants outbuildings has been altered resulting in the gutters not being able to take the volume and overflowing into the applicants property. When these works were carried out, scaffolding was erected on the applicants property with no objections. The ESB was also run underground on their property so no ESB poles were erected within their residence.
- There will be 10-15 cattle housed from December to March. They are bedded in straw and the dung is cleaned out 3-4 times and spread on the land as natural fertiliser. The walls of the shed are 2 foot thick because they are old construction and the floor is 6inches deep.

- A new entrance was also constructed which enables a trailer to be manoeuvred easily and safely into the entrance. There is no obstruction on the road due to turning movements. Unlike the appellants property where there are electric gates, and the gardener with his trailer has to wait on the road obstructing traffic waiting for the gates to open.
- The applicants ask the Board uphold the planning authority's decision to grant planning permission for the development. The site was always used for storing cattle and hay/ straw., old maps will reveal buildings at this location.

6.3. **Planning Authority Response**

None

7.0 **Assessment**

7.1. I have considered the appeal file, inspected the site and I will consider the assessment of the relevant planning issues under the following headings:

- Principle of the Development
- Impact on Residential Amenities
- Traffic
- Appropriate Assessment

7.2. **Principle of the Development**

The development consists of an agricultural shed in a rural area. It is associated with an 11acre landholding. The shed at the time of inspection was used for storing farm machinery and straw. According to the appeal file, it will house 15No. cattle over the winter period (November -March). It is not a slatted unit. The livestock will be bedded on straw, and the bedding will be spread on the land. There is a hard surfaced concrete apron to the front of the shed. The area for storing the straw is located along side the third party's common boundary. On the other side of the common wall is a stone building within the curtilage of the third-party appellants dwelling.

Within the curtilage of the third party's property there is a large dwelling set back from the public road. The large garden includes mature trees and shrubbery. There is a stone outbuilding along the south-western site boundary, backing onto the subject site. The laneway/ access road to the shed and farmyard forms the northern site boundary of the dwelling.

Chapter 9 of the current Laois County Development Plan outlines the planning authority's policies towards Agriculture and Agricultural Structures. Of note is the Development Management Standards of Agricultural Buildings under DM RL. The development is considered under the provisions of DM RL :

- 1. Require that buildings be sited as unobtrusively as possible and that the finishes and colour used will blend the development into its surroundings.**

The new shed has been erected on the site of the old farmstead. It is accepted the new shed is considerably larger than what existed previously on the site. However it is discreetly sited and not visible from the public road. The shed is finished in grey PVC cladding. It assimilates into the countryside.

- 2. The proposed developments shall meet with the requirements of the Department of Agriculture with regard to storage and disposal of waste.**

The development consists of the small livestock area which will house cattle over the winter months between November to March. There are no underground storage tanks associated with the development. The livestock will be bedded on straw. The soiled bedding will be spread on the land during the spreading season. A condition can be attached to ensure the storage and spreading of manure is in line with Department of Agriculture Guidelines.

The forms state the cattle will be fed 'Easy Feed'. Yet I did not see any facilities on site for the storage of silage. There is effluent associated with the silage. I visited the site during the summer season and there was no silage on site at the time of my inspection. Given the proximity to an existing dwelling on a private water supply, it is my opinion, the storage of silage would require a further planning application as it as the feeding and storage of feed for the cattle during the winter months has not been included in the planning application documentation. It is also a new issue raised under this appeal. As this issue was not included in the planning application

documentation, it did not form part of the uses associated with the shed or the site, I am satisfied, it requires no further consideration under this appeal.

- 3. The Council accepts the need for agricultural buildings and associated works (walls, fences, gates, entrances, yards) to be functional but they will be required to be sympathetic to their surroundings in scale, material and finishes.**

The third party objects to the scale of the development in close proximity to their property. I would accept the shed is close, practically built onto the party wall. The shed has been constructed only 30cm from the appellant's property, most notably impacting on their shed/ outhouse to the rear of their dwelling. There was scope to erect the shed further away from the party wall, and the third party shed. However, the scale of the shed would have remained the same. I note the shed has an open elevation, where the storage of straw currently occurs. There is no opposing wall at this location.

The more serious issue are the window openings at the rear of the outhouse that face into the subject shed. These are boarded up and not currently used as windows. I examined photograph's on file dating back to 2009. The subject shed is positioned on the site of the former was pigsty. However, in my opinion, it would have been prudent of the applicant to approach the third party regarding erecting the shed alongside these windows. The outbuilding is not a habitable dwelling, and the residential amenities of same are not impacted upon. However, the proximity of the shed to the building restricts the use of the buildings to outbuildings only. I consider it to be important that hay/ straw and storage of machinery may occur in the section of the shed positioned alongside the neighbouring outbuilding. The shed has an open gable along the northeastern elevation. There should be no livestock kept in this section of the shed. I note the livestock are to be housed to the front of the shed.

- 4. Buildings should relate to the landscape. Traditionally this was achieved through having the roof a darker colour than the walls.**

The proposal complies with this section.

- 5. Appropriate roof colours are dark grey, dark reddish brown or a very dark green. Where cladding is used on the exterior of the farm buildings dark colours should be used.**

The proposal complies with this section.

- 6. Location and impacts on the road network and other associated uses.**

The proposal complies with this section

- 7. Ensure it does not have an undue negative impact on the visual/scenic amenity of the countryside and identify mitigating measures where required**

The proposal complies with this section.

All agricultural buildings should be located an adequate distance from any watercourse to reduce the risk of contamination. There are no watercourses associated with the subject site.

7.3 Impact on Residential Amenities

There is adequate separation distance between the dwelling house and the shed to ensure there will be no adverse impacts in terms of overshadowing or loss of privacy.

In terms of the private well on the subject site, the proposed use of the shed as presented in the planning application does not pose an pollution threat to the ground water, with subsequent impact to the well.

7.4 Traffic

Access to the shed and stable structure is via a laneway off the local road. The laneway has a hardcore surface. There is a stone wall at the recessed entrance, and the laneway is lined with mature trees and hedgerow. I am satisfied the sightlines, width and specification of the access and laneway are adequate in traffic safety terms and sightlines to cater for the farmyard and adjoining lands.

7.5 Appropriate Assessment

Having regard to the scale of the proposed development on an existing farmyard, the site location outside of any protected site and the nature of the receiving environment, and the distance of the lands in question to the nearest European

site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

I recommend the planning authority's decision to grant planning permission for the proposed development be upheld.

9.0 Reasons and Considerations

Having regard to the nature and extent of the proposed development and the history of on-site agricultural activity, and the existing character and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development to be retained and completed would not seriously injure the amenities of the area or of property in the vicinity and would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended plans and particulars received by An Bord Pleanála on the 5th of October 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services.

In this regard- (a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, to soakaways,

Drainage details shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of public health.

3. All foul effluent and slurry generated by the proposed development and in the farmyard shall be conveyed through properly constructed channels to the storage facilities and no effluent or slurry shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road.

Reason: In the interest of public health.

4. Slurry generated by the 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 Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2022 (SI No 113 of 2022).

Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of water courses.

5. The shed is for the storage of machinery, hay/straw and dry foodstuffs only. The portion of the shed to be used to house livestock shall ensure the livestock are kept on straw bedding and fed dry food by an Easy Feed system as indicated in the planning application documentation.

Reason: In the interest of clarity.

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.

Caryn Coogan
Planning Inspector

21 November 2023