



An
Bord
Pleanála

Inspector's Report

ABP-315679-23

Development	Construction of an agricultural machinery shed and all ancillary works.
Location	Edenburt, Virginia, Co. Cavan
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	22280
Applicant(s)	James Cahill.
Type of Application	Permission.
Planning Authority Decision	
Type of Appeal	Third Party
Appellant(s)	Sandra Cadden.
Observer(s)	None.
Date of Site Inspection	2 nd May 2023.
Inspector	Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.52ha and is located in the townland of Edenburt, approx. 8.5km south of Virginia in south County Cavan. It is located within an existing farmyard complex that is accessed from the L-7125.
- 1.2. The farmyard complex contains a number of structures, including animal housing and derelict buildings. There is also an amount of external storage, including the storage of machinery, farm vehicles and other vehicles which appear to be at the end-of-life stage.
- 1.3. The area in which the site is located has a rural character but there are a number of rural houses, including in the vicinity of the site.

2.0 Proposed Development

- 2.1. The proposed development entailed within the public notices comprises the construction of an agricultural machinery storage shed and associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission on 9th January 2023, subject to 7 No. conditions.
 - Condition 2 required specified revisions to the site entrance and approach.
 - Condition 7 required that the shed shall be used for agricultural purposes only.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports dated 10th August 2022 and 9th January 2023 have been provided. The first report recommends that additional information be sought in relation to proposed sightlines onto the L-7125. The second report followed the AI response. It summarises and responds to the AI response and recommends that permission be granted, subject to 6 No. conditions. Recommended condition No. 2 was identified to

be amended and an additional condition, No. 7, was identified to be attached to the final decision.

3.2.2. Other Technical Reports

A **Municipal District Engineer** report dated 21st July 2022 has been provided, which requests AI in relation to proposed sightlines, which are stated to be inadequate.

An **Environment** report dated 25th July 2022 has been provided, which recommends conditions as part of a grant of permission.

A **Roads Design** report dated 15th August 2022 has been provided, which advises that the proposal will not impact the progression of the N3 Virginia Bypass scheme.

3.3. Prescribed Bodies

3.3.1. The Planning Authority report indicates no prescribed bodies were consulted.

3.4. Third Party Observations

3.4.1. A number of third-party submissions were received, the issues raised within which can be summarised as follows: -

- Noise, odour and disruption,
- Proposed location,
- Intended use,
- Impact on development potential of adjacent land,

4.0 Planning History

15234: Permission granted on 14th January 2016 for extension and renovation of an existing cubicled shed and underground slurry storage tank for use as a slatted agricultural shed.

12191: Permission granted on 2nd May 2013 for retention of a slatted shed with underground slurry store, together with associated site works.

5.0 Policy Context

5.1. Cavan County Development Plan 2022-2028

5.1.1. Section 12.5 of the development plan relates to Agriculture. It identifies the importance of the sector to the County's economy, as a catalyst for employment in the County and the wider region.

5.1.2. Section 12.8 contains policies in relation to agricultural development. It states that the provision of well-located structures and facilities necessary for good and environmentally sound agricultural practice will be supported and that the assessment of such proposals will involve consideration of safe access, visual impact, environmental impact, waste management and the need for the building. Relevant policies include: -

ABS 01: Facilitate the development of environmentally sustainable agricultural activities, whereby watercourses, habitats, areas of ecological importance and environmental assets are protected and development does not impinge on the visual amenity of the countryside.

ABS 02: Ensure developments do not impact on archaeological or heritage features of importance.

ABS 03: Require buildings to be of a design, appearance and material specification that is compatible with the protection of rural amenities.

ABS 04: Require an effective means of farm waste management.

5.2. Natural Heritage Designations

5.2.1. The site is not located within or adjacent to a designated European site, the closest such sites being the River Boyne and River Blackwater SAC (Site Code 002299) and River Boyne and River Blackwater SPA (Site Code 004232), which are c.430m south-west.

5.3. EIA Screening

- 5.3.1. The proposed development comprises an agricultural storage shed, together with associated site works. The development is not a prescribed class for the purposes of EIA.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal can be summarised as follows: -

- The applicant's farm is a source of light, noise and odour, which affect the appellant's enjoyment of their home. The proposal will exacerbate such issues.
- The proposal may be used commercially in the future.
- Construction of the proposed shed may make it more difficult to build a house on the appellant's land adjacent to the subject site.
- The applicant has omitted a parcel of land that is neglected and is considered to an indication of the likely appearance of the subject site in the future.
- The removal of the roadside boundary will expose the internal areas of the farmyard, which are an eyesore

6.2. Applicant Response

- 6.2.1. None received.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority made a submission on the appeal on 3rd February 2023, the contents of which can be summarised as follows: -

- Noise and odour associated with an agricultural enterprise can be reasonably expected.
- There is no proposal to remove hedgerow, merely to trimmed to a height not exceeding 1m.

- The Board is requested to uphold the decision to grant permission.

6.4. **Observations**

6.4.1. None.

6.5. **Prescribed Bodies**

6.5.1. The appeal was circulated to The Heritage Council, the Department of Housing, Planning and Local Government and An Taisce. No responding submissions were received.

7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the appeal in detail, I consider the main planning issues to be considered are:

- Principle of development;
- Impact on neighbouring residential property;
- Removal of roadside boundary; and
- Appropriate assessment.

7.2. **Principle of Development**

7.2.1. The proposed development comprises the construction of an agricultural machinery storage shed, together with associated site works. The shed has a stated gross floor area of 176.14m² and is fully enclosed, with roller shutter doors at both ends. It has a maximum height of 5m and the external finished comprises a mix of render for the lower portion and metal cladding for the upper portion.

7.2.2. The application documents outline that the applicant farms an area of 66ha in a number of different townland areas. The proposed shed is located within an existing farmyard complex at Edenburt, which contains animal housing and other structures, including derelict buildings and there is also an amount of external storage. The proposed shed is partly located in the area of the remains of a 39m² building that will be demolished in order to facilitate construction.

- 7.2.3. I am satisfied that the development is consistent with the established farming enterprise at the site and is consistent with the provisions of Section 12.8 of the development plan, which supports the provision of well-located structures and facilities necessary for good and environmentally sound agricultural practice.
- 7.2.4. The appellant expresses concern that the development may be used for commercial purposes in the future. The Board will be aware that a change of use to a commercial use will require a further grant of planning permission. As such, I consider it would be unjustified to consider a refusal of permission on the basis of this concern.

7.3. Impact on Neighbouring Residential Property

- 7.3.1. The appellant expresses concern that the applicant's farm is a source of light, noise and odour, which affect the appellant's enjoyment of their home and that the proposal will exacerbate such issues.
- 7.3.2. The farmyard complex is located in the vicinity of a number of rural houses and, in view of the nature of the farming enterprise, which includes overwintering of livestock, I accept that noise and odour may be an issue, particularly for houses in closest proximity to the site. But, having said this, the farming enterprise is rural in nature and I consider these types of issue are an inevitability of living in close proximity to a farm. The Planning Authority expressed a similar view in its submission on the appeal.
- 7.3.3. Regarding odour, the production of effluent on the farm and subsequent spreading of slurry on the land at certain times of the year are inherent aspects of livestock farming and the Board cannot realistically seek to exercise any control over these areas of the farm operation. The Board will note in this regard that the development does not intensify the presence of animals within the farmyard.
- 7.3.4. Regarding noise, the movement of vehicles is also a common aspect of livestock farming and I do not see that it would have any undue or unacceptable impact on the amenity of nearby residents. I would also advise the Board that the Planning Authority has powers under separate codes in respect of noise nuisances, should such issues arise.

- 7.3.5. Lightspill concerns appear to relate to light associated with the movement of farm vehicles within the farmyard. The site is currently bounded by a mature hedge to the south that is shown on the site layout visibility sightline drawing as being trimmed to a maximum height of 1m, in order to improve visibility from the site access. I acknowledge that this action is likely to visually expose the site in the short term, but I do not consider that the extent of lightspill arising would be of a degree which would justify a refusal of permission. I also consider a balance needs to be struck between the limited impact arising and the benefits to road safety that would accrue from improvement of the sightlines from the site access.
- 7.3.6. In view of the above assessment, I consider it would be unjustified to consider a refusal of permission on the basis of these concerns.
- 7.3.7. Should the Board decide to grant permission, I recommend a condition be attached requiring the applicant to plant a new hedge, behind the visibility sightline, in order to minimise the visual impact of the farmyard and farm operation.
- 7.3.8. Regarding the applicant's submission, that construction of the proposed shed may make it more difficult to build a house on their land, the Board will be aware that each planning application falls to be considered on its individual merits, against applicable planning policies at that time. I see no reason why the construction of the proposed shed would jeopardise the applicant's ability to construct a house on adjacent lands at some point in the future.

7.4. Removal of Roadside Boundary

- 7.4.1. The appellant states that the removal of the roadside boundary, as is claimed to be required by condition No. 2 of the Planning Authority's decision, will open up the site to more permanent views and will exacerbate the visual impact of the overall site.
- 7.4.2. In its submission on the appeal, the Planning Authority states that there is no requirement to remove the boundary, merely that it should be trimmed to a height not exceeding 1m.
- 7.4.3. The appellant's concern is grounded in the AI response submission, where the applicant identifies sightlines of 2.4m x 90m in both directions from the farmyard access and, further, states that the roadside hedgerow that lies within the sightlines will be trimmed to a level not greater than 1m above the level of the road.

7.4.4. I have previously expressed the view that trimming the hedge by such a degree is likely to expose the site in the short term and will increase its visual prominence, but I consider a balance needs to be struck between the limited impact of the development and the benefits to road safety that would accrue from improvement of the sightlines from the site access. I have also previously recommended that a condition be attached requiring the applicant to plant a new hedge, behind the visibility sightline, in order to minimise the visual impact of the farmyard and farm operation.

7.5. **Appropriate Assessment**

Appropriate Assessment Screening

Compliance with Article 6(3) of the Habitats Directive

7.5.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Background on the Application

7.5.2. A screening report for Appropriate Assessment was not submitted with this appeal case. Therefore, this screening assessment has been carried de-novo.

Screening for Appropriate Assessment- Test of likely significant effects

7.5.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

7.5.4. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Brief description of the development

7.5.5. The development is described at Section 2 of this Report. In summary, permission is sought for the construction of an agricultural machinery storage shed, together with associated site works.

Submissions and Observations

7.5.6. The submissions from the appellant, applicant and Planning Authority are summarised as Section 6 of my Report.

European Sites

7.5.7. The site is not located within or adjacent to a designated European site, the closest such sites being the River Boyne and River Blackwater SAC (Site Code 002299) and River Boyne and River Blackwater SPA (Site Code 004232), which are c.430m south-west.

7.5.8. Killyconny Bog (Cloghbally) (Site Code 000006) is also located approx. 2.6km east.

Potential impacts on European Sites

7.5.9. The proposed development involves demolition and construction works and is likely to give rise to the presence of suspended solids within surface waters. However, there are no open drains or watercourses within the site that would provide a route for surface waters with such content to discharge into the.

7.5.10. In view of the absence of any direct hydrological connection to the closest European sites and the separation distance between sites, I am satisfied that there is no likelihood of suspended solids being transferred from the site to a European site and, therefore, there is no risk of significant effects on qualifying interests within a European site arising from the development.

Screening Determination

7.5.11. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

7.5.12. This determination is based on the following:

- The separation distance between the subject site and any European site and the absence of any direct hydrological connection to any European site.

8.0 Recommendation

8.1. I recommend that permission for the proposed development be granted, subject to conditions as set out below.

9.0 Reasons and Considerations

The proposed development of an agricultural storage shed is supported by the provisions of the Cavan County Development Plan 2022 – 2028, in particular Section 12.8, which supports the provision of well-located structures and facilities necessary for good and environmentally sound agricultural practice. It is considered that, subject to conditions outlined below, the proposed development would not have any unacceptable impact on the residential amenity of nearby residential occupiers and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by additional information received on 9th December 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The agricultural shed shall be used for the storage purposes associated with the farming operation and shall not be used for any other purposes in the absence of a further grant of permission.</p> <p>Reason: To control the permitted use of the development.</p>
3.	<p>The applicant shall submit and agree proposals with the Planning Authority for a new native hedgerow along the south boundary of the farmyard</p>

	<p>complex, which shall be set behind the visibility sightline. The said hedgerow shall be planted in the first planting season following agreement.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>
5.	<p>The site access arrangement including sightlines shall comply with the Planning Authority's requirements, details of which shall be agreed prior to the commencement of development.</p> <p>Reason: In the interest of road safety.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

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.

Barry O'Donnell
 Planning Inspector

24th May 2023.