



An  
Bord  
Pleanála

## Inspector's Report ABP-316608-23

### Development

Retain change of use to existing agricultural buildings to steel fabrication unit including change of use from agricultural storage outbuildings to storage in association with steel fabrication premises, and associated site works.

### Location

Kells, Dromcollogher, Co. Limerick

### Planning Authority

Limerick City and County Council

### Planning Authority Reg. Ref.

2364

### Applicant(s)

O'Sullivan Fabrications Ltd.

### Type of Application

Retention

### Planning Authority Decision

Refusal

### Type of Appeal

First

### Appellant(s)

O'Sullivan Fabrications Ltd.

### Observer(s)

None

**Date of Site Inspection**

10<sup>th</sup> May 2024

**Inspector**

Ciara McGuinness

## **1.0 Site Location and Description**

- 1.1. The appeal site is located in a rural area of southwest County Limerick, to the north of Dromcollogher village, approximately 15km southeast of Newcastle West and 15km to the west of Charleville, Co. Cork. The site is accessed from the R519 regional road within an 80kph zone. The wider landholding contains a large farm complex and includes a milking parlour, a number of slatted houses, calf houses, slurry tanks and silage pits. Immediately adjoining the farm buildings to the south is the steel fabrication development the subject of this retention application. It is noted that O'Sullivan Fabrications Ltd has been in operation at the site since 2010. A single access serves both the farm and steel fabrication business.
- 1.2. The appeal site has a stated area of 0.9 ha. The area is rural in nature and is characterised by farmland with sporadic housing. A house owned by the applicant's parents is located immediately to the east of the appeal site and accessed from a separate entrance. Hazelwood College is located c.500m to the south of the site.

## **2.0 Proposed Development**

- 2.1. The proposed development is summarised as follows;
- Retain the change of use of agricultural buildings to a steel fabrication unit and associated storage use, labelled as Steel Workshop 1, Steel Fabrication Dry Store 1 & Steel Fabrication Dry Store 2 as per the site layout plan (Drawing No OSJ 23 02 02 A).
  - Retain the construction of Workshop 2, Machine Shop & External Canopy.
  - Retain 2 no. existing portacabins on site for use as office, staff canteen and staff toilet.
  - Retain all ancillary site works associated with the change of use including concreting of yard areas, external rollers for movement of steel, construction of walls and connection to existing septic tank and percolation area.
- 2.2. Unsolicited information was received on file on 23/03/23. The applicant has indicated the intention to discontinue the use of portacabins at the entrance to the site, which contain canteen, toilets and meeting room. It is proposed to place the uses within

‘Workshop no. 2’ on the site layout plan. This is to have its own connection to a new waste water treatment system to the west of the site. A site suitability assessment has been submitted in this regard.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. The Planning Authority issued a decision to refuse permission for two reasons as follows;

1. The proposed development and the precedent it would set for similar types of development would conflict with the provisions of the Limerick Development Plan 2022-228 namely ECON O20 – Location of Industry or Enterprise in Brownfield Sites, Objective ECON O35 – Rural Development and Objective Econ O37 – Farm Diversification. The size, scale and location of the proposed steel fabrication unit is not regarded as an acceptable development in an unserviced rural location and would conflict with the provisions of the Development Plan which seeks to provide industrial/commercial development in or adjacent to settlements where infrastructure can be provided in line with the principles of sustainable development. Additionally, the proposed development would seriously detract from the visual and residential amenities, depreciate the value of properties in the vicinity and would be contrary to the proper planning and sustainable development of the area.
2. In the absence of sufficient details submitted with the application, the Planning Authority is not satisfied that the development has adequately taken into account of traffic, public health, environmental and amenity considerations. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.

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

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

The Planners Report notes that there have been four separate applications made to the Planning Authority since 2010 (See Section 4 below). There was no reference to

the steel fabrication business in any of these applications. The most recent application which was refused under PA Reg Ref 20/960 sought the retention of 2 no. as constructed dry stores and associated site works. The dry stores are now identified as the Machine Shop and Workshop no. 2 as per the current application.

The development is not considered to be in compliance with ECON 35 Rural Development or ECON 37 Farm Diversification. The use of a farm complex for heavy industry is not a compatible use within a rural agricultural complex. The development is not of a scale or size that would be considered a suitable form of farm diversification. The applicant has failed to supply an Environmental Statement outlining the exact nature of the business in terms of methods used on site in the creation of steel manufacturing, on site management, control of hazardous materials, run-off, traffic considerations etc. No details of sightlines or stopping distances have been indicated. A refusal is recommended.

#### 3.2.2. Other Technical Reports

Roads – Recommended Further Information with respect to access and sightlines.

Environmental Department – Conditions recommended with regards to onsite waste management and control of asbestos.

#### 3.3. Prescribed Bodies

None.

#### 3.4. Third Party Observations

None.

### 4.0 Planning History

PA Reg Ref 20/960 – Permission refused in June 2021 for the retention of 2 no. as constructed dry stores and associated site works.

PA Reg Ref 18/1103 – Permission granted in February 2019 for the retention of 2 no. as constructed silage pits and walls and associated site works.

PA Reg Ref 17/1205 – Permission granted in January 2019 for the retention of a constructed cubicle house and slurry storage tank and as constructed dairy building, and planning permission for a new calf shed and a new agricultural building comprising dry feed store, machinery store and feed passage and all associated site works.

PA Reg Ref 14/511 – Permission granted in June 2014 for the removal of existing open slurry storage tank, construction of cubicle house with feed passage, straw bed house, slurry collection tank, silage slab and walls, covering of existing feed passage and all associated site work.

The Planners Report noted that enforcements proceeding relation to the site are ongoing for unauthorised commercial uses. DC-006-19 refers.

## 5.0 Policy Context

### 5.1. Limerick Development Plan 2022-2028

5.1.1. Section 5.8.15 of the Development Plan relates to Rural Enterprise and Employment Opportunities and states that the planning authority *‘will balance the requirement to protect the sensitive nature of the rural area with the requirement to enable enterprise development.’*

5.1.2. The following policies are considered relevant;

**Objective ECON O20 Location of Industry or Enterprise in Brownfield Sites** It is an objective of the Council to facilitate industry or enterprises in brownfield sites with previously established industrial or commercial use, or derelict sites in a commercial, industrial or mixed-use area, subject to the following considerations:

- a) The use should be appropriate to the scale and context of the site, taking into account traffic and other impacts on local infrastructure and neighbouring land uses and amenities;
- b) Structures of conservation merit should be re-used and not replaced;
- c) The works are necessary for the proposed economic activity or activities.

**Objective ECON O30 Light Industrial and Related Uses** It is an objective of the Council to:

- a) Maintain an adequate supply of light industrial space and employment uses in order to help ensure a diverse range of employment opportunities;
- b) Ensure the sustainable development of manufacturing industries on lands zoned for such purposes subject to normal planning, development and environmental controls and the assessment of the potential impact on such development on adjacent land uses.

**Objective ECON O35 Rural Development** It is an objective of the Council to:

- a) Facilitate the development of acceptable rural enterprises and to minimise pollution from agricultural and industrial sources by means of development management and water pollution legislation.
- b) Encourage the redevelopment of vacant commercial units for enterprise and industry creation including Kantoher Business Park, Castlemahon and other identifiable rural commercial brownfield sites, subject to normal planning and environmental criteria.
- c) Promote the development of our rural Towns and Villages as an important focus of restaurant, leisure and evening uses - subject to the safeguarding of surrounding residential amenity and environmental criteria.

**Objective ECON O37 Farm Diversification** It is an objective of the Council to favourably consider proposals for farm diversification in the open countryside where the proposal:

- a) Would not negatively affect public health or agricultural operation on neighbouring farms;
- b) Is of a size and scale which is sympathetic to and which does not negatively impact on the character and amenity of the surrounding area; and
- c) Demonstrates that it has taken into account traffic, environmental and amenity considerations and is in accordance with the policies, requirements and guidance contained in this Plan. All development in the countryside will be required to respect the appearance and character of the rural landscape.

5.1.3. Chapter 11 of the Development Plan deals with Development Management Standards. Section 11.6.8 'Agricultural Buildings, Re-use of Redundant Farm Buildings, Farm Diversification' provides criteria for the assessment of new rural

enterprises. It states that the development of new rural enterprises will be considered on lands where:

- The scale and nature of the proposed development and associated buildings are appropriate to the rural setting and are in areas of low environmental sensitivity;
- It is demonstrated that the proposed enterprise is required to be located in a rural area;
- The proposal will not adversely affect the character and appearance of the landscape;
- The local road network and other essential infrastructure can accommodate any extra demand generated by the proposal;
- Where possible, the proposal involves the re-use of redundant or underused buildings that are of value to the rural area; and
- Where safe access to the public road network can be achieved.

5.1.4. **Objective IN O11 Private Waste Water Treatment Systems** part c) requires *‘non-domestic wastewater treatment systems in those areas not served by a public foul sewerage system to demonstrate full compliance with EPA Wastewater Treatment Manuals (Treatment Systems for Small Communities, Business, Leisure Centres and Hotels) as maybe amended or updated.’*

## 5.2. Natural Heritage Designations

5.2.1. There are no European Sites in the vicinity of the site. The closest sites are the Stack’s to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site code: 004161) and the Blackwater River SAC (Site code: 002170) located approximately 7.km to the southeast and 6.5km to the south, respectively.

## 5.3. EIA Screening

The retained and proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA



therefore arises and there is also no requirement for a preliminary examination or screening determination. Refer to Appendix 1.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of appeal can be summarised as follows;

- The facility forms an important part of the local rural community and provides significant employment (15 employees). The premises is located close to its customer base in the agricultural community. The applicant has made efforts to find a suitable alternative location but has not succeeded.
- The development complies with ECON O37. No evidence that proposal will have any negative impact on public health or the agricultural operations of nearby farms. The size and scale of the development is smaller than the existing agricultural operation. There are no traffic, environmental or amenity issues associated with the proposal.
- Objective ECON O35 supports acceptable rural enterprises. Given the scale of agricultural activities on site, the scale of the steelwork fabrication proposed is of an entirely compatible scale and must be regarded as being an acceptable rural enterprise.
- Our Rural Future 2021-2025 recognises the need for enterprise growth in rural areas and the importance of diversification of rural businesses.
- The Planning Authority did not allow for sufficient time to examine the unsolicited information. The courts ordered the applicant to submit an application before Feb 1<sup>st</sup> 2023. Unsolicited information was necessitated by the short lead in time to prepare this application.
- The development complies with ECON O20. The development is an appropriate scale and there are no issues with structures of conservation merit.

- The buildings the subject of this application are much smaller in scale than the existing substantial agricultural facility for which planning permission has been granted, and therefore the proposal will not detract from visual amenity.
- There will be no depreciation of property values. There are no nearby houses other than the applicant's parents which adjoins the site. The applicant's parents have contributed to the development of the business. The development does not create noise or nuisance and causes a relatively low level of traffic.
- A Traffic Report is submitted demonstrating appropriate sightlines can be achieved subject to amendments to the boundary.
- A Site Characterisation Report is submitted and an amendment to the original application is proposed whereby staff toilets and canteen are incorporated within an existing storage building and a new effluent treatment system is provided.
- There are no European sites which could be affected by the proposal.
- The proposal offers planning gains through securing employment in the local rural area and underpinning the local economy of Drumcollogher.

## 6.2. Planning Authority Response

None.

## 6.3. Observations

None.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows;

- Compliance with Policy (Refusal Reason No. 1)

- Environmental Considerations (Refusal Reason No. 2)

## **7.2. Compliance with Policy (Refusal Reason No. 1)**

- 7.2.1. The site is outside any village or zoned area and therefore must be considered for compliance with the policies and objectives for development in Rural Area's. The first reason for refusal notes that the proposed development and would conflict with the provisions of the Limerick Development Plan 2022-228 namely, ECON O20 – Location of Industry or Enterprise in Brownfield Sites, Objective ECON O35 – Rural Development and Objective Econ O37 – Farm Diversification. The Planning Authority considers that the size, scale and location of the steel fabrication unit is not regarded as an acceptable development in an unserviced rural location and would conflict with the provisions of the Development Plan which seeks to provide industrial/commercial development in or adjacent to settlements where infrastructure can be provided in line with the principles of sustainable development. The applicant in their appeal has contended that the proposal complies with the provisions of the Development Plan. It is submitted that the size and scale of the development is smaller than the existing agricultural operation and that there are no traffic, environmental or amenity issues associated with the proposal. I have considered the developments compliance with the above referenced objectives in turn below.
- 7.2.2. I note ECON O20 – Location of Industry or Enterprise in Brownfield Sites seeks to facilitate industry or enterprises in brownfield sites with previously established industrial or commercial use, or derelict sites in a commercial, industrial or mixed-use area. The subject site is not a brownfield site and therefore I do not consider this objective relevant in this instance.
- 7.2.3. Objective ECON O35 Rural Development seeks to facilitate the development of acceptable rural enterprises and to minimise pollution from agricultural and industrial sources by means of development management and water pollution legislation. In this regard the applicant contends that the development is an 'acceptable' rural enterprise. I note Section 11.6.8 'Agricultural Buildings, Re-use of Redundant Farm Buildings, Farm Diversification' provides criteria for the assessment of new rural enterprises. I consider that the development must comply with each of these criteria to be considered acceptable. I have considered the proposal with regard to the

assessment criteria provided in the Section 11.6.8 of the Development Plan (in italics) as follows;

*The scale and nature of the proposed development and associated buildings are appropriate to the rural setting and are in areas of low environmental sensitivity;*

The buildings are associated with an existing farm complex. The site is considered to be in an area of low environmental sensitivity. There are no European sites within the vicinity. No archaeological, heritage or landscape designations apply to the site.

*It is demonstrated that the proposed enterprise is required to be located in a rural area;*

The development has no specific locational requirements which necessitate its location at this rural, unzoned, unserviced location.

*The proposal will not adversely affect the character and appearance of the landscape;*

I note from my review of Limerick Development Plan 2022-2028 mapping, that the site is located in Landscape Character Area 01 Agricultural lowlands. The Agricultural Lowlands are described as a farming landscape, defined by a series of regular field boundaries, often allowed to grow to maturity. The landscape is described as generally rather flat with some locally prominent hills and ridges. Developments of locally prominent sites should be discouraged. The site is not a locally prominent site and I do not consider that the development adversely affects the character and appearance of the landscape.

*The local road network and other essential infrastructure can accommodate any extra demand generated by the proposal;*

The proposal is accessed from a regional road. The road is not identified as having a high carrying capacity that has a restrictive policy in relation to new developments.

*Where possible, the proposal involves the re-use of redundant or underused buildings that are of value to the rural area; and*

The proposal seeks to retain the change of use of existing agricultural buildings to uses associated with the steel fabrication business.

*Where safe access to the public road network can be achieved.*

The applicant has submitted a Traffic Report demonstrating that adequate sightlines can be achieved.

- 7.2.4. As outlined above, the development has no specific locational requirements which necessitate its location at this rural, unzoned, unserviced location. I am not satisfied that the principle of development is in accordance with the policies and objectives of the Development Plan for rural enterprises. I do not consider that there is a need for the development to be located in this rural and unserviced area. It is not in accordance with the assessment criteria for new enterprises in rural areas and would set an undesirable precedent for similar industrial development in unserviced areas which is unplanned and haphazard. I therefore do not consider it an acceptable rural enterprise and I do not consider that it complies with ECON O35 Rural Development.
- 7.2.5. ECON O37 states that favourable consideration will be given to farm diversification proposals where public health and operations on neighbouring farms are not negatively affected, where the size and scale is sympathetic and does not negatively impact the character and amenity of the surrounding area, and where traffic, environmental and amenity considerations have been taken into account. The issues of public health, traffic and the environment and are also referenced in refusal reason 2 and are dealt with below under Section 7.3. With regards to the issue of size and scale and the impact of character/amenity of the area, I note that the PA's first reason for refusal also specifically references the detrimental impact on the established visual and residential amenities in the area and the depreciation of property values in the area. The applicant contends that the buildings the subject of this application are much smaller in scale than the existing substantial agricultural facility, and therefore the proposal will not detract from visual amenity or depreciate property values.
- 7.2.6. I noted from my site inspection that the applicant's parents' house is located proximally to the farm and steel fabrication premises. There are no other houses within c.400 metres of the site. The applicant has noted that the scale of the premises is subservient to the existing agricultural facilities. I would note that elements of the application relate to a change of use of some existing farm building. There are 2 no. new buildings seeking retention, identified as Workshop 2 and the machine shop. Workshop 2 has a stated area of 650sqm and a height of 8.92m. The machinery shop has a stated area of 81.92sqm and a height of 6.38m. I would not

consider the sheds to be out of scale with the existing farm buildings. I would also note that sheds are common agricultural structures and the sheds as erected are of a standard agricultural design, with a sheet metal cladding finish. In terms of visual impact from the road at the time of site inspection views were largely restricted due to the existing screening. While the structure may be visible in some locations, I do not consider that the placement of such a structure to be seriously injurious to the visual amenities or established character of the area. I consider that refusal of the development on grounds of visual and residential amenity of adjoining property is unwarranted.

### **7.3. Environmental Considerations (Refusal Reason No. 2)**

- 7.3.1. The Planning Authority noted that in the absence of details submitted with the application, it is not satisfied that the development has adequately taken into account traffic, public health, environmental and amenity considerations. I have considered the impact on visual and residential amenity in the above section. Traffic, public health and environmental considerations are assessed below.
- 7.3.2. With regards to traffic, the applicant has submitted traffic report in response to comments from the Roads Department. The site is accessed off a Regional Road and full sightlines, stopping sight distances and forward visibility of 160m are required. The report notes that visibility towards the east is currently obstructed due to the presence of the existing boundary hedge, a tree and a public road sign and consequently visibility is limited to 82m. It is proposed that the front boundary will be set back. A wire and post fence will be installed, and the hedge planted behind this wire fence. I consider the issue of sightlines has been addressed and could be overcome through the attachment of a condition.
- 7.3.3. With respect to public health and environmental considerations, the applicant has proposed a new treatment system to the west of the site and submitted a Site Suitability Assessment Report. It is submitted that the loading system is to cater for up to 18 staff members. I would note that the proposed treatment system is outside the red line boundary for the application. I would also consider that the applicant should have had regard to the EPA's Wastewater Treatment Manual for Small Communities, Business, Leisure Centres and Hotels in accordance with Objective IN O11 Private Waste Water Treatment Systems of the Development Plan.

- 7.3.4. The applicant has submitted that there is no European site which could be affected by the proposal and that the fabrication business has a lesser environmental impact than the agricultural facility for which planning permission has been granted. I would concur the Planning Authority that the applicant has failed to supply details outlining the exact nature of the business in terms of methods used on site in the creation of steel manufacturing, on site management, control of hazardous materials, etc. No information has been provided to dismiss there being any process effluent. Surface water is indicated as disposal through a watercourse according as per the submitted application form. No details of attenuation or use of petrol interceptors etc have been indicated on the drawings or elsewhere in the documentation.
- 7.3.5. In conclusion, I am not satisfied that sufficient information has been provided to confirm that the proposed wastewater treatment system and surface water attenuation are suitable for the development.

## **8.0 AA Screening**

- 8.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.1.2. There are no European Sites in the vicinity of the site. The closest sites are the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site code: 004161) and the Blackwater River (Cork / Waterford) SAC (Site code: 002170) located approximately 7.km to the southeast and 6.5km to the south, respectively.
- 8.1.3. The proposed development relates to the provision of steel fabrication premises. A detailed description of the proposal is outlined in Section 2 of this report.
- 8.1.4. No nature conservation concerns were raised in the planning appeal.
- 8.1.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- Nature of works e.g. the proposed change of use and extensions to the premises.
  - Distance and lack of connections to the nearest European site.

- Taking into account screening report/determination by the Planning Authority.

8.1.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

8.1.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **9.0 Recommendation**

9.1.1. I recommend that permission be refused for the following stated reasons.

## **10.0 Reasons and Considerations**

1. It is a criterion of the planning authority, as set out in Section 11.6.8 of the current Development Plan, to permit development proposals for rural enterprises in the countryside where it is demonstrated that the proposed enterprise is required to be located in a rural area. This criterion is considered to be reasonable. It is considered that the development has no specific locational requirements which necessitate its location at this rural, un-zoned and unserviced location and would, thereby, contravene the development plan in this regard. The development is therefore not considered an acceptable rural enterprise and would not be in accordance with Objective ECON O35 Rural Development.
2. The Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated and disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health and would not be in accordance with Objective ECON O37 Farm Diversification and Objective IN O11 Private Waste Water Treatment Systems.



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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Ciara McGuinness  
Planning Inspector

20<sup>th</sup> May 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>			
<b>Proposed Development Summary</b>	Retain change of use to existing agricultural buildings to steel fabrication unit including change of use from agricultural storage outbuildings to storage in association with steel fabrication premises, and associated site works.		
<b>Development Address</b>	Kells, Dromcollogher, Co. Limerick		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>	✓		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>	✓	N/A	No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_