



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318531-23

<b>Development</b>	Development of a cattle house incorporating a slatted tank with slats laid on.
<b>Location</b>	Fennor House, Fennor, Urlingford, Co. Tipperary
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	23181
<b>Applicant(s)</b>	Martin Lonergan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Kathleen Cronin
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	7 <sup>th</sup> November 2024
<b>Inspector</b>	Emer Doyle

## **1.0 Site Location and Description**

- 1.1. The subject site is located in a rural area within the townland of Fenor, approximately 1.5km to the south west of Urlingford, Co. Kilkenny. The site as outlined in red has a stated area of 0.45 hectares.
- 1.2. Existing development at the site consists of a cattle shed. The cattle shed is accessed from a laneway located c. 180m from the public road at this location.
- 1.3. Development in the area consists of scattered rural housing and agricultural uses. The appellant's dwelling (labelled as neighbouring dwelling on site layout plan) is located to the south of the laneway. A graveyard is located further south of the site.
- 1.4. The site is in a zone of archaeological potential for surrounding Fenor Castle and bawn as indicated on the Archaeological Survey database for Co. Tipperary. There are no above ground traces of these sites.

## **2.0 Proposed Development**

- 2.1. The proposed development as outlined within the public notices comprises permission to construct a cattle house incorporating a slatted tank. The height of the proposed structure is c. 6.6m sloping to 4.3m and the proposal has a stated area of 244m<sup>2</sup>.
- 2.2. In response to the Further Information Request by the Planning Authority, the following details were submitted dated the 11<sup>th</sup> of October 2023:
  - Archaeological Impact Assessment
  - Details in relation to sightlines
  - Revised notices in relation to retention of existing cattle house and yard.
  - Drawings of existing cattle house and yard - the area of retention permission for the existing cattle house and yard on the site is stated to be c. 503m<sup>2</sup>.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission GRANTED, subject to 8 No. conditions. Condition 7 required archaeology to be protected and preserved if discovered during construction. All other conditions are of a standard nature for a development of this type.

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

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

- The Planner's report dated August 2023 notes that the site is located c. 150m from nearest residential property and requires Further Information in relation to unauthorised development, archaeology, sight lines and landholding map. The second report dated November 2023 considered that the Further Information had been addressed and recommended permission subject to conditions.

##### **3.2.2. Other Technical Reports**

- Area Engineer: No objection subject to conditions.

#### **3.3. Prescribed Bodies**

- No reports.

#### **3.4. Third Party Observations**

- 3.4.1. One third party observation was received by the Planning Authority. The grounds are similar to those in the appeal submitted.

### **4.0 Planning History**

- 4.1. There are no details in relation to planning history. The planner outlined that the existing cattle shed is unauthorised.

## **5.0 Policy Context**

### **National Policy Objective 23**

- 5.1.1. Facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.

### **S.I. No. 113/2022 - European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022**

- 5.1.2. The European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 set parameters for farmyard and nutrient management and the distances for spreading fertiliser from water sources to prevent water pollution.

## **5.2. Development Plan**

- 5.2.1. The operative plan for the area is the Tipperary County Development Plan 2022 – 2028.

### **Strategic Objectives**

- 5.2.2. SO-6 To support a sustainable, diverse and resilient rural economy, whilst integrating the sustainable management of land and natural resources.

### **Policies**

- 5.2.3. 8-4 Facilitate the development of alternative farm enterprises, whilst balancing the need for a proposed rural-based activity with the need to protect, promote and enhance the viability and environmental quality of the existing rural economy and agricultural land.
- 5.2.4. 10-3 Support and facilitate the development of a sustainable and economically efficient agricultural and food sector and bioeconomy, balanced with the importance

of maintaining and protecting the natural services of the environment, including landscape, water quality and biodiversity.

- 5.2.5. 11-1 In assessing proposals for new development to balance the need for new development with the protection and enhancement of the natural environment and human health. In line with the provisions of Article 6(3) and Article 6(4) of the Habitats Directive, no plans, programmes, etc. or projects giving rise to significant cumulative, direct, indirect or secondary impacts on European sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects shall be permitted on the basis of this Plan (either individually or in combination with other plans, programmes, etc. or projects).
- 5.2.6. 13-4 Safeguard sites, features and objects of archaeological interest, including Recorded Monuments, National Monuments and Monuments on the Register of Historic Monuments, and archaeological remains found within Zones of Archaeological Potential located in historic towns and other urban and rural areas.
- 5.2.7. Appendix 3 of the Development Plan identifies that the site is located a landscape character type described as the Templemore Plains Landscape Character Area.
- 5.2.8. Appendix 6 of the Development Plan sets out Development Management Standards. Section 6.1 deals with Road Design and Visibility. Table 6.1 sets out X Distance Requirements and Table 6.2 sets out Design Speeds and associated Y Distances.

### **5.3. Natural Heritage Designations**

- 5.3.1. The appeal site is not located on or within proximity to any designated Natura 2000 site(s) or Natural Heritage Area(s). The Loughans SAC being the nearest European site is approximately 3.5km to the North East of the subject site.

## **5.4. EIA Screening**

- 5.4.1. See completed Appendix 1 - Form 1 on file. Having regard to the nature and type of development proposed, it is not considered that it falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (As amended), and as such preliminary examination or an environmental impact assessment is not required.

## **6.0 The Appeal**

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

- 6.1.1. The grounds of appeal can be summarised as follows:
- Insufficient information has been submitted with the application to demonstrate the need for the development.
  - The scale of development is considered to be excessive.
  - The access track abuts the appellants landholding and is considered to be a traffic hazard. The applicant uses the appellants entrance as a vehicle turning point.
  - The attainment of appropriate sightlines would require works to the boundary of the appellant's land.
  - Concerns regarding visual impact of proposed shed to the front of the established building line. The distance from the rear of the house to the shed is c. 130m.
  - Should ABP grant permission, it is requested that farm operations are at reasonable hours.
  - Concern regarding compliance with Good Agricultural Practice for Protection of Waters.

## **6.2. Applicant Response**

- None.

## **6.3. Planning Authority Response**

- The Planning Authority submitted the planner's report in relation to a request from the Board. No response was submitted in relation to the appeal.

## **6.4. Observations**

- None.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including the reports of the planning authority, the appeal submission received, together with having inspected the site, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Traffic Safety
- Impact on Visual and Residential Amenity
- Impact on Public Health
- Appropriate Assessment Screening

## **7.2. Principle of Development**

7.2.1. It is asserted by the appellant that the applicant has not made a demonstratable case for development subject to the requirements of the development plan. The appellant refers to a previous Board case (314060-22) where the Board refused permission for an access to an existing development.

- 7.2.2. I have reviewed this case and note that it was proposed to remove a 12m section of hedgerow to provide an access in an area of High Amenity. Details submitted with the application indicated that there was an existing agricultural access in place that the applicant could avail of in lieu of the proposed access.
- 7.2.3. In the current application, the applicant seeks to retain an unauthorised cattle shed which appears to have been on the lands for a considerable number of years. Permission is also sought to provide additional cattle housing within the existing farm complex.
- 7.2.4. The Planning Officer and the Area Engineer have no objection to the proposal. The site is located in a rural area where there are numerous such uses and the proposal forms part of a wider agricultural complex within a 54 hectare landholding. The proposed development is considered to be compatible with the established land use within this rural area.
- 7.2.5. There are numerous policies that support agricultural development in the operative Development Plan. I note that the site is located within a zone of archaeological potential, however this issue was addressed in the Further Information Request and the site was test trenched in order to assess the possibility of sub-surface archaeological features. According to the archaeological report submitted on behalf of the applicant 'the test trenches were sterile of archaeological deposits, features or finds.' The appellant states that it is considered that the archaeological considerations have been satisfactorily addressed. I concur with this subject to the inclusion of a similar condition to the Planning Authority should the Board be minded to grant permission in this instance.
- 7.2.6. Based on the above, I consider that the principle of the proposed development is acceptable at this location.

### **7.3. Traffic Safety**

- 7.3.1. The main concerns raised regarding traffic safety relate to inadequate sightlines, absence of turning area, and intensification of use.
- 7.3.2. The site is accessed from a local road (L6102) via an agricultural track that runs adjacent to the boundary of the appellant's dwelling.



- 7.3.3. Section 6.0 of Appendix 6 deals with Parking, Traffic and Road Safety. Table 6.1 sets out the X Distance requirements. For agricultural developments the requirement is 4.5m. Table 6.2 shows the design speeds and associated Y-distances. The requirement for 160m sightlines is based on a speed limit of 80km/h which applies to this road.
- 7.3.4. The site layout plan indicates that sightlines of 96m are available to the north of the site and 76m to the south of the site. This has been measured from a distance of 2.5m rather than the requirement for agricultural developments of 4.5m.
- 7.3.5. The Area Engineer recommends permission for the development subject to conditions. It is pointed out in his report that this is an existing entrance onto a low speed/ traffic road.
- 7.3.6. Whilst noting that the existing agricultural development at this location is unauthorised, I would concur with the Area Engineer. At the time of inspection, there was minimal traffic on the road and there is flexibility in the Development Plan in this regard.
- 7.3.7. In terms of the absence of a turning area, I do not consider that this is causing a traffic safety issue, having regard to the low speeds of traffic, the low levels of traffic and the agricultural use of the lands.
- 7.3.8. I note that the appellant requested a Traffic and Transport Impact Assessment due to the intensification of development at this location. Whilst I accept that there is a level of intensification proposed within this site, I concur with the Planning Authority report which states that the development is well below the threshold for Traffic and Transport Assessment as set out in the Plan. Section 6.2 deals with Traffic and Transport Assessments and such assessments are normally carried out for large scale development and in my view, there is no justification for same at this location having regard to the scale of development proposed.
- 7.3.9. The proposed development is located in a rural location and the road network is typical of these areas. I do not consider that there is any deficiency in the network that would render it unsuitable to carry the additional traffic movements associated with the proposed development. The road network and junctions have sufficient capacity to accommodate additional traffic associated with the retention of the existing agricultural use together with the proposed agricultural use. Whilst there is

no information on file indicating the predicated increase in traffic associated with the proposed development, I am of the view that it would be relatively modest and would have no discernible impact on the road network. As such, the proposed development would not give rise to a traffic hazard or endanger the safety of other road users.

#### **7.4. Impact on Visual and Residential Amenity**

- 7.4.1. The appeal raises concerns in relation to the impact on visual and residential amenities.
- 7.4.2. The development consists of the retention of an existing cattle shed together with the construction of a cattle house incorporating a slatted tank and all associated site works.
- 7.4.3. The site is located in a landscape character type described as the Templemore Plains which is described in the Landscape Character Assessment in Appendix 3 of the Development Plan as robust landscape with a guideline to 'facilitate development that continues established patterns of use and settlement.' In the context of the County Landscape Capacity, this is a high capacity/ low sensitivity, Class 1 landscape which is capable of absorbing considerable change without detriment.
- 7.5. The existing cattle house is located c. 125m from the appellant's dwelling, whilst the proposed slatted shed is located c. 170m from the appellant's dwelling. Both units are accessed from an agricultural track and would not be visually dominant from the public road at this location. I note that the appellant has raised concern regarding boundary treatment and whilst there is a thick hedge along the agricultural track, there is a short gap in this hedge along the rear boundary wall of the appellant's dwelling. Having regard to the distance between the appellant's property and the existing and proposed development, I am satisfied that the proposed development would not unduly detract from the residential amenities of this property.
- 7.6. I note the appellant's concerns regarding noise and use of agricultural vehicles. The Planning Authority report states that the cattle house will not give rise to any noise or odour that is not commonplace in a rural area. Having regard to the distance from the appellant's property and the distance from the public road and the rural context of the site where agricultural activity is considered to be an appropriate use, I am

generally satisfied that the proposed development will not unduly impact on the residential amenities of the area. Furthermore, I am satisfied that the scale, siting and design of the proposal is appropriate in its context and will not adversely dominate the rural landscape at this location or detract from the scenic or residential amenities of the area.

#### **7.7. Impact on Public Health**

- 7.8. Concern is raised in the appeal that insufficient information has been provided in the application in terms of management of effluent arising from the proposed cattle house.
- 7.9. I note that the Planning Authority report states that a slatted tank is proposed and manure will be spread on the landholding of 54 acres at this location. There is no report from the Environment Section on file.
- 7.10. The Good Agricultural Practice for Protection of Waters Regulations (2022) requires that manure, soiled water and effluent should be collected and held in a manner that prevents run-off or seepage, directly or indirectly, into ground waters or surface waters, prior to application on land or other treatment.
- 7.11. I consider that matters in relation to the collection, storage and disposal of spoiled waters, effluent and manures can be addressed by the use of appropriate conditions should the Board be minded to grant permission in this instance.

#### **8.0 AA Screening**

- 8.1. I have considered the proposed project in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended.

The development comprises the retention of a cattle shed together with permission for a slatted unit, effluent tank and associated site works.

A screening report for Appropriate Assessment was not submitted with this planning appeal case. However in the Local Authority assessment of the proposed development, Appropriate Assessment was undertaken by Tipperary County Council

as part of their planning assessment and concluded that there would be no potential for significant effects on any European Site.

## **8.2. European Sites**

- 8.2.1. The proposed development is not located within or immediately adjacent to any site designated as a European Site. Having viewed the Environmental Protection Agency's AA Mapping Tool, together with and having visited the site, I note that there are no direct hydrological connections between the development proposed or the subject site and the European Sites.
- 8.2.2. Two European Sites are located within 6km of the site as follows:
- The Loughans SAC Site Code 000407
  - Spahill and Clomantagh Hill SAC Site Code 000849
- 8.2.3. There is no connection from the subject site with these European Sites. There are no watercourses or other ecological features on the site that would connect it directly to other European Sites in the wider area.

## **8.3. Likely impacts of the project (alone or in combination)**

- 8.3.1. Due to the nature of the development site and the presence of a significant buffer area (agricultural lands) between the site and the closest watercourse (c. 330m to east), I consider that the proposed development would not be expected to generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors.
- 8.3.2. The proposed development would not have direct impacts on any European site.
- 8.3.3. During site clearance and construction works of the proposed agricultural building, possible impact mechanisms of a temporary nature include generation of noise, dust, and construction related emissions to surface water.
- 8.3.4. The contained nature of the site (defined site boundaries, no direct ecological connections or pathways) and distance from receiving features make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites.

#### **8.4. Likely significant effects on the European sites in view of the conservation objectives**

- 8.4.1. The construction or operation of the proposed development will not result in impacts that could affect the conservation objectives of the SACs. Due to distance and lack of meaningful ecological connections there will be no changes in ecological functions due to any construction related emissions.

#### **8.5. In combination effects**

- 8.5.1. The proposed development will not result in any effects that could contribute to an additive effect with other developments in the area.

No mitigation measures are required to come to these conclusions.

#### **8.6. Overall Conclusion**

##### **Screening Determination**

- 8.6.1. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site and is therefore excluded from further consideration. Appropriate Assessment (a submission of a NIS) is not required.

- 8.6.2. This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site
- Distance from and weak indirect connections to the European sites
- Taking into account screening determination by the planning authority.

#### **9.0 Recommendation**

- 9.1. Having regard to the foregoing it is recommended that permission be granted for the proposed development, subject to conditions.

## 10.0 Reasons and Considerations

10.1. Having regard to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development and development proposed to be retained, would not seriously injure the visual amenity of the area and would be acceptable in terms of public health and environmental sustainability and would be supported by the relevant provisions of the Tipperary County Development Plan 2022-2028, including strategic objective SO-6 (support rural economy). The proposed development and development proposed to be retained would, therefore, be in accordance with the proper planning and sustainable development of the

## 11.0 Conditions

1. 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 the 11<sup>th</sup> of October 2023 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. The agricultural buildings shall be used only in strict accordance with a management schedule which shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The management schedule shall be in accordance with the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2022, as amended, and shall provide at least for the following:

- (a) Details of the number and types of animals to be housed.
- (b) The arrangements for the collection and storage of slurry.

(c) Arrangements for the cleansing of the buildings and structures (including the public road, where relevant).

**Reason:** In order to avoid pollution and in the interest of residential amenity.

3. All oxidisable and galvanised surfaces of the proposed development shall be painted a dark green matt colour or similar dark matt colour and shall be maintained in perpetuity.

**Reason:** In the interest of visual amenity.

4. (a) The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development. Prior to the commencement of such works the archaeologist shall consult with and forward to the Local Authority archaeologist or the NMS as appropriate a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation [preservation in-situ/excavation].

(b) The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.

(c) Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological

investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

**Reason:** To ensure the continued preservation [either in situ or by record] of places, caves, sites, features or other objects of archaeological interest.

5. 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, and

(b) all soiled waters shall be directed to a storage tank. Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

**Reason:** In the interest of environmental protection and public health.

6. All foul effluent and slurry generated by the proposed development shall be conveyed through properly constructed channels to the proposed and existing 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.

7. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains, streams or adequate soakpits and shall not discharge or be allowed to discharge to the foul effluent drains, foul effluent and slurry storage tanks or to the public road.

**Reason:** In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.

8. A minimum of 16 weeks storage shall be provided in the underground storage tank. Prior to commencement of development, details showing how it is intended to comply with this requirement shall be submitted to and agreed in writing with the planning authority.

**Reason:** In the interest of environmental protection and public health.



9. Prior to the commencement of development, a Resource Waste Management Plan (RWMP), as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

**Reason:** In the interest of sustainable waste management.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid within 3 months of this decision (retained development) and prior to commencement of the development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.

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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Emer Doyle  
Planning Inspector

29<sup>th</sup> November 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	318531-23		
<b>Proposed Development Summary</b>	Retention of cattle shed and development of cattle house incorporating slatted tank with associated site works		
<b>Development Address</b>	Fenor, Urlingford, Co. Tipperary.		
<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>	X
		<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>			EIA Mandatory EIAR required
<b>No</b>	X		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>No</b>	X		No EIAR or Preliminary Examination required
<b>Yes</b>			Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: Emer Doyle

Date: 29<sup>th</sup> November 2024