



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319335-24

#### Development

The construction of a cubicle shed with underground slurry tank and loose area, walled silage pits, a roofed overground slurry tower and all associated site works.

#### Location

Donaskeagh, Co. Tipperary.

#### Planning Authority

Tipperary County Council

#### Planning Authority Reg. Ref.

2460007

#### Applicant(s)

Liam and Marian Croke

#### Type of Application

Permission

#### Planning Authority Decision

Grant Permission

#### Type of Appeal

Third Party

#### Appellant(s)

Peter Sweetman

#### Observer(s)

None

#### Date of Site Inspection

14<sup>th</sup> November 2024

#### Inspector

Emer Doyle

## **1.0 Site Location and Description**

- 1.1. The subject site with a stated area of 1.34 HA forms part of an established farmstead located in the townland of Donaskeagh, c. 500m from the settlement of the same name, in a rural area in Co. Tipperary.
- 1.2. The existing farmyard contains a number of storage sheds and slatted sheds. The farm is part of a landholding of c. 130 acres at this location as stated on Part 4 of the application form. A farmhouse and garage are located on lands to the north and both the farmyard and dwelling are served by a private road c. 450m from the public road at this location.
- 1.3. Development in the area consists of scattered rural housing and agricultural uses.

## **2.0 Proposed Development**

- 2.1. The proposed development as outlined within the public notices comprises permission to construct (i) a cubicle shed with underground slurry tank and loose area, (ii) walled silage pits, (iii) a roofed over ground slurry tower and all associated site works.
- 2.2. The cubicle shed and loose area has a floor area of 1232m<sup>2</sup> (covered area 1040m<sup>2</sup>) and height of 8.9m. The proposed overground slurry tower has a floor area of 457m<sup>2</sup> and height of 5.69m.
- 2.3. Unsolicited Further Information was submitted to the Planning Authority dated the 14<sup>th</sup> of February 2024 which advised that the applicant now rents an additional 45 acres and included a Nutrient Management Plan prepared on behalf of the applicant by Teagasc.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. By Order dated 27 February 2024, Tipperary County Council issued a Notification of decision to grant planning permission subject to 6 No. conditions. The conditions were of a standard nature for the type of development proposed.

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

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

- Principle of development acceptable. In terms of Appropriate Assessment, it was noted that there is a stream (EPA Name: Donaskeagh) c. 213m east of the application site boundary which connects into the Multeen River which forms part of the Lower River Suir SAC 10km south of the site and that there is no direct connectivity to the SAC within 1km to the north.

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

- There are two reports from the Environment Section. The first report dated the 22/01/2024 requested Further Information. The second report dated the 22/02/2021 noted that the nearest SAC is the Lower River Suir SAC and that no direct impacts are considered likely as there does not appear to be any connectivity at this. Permission was recommended subject to conditions.
- Area Engineer: No objection subject to conditions.

### **3.3. Prescribed Bodies**

- No reports.

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

- 3.4.1. The PA received one third-party submission during the course of their determination from Mr. Peter Sweetman (and on behalf of Wild Ireland Defence). The submitter outlines the legal tasks of a PA when dealing with an application of this type.

## **4.0 Planning History**

### **4.1.1. PA Reg. Ref. 23/2360264**

Retention Permission granted for a calf shed extension and all associated site works.

**PA Reg. Ref. 18/600480**

Permission granted for construction of (i) Cubicle House (ii) Cubicle House with straw bedding area (iii) The two proposed structures contain an underground effluent slatted tank extending under both structures and all associated site works.

**PA Reg. Ref. 16/600054**

Permission granted to construct 2 cubicle sheds one will incorporate straw bedding and all associated site works.

**PA Reg. Ref. 16/600029**

Permission granted to demolish existing sheds and old dwelling house. Permission to construct a (i) slatted shed incorporating straw bedding area. Milking area and bulk tank room (ii) calf shed (iii) silage slab and all associated site works.

## **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.

### **5.2.2. Strategic Objectives**

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

### **5.2.3. Policies**

**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.

**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.

**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).

## **5.3. 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 Lower River Suir SAC 002137 being the nearest European site is approximately 1 km to the North 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:
- The conclusion of the Planning Authority that the development is not likely to have significant effects is not the correct test.
  - The correct appropriate assessment screening requirement is found in Finlay Geoghegan J. in Kelly v An Bord Pleanala (2014) IEHC 400 (25 July 2014).
  - There is no slurry and water management report on file.

### **6.2. Applicant Response**

- 6.2.1. The response submitted by the applicant can be summarised as follows:
- There is no increase in stock numbers arising from the proposed development- the proposed work will enhance the environmental sustainability of the farm.
  - I have engaged a Teagasc Advisor in respect of the preparation of a response to this appeal. It has been confirmed that the landholding has sufficient lands for spreading on the grazing platform to allow for nutrient uptake from animal manure.
  - The Teagasc Nutrient Management Plan submitted during the planning application is attached to the appeal.

- The decision to apply for planning permission was not made lightly but forced due to ever increasing regulations. These works are required to future proof the farm and achieve a viable living.
- The third party appeal is without substance and not specific to this site.

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

- None.

### 6.4. **Observations**

- None.

## 7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the appeal submission received in relation to the appeal, the reports of the planning authority, having inspected the site and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this appeal to be considered are as follows:

- Principle of Development
- Screening for Appropriate Assessment

### 7.2. **Principle of Development**

7.2.1. Having regard to the nature of the development within an existing farmyard located on a private roadway c.450m from the public road, together with the height and scale of the proposed development, I am satisfied that the development will not result in an adverse impact on the visual or scenic amenity of the area. I refer the Board to the applicant's response which states that there is a longstanding farming operation on the subject lands, no increase in stock numbers is proposed, and the proposed development seeks to enhance the existing farming infrastructure to aid in the protection of the environment.

- 7.2.2. Taken the above into consideration, I am satisfied that the continuance, improvement and expansion of this agricultural activity is a realistic expectation. It is in this context that I consider the further development of agricultural structures in what appears to be a modernisation of an existing use in order to comply with prevailing farming practices to be acceptable in principle.

### **7.3. Screening for Appropriate Assessment**

- 7.3.1. I note the concerns of the Appellant regarding the issue of Appropriate Assessment. At the outset, for the purposes of clarity, the Board should note that landspreading does not form part of this application and such process is regulated under the European Union (Good Agricultural Practice for Protection of Waters) Regulations, as amended. The regulations contain specific measures to protect surface waters and groundwater from nutrient pollution arising from agricultural sources. This includes, inter alia, no land spreading within 5-10 metres of a watercourse following the opening of the spreading period. I note that an Appropriate Assessment was completed as part of Ireland's fifth Nitrates Action Programme (NAP) 2022-2025, which is given effect by the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2022, and concluded that the programme would not adversely affect the integrity of any European Site.
- 7.3.2. I have considered the proposed project in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. The subject site is located approximately 1km to the south of the Lower River Suir SAC (002137).
- 7.3.3. The development comprises the construction of a cubicle shed with underground tank and loose area, walled silage pits, a roofed overground slurry tower and associated site works. I noted on site inspection that there were no land drains within the immediate vicinity of this 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. I note that the Planning Authority undertook a screening for Appropriate Assessment and concluded that there would be no potential for significant effects on any European Site. The nearest watercourse to the site is the Donaskeagh stream c. 213m east of the application site boundary which

connects into the Lower River Suir SAC c. 12km to the South. I concur with the report of the Environment Section which notes that the nearest SAC is the Lower River Suir SAC, and that no direct impacts are considered likely as there does not appear to be any connectivity to this.

7.3.4. 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:

- Having regard to the absence of any direct hydrological connection from the subject site to any European Site.
- Having regard to the distance of the site from the European Sites regarding any other potential ecological pathways.
- No ex-situ effects are likely having regard to the characteristics of the site which comprises of a yard area of hard surfacing surrounded by agricultural fields laid in grass between the site and the Lower River Suir SAC.
- Having regard to the screening report and determination of the PA.

7.3.5. 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. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required. The Board should note that I have not taken into account any measures intended to reduce or avoid any harmful effect on the European Sites.

## **8.0 Recommendation**

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

## 9.0 Reasons and Considerations

- 9.1. Having regard to the nature and scale of the proposed development within an established agricultural farmyard, it is considered that, subject to compliance with the conditions set out below, the proposed development 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 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 by additional information received on the 14<sup>th</sup> of February 2024 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 slatted shed 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. 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.

5. All foul effluent and slurry generated by the proposed development and in the farmyard 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.

6. 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.

7. 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.

8. 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.

9. 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

Inspector

28<sup>th</sup> November 2024

## EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP- 319335-24			
<b>Proposed Development Summary</b>	Construction of (i) a cubicle shed with underground slurry tank and loose area, (ii) walled silage pits, (iii) a roofed overground slurry tower and all associated site works.			
<b>Development Address</b>	Donaskeagh, 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>Conclusion</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:** 28<sup>th</sup> November 2024