



An  
Bord  
Pleanála

## Inspector's Report ABP-319596-24

### Development

Construction of roofed collecting yard adjacent to existing milking parlour; collecting yard to incorporate underground slatted soiled water tank with external agitation & crush & ancillary external concrete, together with all associated site works

### Location

Rathranna, Kanturk, Co. Cork

### Planning Authority

Cork County Council

### Planning Authority Reg. Ref.

244221

### Applicant(s)

Con Goggin

### Type of Application

Permission

### Planning Authority Decision

Grant

### Type of Appeal

Third Party

### Appellant(s)

Peter Sweetman

### Observer(s)

None

### Date of Site Inspection

04<sup>th</sup> September, 2024

**Inspector**

Lorraine Dockery

## **1.0 Site Location and Description**

- 1.1. The subject site is located within a dairy farm complex situated in a rural area within the townland of Rathranna, approximately 3km north of Kanturk, County Cork. The site, as outlined in red, has a stated area of 0.54 hectares while the overall farm holding has a stated area of 50 hectares. Access to the farmyard is via two entrances from the local roadway (L-10501) and the existing farm structures are set back from the roadway. A disused structure is located to the south of the site, as outlined in red.

## **2.0 Proposed Development**

- 2.1. The proposal comprises the construction of roofed collecting yard adjacent to existing milking parlour; collecting yard to incorporate underground slatted soiled water tank with external agitation & crush & ancillary external concrete, together with all associated site works.
- 2.2. The stated area of the proposed works is 260m<sup>2</sup>.
- 2.3. It is stated in the submitted documentation that the farm animals accommodated on site from 15/10 to 12/01 is 92 dairy cows and 25 calves less than 6 months old. This figure will not be altered as a result of the proposed development.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission GRANTED, subject to 26 no. conditions

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

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

- Reflects decision of planning authority; recommends grant of permission

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

Environment Section- Construction of proposed development is very positive from an environmental viewpoint, will enhance the management of the farmyard and will

enable compliance with impending increased storage requirements as per the Nitrates Regulations. Will enable compliance with S.I. No. 113 of 2022, European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2022. No objections, subject to conditions

Area Engineer- No objections, subject to conditions

### **3.3. Prescribed Bodies**

None

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

The planning authority received one objection that raised issues similar to that contained in the third-party appeal.

## **4.0 Planning History**

18/5777

Permission GRANTED for a slated cubicle house with associated effluent tank, retention of existing calf house and all associated site works

14/04659

Permission GRANTED for construction of a milking parlour and covered collection yard, conversion of existing calf house to cubicle house, extension to cubicle house and ancillary works.

09/5022

Permission GRANTED for construction of a slatted unit and associated site works

Within holding

19/5553

Permission GRANTED for construction of a dwellinghouse, packaged wastewater treatment system and polishing filter, domestic garage and associated site works.

## **5.0 Policy Context**

### **5.1. Development Plan**

The Cork County Development Plan 2022-2028 applies.

The subject site is located outside of any existing development boundaries, as set out in the operative County Development Plan and relates to an agricultural development. Lands immediately south of the local road are zoned 'Greenbelt 1'.

11.3.29-11.3.30 Good Agricultural Practice for Protection of Waters

The following objectives are noted:

Objective WM 11-6 Protection from Agricultural Pollution

Objective WM 11-2 Surface Water Protection

Objective EC:8-15 Agriculture and Farm Diversification

### **5.2. Natural Heritage Designation**

The site is not located within any designated site. The site is approximately 650m west of the Blackwater River (Cork /Waterford) SAC (Site Code 002170).

### **5.3. EIA Screening**

The proposed development is not specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, and, in addition, having regard to the nature and scale of the development, there is no real likelihood of significant effects on the environment arising from the proposed development. Therefore, an environmental impact assessment is not required.

### **5.4 Appropriate Assessment**

See Appendix 2 below

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The third-party appeal may be broadly summarised as follows:

- Appropriate assessment required as proposal may have an effect on Blackwater River (Cork /Waterford) SAC (Site Code 002170)
- ABP must assess the proposal 'de novo'
- Conditions make reference to SI No 113/2022 – European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2022 (Nitrates Regulations)- these implement Nitrate Directive not Habitats Directive
- Sets out case law for screening and Habitats Directive responsibilities with reference to CJEU Case 258/11 Sweetman & Others v An Bord Pleanála
- References Screening Conclusion in ecological report (Board should note that this referenced ecological report does not specifically relate to this site nor is it included in the submitted documentation).
- No details of past slurry spreading are included

### 6.2. Planning Authority Response

All relevant issues have been covered in the technical reports forwards to ABP, with no further comment to make.

### 6.3. Observations

None

### 6.4. Further Responses

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 relate to the principle of proposed development; Appropriate Assessment- dealt with in Section 5.4 above and Appendix 2 below; and other matters.
- 7.2 I highlight to the Board that part of the appeal submission appears to relate to a different case. An Ecological Report is referenced, with its screening conclusion extracted, which cites the Lower Shannon SAC, Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Hills SPA, together with effects on River Feale. No such Ecological Report relates to this appeal, nor was Further Information requested by the planning authority in this case. However, the submission opens with concerns regarding the Blackwater River (Cork /Waterford) SAC (Site Code 002170), which is the nearest designated site to the proposed development site and the only one which appears to be within the Zone of Influence. The Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Hills SPA referenced is approximately 10 km distant while the Lower River Shannon SAC is approximately 17 km distant (both as the crow flies measurements). Neither of these designated sites are considered to be within the Zol in this instance.
- 7.3 Many of the concerns raised in the appeal relate to matters of Appropriate Assessment and I have dealt with that matter above in Section 5.4 and in Appendix 2 below.
- 7.4 Matters raised in relation to previous slurry spreading are considered outside the remit of this planning appeal and planning legislation. The Board should note that the carrying out of land spreading does not form part of this application.
- 7.5 Principle of proposed development
- 7.6 The proposed development comprises the construction of roofed collecting yard adjacent to existing milking parlour; collecting yard to incorporate underground slatted soiled water tank with external agitation & crush & ancillary external concrete,

together with all associated site works. This is essentially an L-shaped slatted tank around the outside of the existing milking parlour, with a roofed structure overhead. All dairy washings and soiled water generated in the milking parlour and collection yard will be stored in these new tanks. Presently, the collection yard is unroofed and all soiled water and dairy washings are discharging to the slurry tank, thereby requiring 16 weeks storage. The construction of the new roofed area will mean that there will be no ingress of rainfall into the new slatted tanks. This will reduce the volume of livestock manure generated on the holding. The provision of additional effluent storage capacity will act as a buffer in times of inclement weather and unfavourable ground conditions. The principle of agricultural practices on these lands is considered to have been established by the planning authority in previous decisions on this farm holding- see planning history above. The site is located within a rural area and the proposal forms part of a wider agricultural complex. The proposed development is considered to be compatible with the established land use within this rural area.

- 7.7 The planning authority state that they have no objections to the proposed development, subject to conditions. The Environment section state that the construction of the proposed development is very positive from an environmental viewpoint, it will enhance the management of the farmyard and will enable compliance with impending increased storage requirements as per the Nitrates Regulations. They further state that the proposal will enable compliance with S.I. No. 113 of 2022, European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2022.
- 7.8 Based on the above, I am satisfied that the principle of the proposed development is acceptable at this location. There are numerous policies that support agricultural development contained within the operative Development Plan. Height, materials and elevational treatment integrates well with that previously permitted. I am satisfied in this regard.
- 7.9 The issue of surface water disposal is dealt with by condition by the planning authority and if the Board is disposed to a grant of permission, I recommend that condition relating to same be attached to any such grant. The farmyard is served by an existing public mains connection and a private well for water supply. The site is not located within a flood risk area. The applicants have confirmed that the



proposed development will not lead to an increase in livestock numbers on the holding or an intensification of the dairy enterprise. The planning authority have not raised concerns in this regard, subject to conditions. I recommend that if the Board is disposed towards a grant of permission, that the matter could be adequately dealt with by means of condition. Overall, and having regard to the planning history of the subject site, I am satisfied that the proposed retention permission at this location is acceptable and would accord with the proper planning and sustainable development of the area.

#### 7.10 Other Matters

7.11 Matters relating to enforcement and compliance with conditions of previous applications on the landholding are outside the remit of this planning appeal.

#### 7.12 Conclusion

7.13 Having regard to the above, I am satisfied that the proposed development is in accordance with the objectives of the Development Plan, is in keeping with the pattern of development in this rural area and is in accordance with the proper planning and sustainable development of the area.

### 8.0 **Recommendation**

8.1. I recommend that the decision of the planning authority be UPHELD and that permission be GRANTED, subject to the following conditions.

### 9.0 **Reasons and Considerations**

9.1 Having regard to the nature and extent of the proposed agricultural development within an established agricultural farmyard, to the history of on-site agricultural activity, and to the existing character and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of public health and

environmental sustainability, 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 retained in accordance with the plans and particulars lodged with the application, 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><b>Reason:</b> In the interest of clarity.</p>
2.	<p>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.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
3.	<p>The development shall be designed and constructed in accordance with the Department of Agriculture, Food and the Marine specifications as per the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2022 (S.I 113 of 2022).</p> <p><b>Reason:</b> In the interest of public health and residential amenity.</p>
4.	<p>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</p>

	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.  <b>Reason:</b> In the interest of environmental protection and public health
5.	All external finishes shall match those of the existing adjoining structures.  <b>Reason:</b> In the interest of visual amenity.

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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Lorraine Dockery  
Senior Planning Inspector

15<sup>th</sup> October 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>	ABP-319596-24		
<b>Proposed Development Summary</b>	Construction of roofed collecting yard adjacent to existing milking parlour; collecting yard to incorporate underground slatted soiled water tank with external agitation & crush & ancillary external concrete, together with all associated site works		
<b>Development Address</b>	Rathranna, Kanturk, Co. Cork		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>		<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>		Class.....	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	N/A	No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....	Proceed to Q.4

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

**Inspector: Lorraine Dockery**

**Date: 15/10/2024**

## **Appendix 2-**

### **Screening the Need for Appropriate Assessment**

#### **Screening the need for Appropriate Assessment**

#### **Finding of no likely significant effects**

##### **Appropriate Assessment: Screening Determination**

##### **(Stage 1, Article 6(3) of Habitats Directive)**

I have considered the proposed development of a roofed collecting yard adjacent to an existing milking parlour in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

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 Screening (section 6.2 of Planner's Report) was undertaken by Cork County Council as part of their planning assessment and a finding of no potential for significant effects on a European Site was determined. Cork County Council concluded the proposed development would not require the preparation of a Natura Impact Statement and Appropriate Assessment was not carried out.

A detailed description is presented in Section 2 of my report. In summary, the proposed development site, is located within a dairy farm complex situated in a rural area within the townland of Rathranna, approximately 3km north of Kanturk, County Cork. The site, as outlined in red, has a stated area of 0.54 hectares while the overall farm holding has a stated area of 50 hectares. Access to the farmyard is via two entrances from the local roadway (L-10501) and the existing farm structures are set back from the roadway.

The farmyard is served by an existing public mains connection and a private well for water supply. The site is not located within a flood risk area. The applicants have confirmed that the proposed development will not lead to an increase in livestock numbers on the holding or an intensification of the dairy enterprise.

The planning authority state that they have no objections, subject to conditions, in relation to the proposed development. The Environment section state that the construction of proposed development is very positive from an environmental viewpoint, it will enhance the management of the farmyard and will enable compliance with impending increased storage requirements as per the Nitrates Regulations. They further state that the proposal will enable compliance with S.I. No. 113 of 2022, European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2022.

There are no watercourses or other ecological features of note on the site that would connect it directly to European Sites in the wider area. The River Allow, which is a tributary of the Blackwater River runs 800m to the east of the site in a southerly direction. The Rathranna stream runs 350m to the south of the site in an easterly direction towards the

River Allow. However, there is no apparent direct hydrological connection between the subject site and the Rathranna stream or the River Allow.

### European Sites

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation or Special Protection Area (SPA).

The boundary of the nearest European Site is within 1km of the proposed development. This is the

- Blackwater River (Cork/Waterford) SAC (Site Code: 002170), which is located 650m to the east of the proposed development site.

Given the limited scale of the proposal, I do not consider it necessary to examine the potential for significant effects on any European Sites beyond those of Blackwater River (Cork/Waterford) SAC

<b>Blackwater River (Cork/Waterford) SAC – 650m to E</b>  <b><u>Blackwater River (Cork/Waterford) SAC   National Parks &amp; Wildlife Service (npws.ie)</u></b>  <b>Qualifying Interests</b>	<b>Conservation Objective</b>
Freshwater Pearl Mussel <i>Margaritifera margaritifera</i> 1029	Restore the favourable conservation condition
White-clawed Crayfish <i>Austropotamobius pallipes</i> 1092	Maintain the favourable conservation condition
Sea Lamprey <i>Petromyzon marinus</i> 1095	Restore the favourable conservation condition
Brook Lamprey <i>Lampetra planeri</i> 1096	Maintain the favourable conservation condition
River Lamprey <i>Lampetra fluviatilis</i> 1099	Maintain the favourable conservation condition
Twaite Shad <i>Alosa fallax</i> 1103	Restore the favourable conservation condition
Atlantic Salmon <i>Salmo salar</i> (only in fresh water) 1106	Maintain the favourable conservation condition
Estuaries 1130	Maintain the favourable conservation condition
Mudflats and sandflats not covered by seawater at low tide 1140	Maintain the favourable conservation condition
Perennial vegetation of stony banks 1220	Maintain the favourable conservation condition

Salicornia and other annuals colonizing mud and sand 1310	Maintain the favourable conservation condition
Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritimae</i> ) 1330	Restore the favourable conservation condition
Otter <i>Lutra lutra</i> 1355	Restore the favourable conservation condition
Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) 1410	Maintain the favourable conservation condition
Killarney Fern <i>Trichomanes speciosum</i> 1421	Maintain the favourable conservation condition
Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation 3260	Maintain the favourable conservation condition
Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles 91AO	Restore the favourable conservation condition
*Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> ( <i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i> ) 91EO	Restore the favourable conservation condition
<i>Taxus baccata</i> woods of the British Isles 91JO	Currently under review

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

Due to the enclosed nature of the development site, the limited scale of development and the presence of a significant distance between this existing dairy farm complex and the River Blackwater, I consider that the proposed development would not be expected 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.

The proposed development would not have direct impacts on any European site.

During site clearance and construction of the proposed new collecting yard and site works, possible impact mechanisms of a temporary nature include generation of noise, dust and construction related emissions to surface water. However the contained nature of the site (serviced, defined site boundaries, no direct ecological connections or pathways) and distance from receiving features connected to Blackwater River (Cork/Waterford) SAC make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites.

Matters are raised in the appeal submission in relation to previous slurry spreading. This is considered outside the remit of this planning appeal and planning legislation. The Board should note that the carrying out of land spreading does not form part of this application. Notwithstanding this, I note that the application of fertilisers are regulated under the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, 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, which concluded that the programme would not adversely affect the integrity of any European Site.

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

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

There will be no direct or ex-situ effects from disturbance on mobile species including otter during construction or operation of the proposed development.

### **In combination effects**

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. I consider the conditions attached by the planning authority to be standard measures to prevent ecological impacts and are not a mitigation measure for the purpose of avoiding or preventing impacts to the SAC.

## **Overall Conclusion**

### **Screening Determination**

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, including Blackwater River (Cork/Waterford) SAC and is therefore excluded from further consideration. Appropriate Assessment is not required.

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 LPA

**Inspector: Lorraine Dockery**

**Date: 15/10/2024**