



An
Bord
Pleanála

Inspector's Report ABP-320082-24

Development	The construction of a calf house extension with effluent tank and ancillary works.
Location	Moanour, Kilross, Co. Tipperary.
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2492
Applicant(s)	Manour Farm Ltd.
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 th November 2024
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site is located within a dairy complex situated in a rural area within the townland of Moanour, approximately 1.5km to the south of Kilross, Co. Tipperary. The site as outlined in red, has a stated area of 0.83 hectares while the overall farm holding has a stated area of 230 acres. Access to the farmyard is via an existing gated entrance from L4109-0.
- 1.2. Development in the area consists of scattered rural housing and agricultural uses.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of an extension to an existing calf shed together with an effluent tank.
- 2.2. The stated area of the proposed works is 180m² with a height of c. 6.5m.

3.0 Planning Authority Decision

3.1. Decision

Permission GRANTED, subject to 4 No. Conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Principle of development acceptable.
- Design acceptable.
- In terms of Appropriate Assessment, it is noted that there is a stream c. 105m north of the application site (Galbally Stream) which flows into the Aherlow River (c. 5km south-west) which forms part of the Lower River Suir SAC.

3.2.2. Other Technical Reports

- Area Engineer: No objection subject to conditions.

3.3. Prescribed Bodies

- None.

3.4. Third Party Observations

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

4.0 Planning History

PA Reg. Ref. P31327

Permission GRANTED for a walled silo and concrete yard together with a slatted cubicle house and all associated site works.

PA Reg. Ref. 0640

Permission GRANTED for an easy feed system with slurry storage, construction of new silage base and extension of existing collection yard at milking parlour.

PA Reg. Ref. 12235

Permission GRANTED for extension to a farm building, comprising a slatted unit and underground storage tank and all ancillary site works.

PA Reg. Ref. 17601368

Permission granted for extension to existing dairy and 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 site is not located within any designated site. The site is approximately 1.5km to the west of Moanour Mountain SAC Site Code 002257, c. 5.5km to the north of the Lower River Suir SAC Site Code 002137 and c. 6km to the north of Galtee Mountains SAC Site Code 000646.

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

- There is no mention of how slurry is to be disposed of and no appropriate assessment has ever been carried out on the existing slurry.
- The legal case for screening is found in AG Sharpston in the opinion to 259/11 Sweetman & Others v An Bord Pleanala.
- The Water Framework Directive Assessment on file does not comply with CJEU- Judgement in Case C-301-22.

6.2. Applicant Response

- The proposed development is within a 93 hectare farm on which numerous planning permissions have been granted in the past.
- The existing calf house was built by the applicant's father in the late 1970's and is too small for current stock numbers.

- The applicant consulted with his Agri Advisor and a building contractor and it was decided that the best location for the building was adjacent to the existing calf house.
- A letter is attached to the appeal from the applicant's farm agricultural advisor which outlines the need for the calf house extension at this location.

6.3. **Planning Authority Response**

- The Planning Authority is satisfied that the issues raised were fully considered and responded to in the Planner's Reports and it is further considered that the development was permitted having regard to the issues raised and the assessment of the proposal against all applicable guidance including the Tipperary County Development Plan 2022-2028.

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 are as follows:

- Principle of Development
- Screening for Appropriate Assessment

7.2. **Principle of Development**

7.2.1. Having regard to the nature of development within an existing farmyard, 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 response submitted on behalf of the applicant which states that the applicant has been granted planning permission numerous times in the past and needs to extend an existing calf house which is now too small for the current stock numbers.

- 7.2.2. Taken the above into consideration, I am satisfied that the principle of agricultural practices on these lands has been established. There are numerous policies that support agricultural development contained within the operative Development Plan. I therefore consider that further development of agricultural structures in what appears to be a modernisation of an existing use in order to comply with prevailing farm practices to be acceptable in principle.

8.0 AA Screening

8.1. Background and Description of Project

- 8.1.1. I note the concerns of the Appellant regarding the issue of Appropriate Assessment and in particular in relation to landspreading. 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.
- 8.1.2. I have considered the proposed project in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. The site is not located within any designated site. The site is approximately 1.5km to the west of Moanour Mountain SAC Site Code 002257, c. 5.5km to the north of the Lower River Suir SAC Site Code 002137 and c. 6km to the north of Galtee Mountains SAC Site Code 000646.
- 8.1.3. The proposed development comprises the construction of an extension to an existing calf shed together with an effluent tank. I noted on site inspection that there are no watercourses or other ecological features of note on the site that would connect it directly to European Sites. 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 on the subject site and the European Sites. I note that a watercourse is located approximately 105m to the north of the site. The watercourse is hydrologically connected to the River Aherlow approximately 5km downstream which forms part of the Lower River Suir SAC. As

such, I consider that there is a potential indirect hydrological connection between the site and the Lower River Suir SAC. The Conservation Objectives for this SAC is to maintain or restore the favourable conservation status of the habitat or species.

8.1.4. There is no hydrological connection between the site and Moanour Mountain SAC or Galtee Mountain SAC.

8.2. Table 1: Summary Table of European Sites within a possible zone of influence of the development

European Site	Qualifying Interest	Distance from development	Connections	Considered further in Screening
Lower River Suir SAC	Lower River Suir SAC Nationragal Parks & Wildlife Service 14 QI's	5.5km	Indirect hydrological connection	Yes
Galtee Mountain SAC	Galtee Mountains SAC National Parks & Wildlife Service 6 QI's	6km	None	No
Moanour Mountain SAC	Moanour Mountain SAC National Parks &	1.5km	None	No

	Wildlife Service 2 QI's			
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8.3. Identification of likely significant effects

- 8.3.1. 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 Lower River Suir, 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. During site clearance and construction of the proposed cattle shed extension and associated 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 with defined boundaries and no direct ecological connections or pathways and distance from receiving features connected with the Lower Suir SAC make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites.
- 8.3.3. In relation to the concerns raised in the appeal regarding landspreading, 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. At the outset, for the purposes of clarity in relation to the concerns raised in the appeal regarding landspreading, 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.

8.3.4. Having regard to the above, I am satisfied that the development would not likely result in a direct or indirect effect on the conservation objectives of the European Site in terms of species or habitat fragmentation or disturbance. Furthermore, I am satisfied that the development would not likely result in any ex-situ effects on any species, considering the established use of the site and the distance to European Sites.

8.3.5. I conclude that the proposed development would have no likely significant effect 'alone' on any qualifying features of the Lower River Suir SAC.

8.4. In combination effects

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

8.5. Mitigation Measures

8.5.1. The Board should note that I have not taken any measures intended to reduce or avoid any harmful effect on the Lower River Suir SAC or any other European Site.

8.6. Screening Determination

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 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 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

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.

11.0 Conditions

1. The development shall be carried out and completed 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.

Reason: In the interest of clarity.

2. The cattle 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.

4. 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.

5. 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.

6. 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.

7. 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.

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.

Emer Doyle
Planning Inspector

28th November 2022

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	320082-24		
Proposed Development Summary	Construction of calf house extension with effluent tank and ancillary works		
Development Address	Moanour, Kilross, Co. Tipperary.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
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?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
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]?			
		Threshold	Comment (if relevant)
No	X	N/A	No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____**Date:** 28th November 2024