



An
Bord
Pleanála

Inspector's Report ABP-320085-24

Development	Slatted shed with underground slurry tank, crush yard and all associated site works.
Location	Glengoole South, New Birmingham, Thurles, Co. Tipperary.
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2460304
Applicant(s)	Patrick Raleigh
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	7 th November 2024
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site with a stated area of 0.46 HA forms part of an established farmstead located in the townland of Glengoogle South, c.1.4km SE of the settlement of New Bermingham, in a rural area in Co. Tipperary.
- 1.2. The existing farmyard contains a number of storage sheds and slatted sheds together with a silage pit. The farm is part of a landholding of 90 acres at this location.
- 1.3. Development in the area consists of scattered rural housing and agricultural uses. The lands are elevated and there is a large mobile phone mast located on adjacent lands to the site which contains antennas belonging to a number of operators.

2.0 Proposed Development

- 2.1. The proposed development as outlined within the public notices comprises permission to construct a slatted shed with underground slurry tank with an area of c. 179m² and overall height of 8.7m and a crushed yard with all associated works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. By Order dated 13 June 2024, Tipperary County Council issued a Notification of decision to grant planning permission subject to 4 (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

- No land use objection to the works proposed. No development contribution required as the works proposed are below the allowance of 500m² set out in the Development Contributions Scheme.

3.2.2. Other Technical Reports

- None.

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. No relevant history.

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 River Barrow and River Nore SAC (002162) being the nearest European site is approximately 6.7km to the South 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:
- There is no information as to how the slurry is to be disposed of.
 - 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).

6.2. Applicant Response

- 6.2.1. The response submitted on behalf of the applicant can be summarised as follows:
- This is a modest farm which has been in existence for three generations.
 - There is no increase in stock numbers arising from the proposed development.
 - The third party appeal is a generic copy and paste document which Mr. Sweetman has been placing on many agricultural planning applications throughout all county councils within the past 2 years.
 - The appeal site is not located adjacent to a designated site protected by the Habitats Directive.

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, 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 the proposed development is located within an existing operational farm, does not involve the expansion or intensification of land use and the lands are currently fertilised with animal manure in accordance with the relevant statutory requirements.
- 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 6.7km north west of the River Barrow and River Nore SAC (002162).
- 7.3.3. The development comprises the construction of a slatted shed with underground slurry tank together with a crushed yard with all associated works. The existing farmyard is generally level with surrounding lands sloping downwards in an easterly direction. I noted on site inspection that there were no land drains within the immediate vicinity of this site. The nearest land drain is located c. 60m to the north of the site. Having viewed the Environmental Protection Agency's AA Mapping Tool 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. In applying Fossitt's classification on habitats, I also noted that the site is predominantly comprised of buildings and artificial surfaces (BL3) in the form of agricultural structures and farmyard and improved grasslands (GA1).
- 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. The nearest land drainage is c. 60m to the north.

- Given the topography of the site which is flat and surrounding agricultural lands which slope downwards in an easterly direction, coupled with the location and separation distance from the European Sites and the intervening vegetated buffers.
- 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 River Barrow and River Nore 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, 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:

(1) Details of the number and types of animals to be housed.

(2) The arrangements for the collection and storage of slurry.

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

Reason: In order to avoid pollution.

3. 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.

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

15th November 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP- 320085-24			
Proposed Development Summary	To construct a slatted shed with underground slurry tank and crush yard with all associated works.			
Development Address	Glengoole South, New Birmingham, Thurles, 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)	Conclusion
No	X			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: Emer Doyle **Date:** 15th November 2024