



An
Coimisiún
Pleanála

Inspector's Report ABP-320941-24

Development

Construction of (a) 180 cubicle 8 bay treble agricultural shed with a 3 bay lean-to shed; (b) 7 bay slatted tank; (c) 4 bay double agricultural shed with slatted tank and 2 bay lean-to shed; (d) a concrete silage slab; (e) concrete hardstand areas; (f) an access road to rear of sheds.

Location

Derry, Eyrecourt, Ballinasloe, Co. Galway

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

24/202

Applicant

Larkin Dairy Enterprise

Type of Application

Retention

Planning Authority Decision

Grant Retention Permission

Type of Appeal

Third Party

Appellant

Peter Sweetman

Observers

None

Date of Site Inspection

3rd December 2024

Inspector

Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is located in the rural townland of Derry, c. 2 km south of the village of Eyrecourt, Co. Galway. The appeal site is c. 2km from the border with Co. Tipperary.
- 1.2. The appeal site has a stated area of 1.5 Ha. and accommodates a farm complex, including a number of large agricultural sheds, a milking parlour, holding pens, underground slatted tanks, silage slabs and areas of hardstanding. The particulars submitted with the planning application refer to existing sheds on the site with a floor area of c. 324 sqm, in addition to structures and tanks with a stated area of c. 2,041 sqm, for which retention permission is sought.
- 1.3. Access to the appeal site is via a local access road (L-8735) to the south. A gravel track connects the appeal site to the L-8735.
- 1.4. There are a number of farm complexes in the vicinity of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development comprises retention permission for the following;

Sheds (2 no.):

- 180 cubicle, 8 bay treble agricultural shed with a 3 bay lean-to shed. The structure has a stated floor area 1,087 sqm, a height of c. 5.5 metres with material finishes comprising metal cladding.
- 4 bay, double agricultural shed and 2 bay lean-to shed. The structure has a stated floor area 492 sqm, a height of c. 5.5 metres with material finishes comprising metal cladding. A milking parlour is also indicated within the structure. The underground tank is 2.1 metres in depth.

Tanks (2 no.)

- 7 bay/chambered slatted tank (stated floor area c. 144 sqm). Tank depth c. 2.75 metres. The tank is located to the front/south-east of the 180 cubicle bay shed and is partially located underground with c. 0.8 of the tank structure above ground level.

- slatted tank situated adjacent to the 4 bay double agricultural shed (see above).
The underground tank is 2.1 metres in depth.

Other ancillary development

- concrete silage slab (stated floor area c. 324 sqm), surrounded by 3 no. walls.
- concrete hardstand areas (throughout farm complex).
- access road to rear of sheds.

The drawings submitted with the planning application/appeal indicate that all soiled water is piped to existing slatted tanks and that all storm water from roofs is sent to soakaways on the site.

2.2. The planning application was accompanied by the following;

- Correspondence from Galway County Council relating to a referral (PA. Ref. ED/ 19/35) under Section 5 of the Planning and Development Act, 2000 (as amended) in respect of a slatted feeding area (171 sqm) at the site.
- Correspondence from an agricultural consultant (dated 11th February 2019) to the National Monuments Service in relation to a proposal to construct an underground slatted tank and feed area at the site. The correspondence refers to the proposal as being exempted development and is seeking confirmation that the National Monuments Service has no objection to the proposal given the site's proximity to a Monument.
- Correspondence from the National Monuments Service (in response to the above correspondence) stating that it has no objection to the applicant's proposal.
- Details/maps of the applicant's landholding.
- Nutrient Management Plan.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to GRANT retention permission on the 11th of September 2024 subject to 10 no. conditions. The following condition is of note.

C5- the development and any associated land spreading shall be in accordance with the Good Agricultural Practice for Protection of Waters Regulations 2022.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer generally notes the acceptability of the proposed development. The report of the Planning Officer recommends that retention permission is GRANTED consistent with the Notification of Decision which issued.

3.2.2. Other Technical Reports

None.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

The report of the Planning Officer refers to 1 no. valid observation having been received in relation to the planning application. The report of the Planning Officer summarises the issues raised in the observation as relating to the Planning Authority's requirements, specifically to determine whether the proposal is in accordance with the proper planning and sustainable development of the area; whether likely environmental impacts will arise from the proposal; the requirements of the Habitats Directive; and also the Water Framework Directive. The observation notes that Appropriate Assessment is required noting the location of the site within the zone of influence of River Shannon Callows SAC.

4.0 Planning History

There is no relevant recent planning history associated with the appeal site.

5.0 Policy Context

5.1. National Policy

5.2. National Planning Framework¹

- 5.2.1. National Policy Objective 30 – Facilitate the development of the rural economy, in a manner consistent with the national climate objective, 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 biodiversity and the natural landscape and built heritage which are vital to rural tourism.

5.3. S.I. No. 113/2022 –European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022

- 5.3.1. The Regulations provide the relevant standards for the collection and disposal of farm yard manure to give effect to Ireland's Nitrates Action Programme for the protection of waters against pollution caused by agricultural sources.

5.4. Development Plan

- 5.4.1. The Galway County Development Plan 2022-2028 is the relevant development plan. The appeal site is not subject to any specific land-use zoning under the Galway County Development Plan 2022-2028.

- 5.4.2 The provisions of the Galway County Development Plan 2022-2028 relevant to this assessment are as follows:

- Volume 1 – Chapter 8 (Tourism and Landscape)

¹ NPF First Revision, April 2025.

- Objective LCM 1 (Preservation of Landscape Character)
- Objective LCM 2 (Landscape Sensitivity Classification)
- Objective LCM3 (Landscape Sensitivity Ratings)
- Volume 1 – Chapter 15 (Development Management Standards)
 - DM Standard 13 (Agricultural Buildings)
 - DM Standard 14 (Agricultural Effluent)
 - DM Standard 46 (Compliance with Landscape Sensitivity Designations)

In terms of Landscape Character Type, the appeal site is located within the Shannon Environs Landscape (see Map 1, Appendix 4 'Landscape Character Assessment' of CDP). Regarding landscape sensitivity, the appeal site is noted as having a 'special' landscape sensitivity with a value of 3 (the second highest value) - see Map 6, Appendix 4 of CDP. The appeal site is not affected by any protected views and is not on a scenic route (see Map 08 and 09, Appendix 4).

5.4.3. There are a number of features listed on the Site and Monuments Records (SMR) in the vicinity, i.e. GA108-066: Field system to the east, GA108-060: Quarry to the south, and GA108-059: Quarry to the north.

5.5. Natural Heritage Designations

- Middle Shannon Callows SPA (Site Code: 004096) – c. 1.4 km south-east.
- River Shannon Callows SAC (Site Code: 000216) – c. 1.4 km south-east.
- River Shannon Callows pNHA (Site Code: 000216) – c. 1.4 km south-east.

5.6. EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal against the decision to grant permission. The grounds for appeal can be summarised as follows;

- The decision of the Planning Authority is contrary to F287((12) -
'A planning authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required that one or more than one of the following was carried out—(c) an appropriate assessment.
- The threshold for screening for Appropriate Assessment is set out in Kelly -v- An Bord Pleanála [2014] IEHC 400 (25 July 2014) which states (at 26)

There is a dispute between the parties as to the precise obligations imposed on the Board in relation to the stage 1 screening by s.1777U but its resolution is not strictly necessary in these proceedings. There is agreement on the nature and purpose of the screening process which is well explained by Advocate General Sharpston in Case C-258/11 Sweetman at paras 47-49: "47. It follows that the possibility of there being a significant effect on the site will generate the need for an appropriate assessment for the purposes of Article 6(3). The requirement at this stage that the plan or project be likely to have a significant effect is thus a trigger for the obligation to carry out an appropriate assessment. There is no need to establish such an effect; it is, as Ireland observes, merely necessary to determine that there may be such an effect.

6.2. Applicant Response

The applicant has submitted a response in respect of the third party appeal submission.

- The appellant incorrectly stated in his submission to the Planning Authority that the site is within the Zone of Influence of the River Shannon Callows

SAC, and subsequently requires Appropriate Assessment. No scientific evidence, ecological assessment, or technical reasoning was however provided to support this assertion. There are no drains or watercourses on site, with the closest drain located 296 m from the yard.

- The applicant has been operating a dairy farm since the 1970's and was recently awarded the 'Lowest SCC Award'.
- The proposal improves herd husbandry standards and did not intensify farming activities, as evidenced by the stocking rates.
- The additional cubicles give existing cows more space, reducing stress and improving their overall health. The animals now have access to cubicles with mattresses, as recommended by Teagasc. The additional cubicles also relieve pressure on the land during periods of bad weather, as they cows can be housed for longer periods if necessary.
- A new 7-bay slatted tank was installed to increase slurry storage capacity, thereby reducing the pressure to spread slurry and allowing for greater flexibility in spreading during optimal weather conditions. The suitable land and weather conditions, accompanied by sustainable practices, such as slurry spreading with LESS (Low Emission Slurry Spreading) equipment, GPS guided fertiliser application and the use of protected urea across the farm, greatly minimises environmental impact.
- The concrete silage slab reduces the environmental impact of the farm by channelling all effluent and soiled water into existing tanks. All soiled water and runoff from the yard is directed to these tanks. The proposal does not provide additional silage harvesting but facilitates storage eliminating the need to transport silage, by road, to the previously rented farm where silage was stored.

The applicant's response to the appeal submission also includes correspondence from an ecologist, and states;

- The correct trigger for Appropriate Assessment is whether there is potential for the development to have had likely significant effects on a European Site rather than based on proximity/zone of influence.

- There are no surface water features on the site and no groundwater was encountered during the construction (as demonstrated in the accompanying photographic record).
- The screening undertaken by the Planning Authority makes reference to the lack of potential for the operation of the development to impact on either surface or groundwater.
- In the absence of hydrological pathways, it is reasonable and logical to conclude that the construction of agricultural infrastructure within the curtilage of an existing farmyard, located over a kilometre from any European Site and separated from any such site by public roads, agricultural fields and peatlands, does not have any potential to result in any likely significant effects on any European Site. No other potential pathways for effect were identified and there is no complete source- pathway-receptor chain by which likely significant effects could occur.
- The development did not lead to any significant changes to the nature, scale or intensity of the agricultural operation. There has been no increase in stocking density since the construction of the development. There is no significant difference in the amount of fertilizer or manure that is applied or silage/crops grown before and after the construction of the development, as evidenced in comparing nutrient management plans from recent years.
- The Planning Authority were not prevented from granting permission to retain the development.

6.3. Planning Authority Response

None received.

6.4. Observations

None received.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeal, the applicant's response to the appellant's submission, and having inspected the site, I consider that the main issues for consideration are;

- Water Quality
- Matters Arising
- Screening for Appropriate Assessment

7.2. Water Quality

7.2.1. I note that there are no watercourses on/abutting the site and I have reviewed floodinfo.ie and note that the appeal site is not indicated as being subject to flooding. In relation to the management of effluent from the proposal, I note that the proposed structures, for which retention permission is sought, are located within an existing farm complex and the structures are constructed on a concrete base, with underground sealed tanks used to capture effluent. The applicant has provided a breakdown of effluent generation and storage capacity on the site. A surplus storage capacity is indicated. While the applicant indicated that effluent generated from the proposed development is to be land spread I note that land spreading does not form part of the current planning application/appeal. The particulars submitted with the appeal also note that the proposal did not result in any increase in stocking density.

7.2.2. Regarding compliance with applicable regulations, I note that the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022, as amended, sets out a general obligation to ensure that the capacity of storage facilities for livestock manure and other organic fertilisers, soiled water and effluents from dung sheds, farmyard manure pits, silage pits or silage clamps on a holding shall be adequate to provide for the storage of all such substances as are likely to require storage on the holding for such period as are required in the regulations in order to avoid pollution. In the event that retention permission is granted for the proposal I note that the applicant will be required to operate the development in accordance with the specifications set out in these regulations. Subject to compliance with these requirements, and the information submitted with the application and appeal, I am

satisfied that the proposed development would not give rise to surface or groundwater pollution.

7.2.3. Water Framework Directive - I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive, which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. 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 surface and/or groundwater water bodies either qualitatively or quantitatively. The reason for this conclusion is as follows:

- The nature and extent of the proposed development, entailing shallow excavations.
- The absence of any surface water features in the vicinity of the site.
- The provision of underground sealed tanks to capture effluent from the proposed structures.
- The location of the site outside of an area indicated as being susceptible to flooding.

7.2.4. I conclude that on the basis of objective information, that the proposed development would not have resulted in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

7.3. **Matters Arising**

7.3.1. Development Contributions – the Notification of Decision to Grant retention permission issued by Galway County Council did not include a condition requiring the payment of a development contribution. I have reviewed Galway County Council's Development

Contribution Scheme 2016 (amended/in effect from 1st August 2019) and note that, and irrespective that retention permission is being sought, there is a specific exemption for agricultural development from the scheme, specifically agricultural structures listed in Part 3, exempted development rural classes 6, 7, 8, 9, 11, 12, 13 and 14 of the Planning and Development Regulations, 2001. Should the Commission grant retention permission for the proposed development I recommend that a condition requiring the payment of a development contribution is not attached.

7.4. Screening for Appropriate Assessment

- 7.4.1. I have considered the proposed development at Derry, Eyrecourt, Ballinasloe, Co. Galway in light of the requirements S177U of the Planning and Development Act, 2000, as amended.
- 7.4.2. The closest European Sites to the subject site are Middle Shannon Callows SPA (Site Code: 004096) and River Shannon Callows SAC (Site Code: 000216) which are located c. 1.4 km south-east of the subject site. The proposed development comprises retention permission for 2 no. agricultural structures, underground tanks, areas of hardstanding, access roads and a concrete silage slab. The proposed structures are constructed on a concrete base, with underground sealed tanks used to capture effluent. The particulars submitted with the planning application/appeal state that the proposal did not result in any increase in stocking density, but rather improve animal husbandry.
- 7.4.3. 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 based on the following;
- The distance from nearest European Site(s) and absence of connectivity between the development site and European Sites.
 - The nature and scale of the proposed development, and location within an existing farmyard complex.
- 7.4.4. I conclude that on the basis of objective information, that the proposed development would not/would not have had 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.

- 7.4.5. Regarding the appellant's assertion that the Planning Authority were prohibited from considering the proposed development with reference to Section 34 (12)² of the Planning and Development Act, 2000, as amended, having regard to the screening for Appropriate Assessment (above), which concludes that Appropriate Assessment is not required, I do not consider that there is any constraint in relation to consideration of the proposed development.

8.0 Recommendation

- 8.1. I recommend that retention permission for the proposed development should be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to:

- (a) The location of the proposed development within an established farmyard and the agricultural activities carried out thereon,
- (b) The nature and scale of the proposed development, and
- (c) The provisions of the Galway County Development Plan 2022-2028,

it is considered that subject to compliance with the conditions set out below, the proposed development would not have a significant impact on water quality, or on European Sites in the vicinity, and, would be in accordance with the proper planning and sustainable development of the area.

1.	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
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² A Planning Authority shall refuse to consider an application to retain unauthorised development of land where it decides that either or both of the following was required or is required in respect of development (a) an environmental impact assessment, (b) an appropriate assessment).

	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.	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 to ground in appropriately sized soakaways. (b) all soiled waters shall be directed to an appropriately sized soiled water storage tank in accordance with the requirements of the European Union (Good Agricultural Practice for the Protection of Waters) (Amendment) Regulations 2022, or to a slatted tank. Drainage details shall be submitted to and agreed in writing with the Planning Authority, within 1 month of a grant of retention permission. (c) all separation distances for potable water supplies as outlined in the European Union (Good Agricultural Practice for the Protection of Waters) (Amendment) Regulations 2022, shall be strictly adhered to. Reason: In the interest of environmental protection and public health.
3.	The structures to be retained shall be in accordance with the specifications as issued by the Department of Agriculture, Farming and the Marine and referenced in the European Union (Good Agricultural Practice for the Protection of Waters) (Amendment) Regulations 2022. Reason: In order to avoid pollution and to protect amenity.
4.	(a) A management schedule for the operation of the structures hereby permitted retention permission shall be submitted to the Planning Authority within 1 month of a grant of retention permission.

	(b). The management schedule shall comply with the requirements of the European Union (Good Agricultural Practices for the Protection of Waters) Regulations 2022, or as otherwise updated. (c) The management schedule shall provide for: • the number, age and types of animals to be housed, • arrangements for the disposal of slurry • arrangements for the storage and disposal of manure and • the cleansing of buildings and structures, including the public road, where relevant. Reason: In order to prevent pollution and in the interest of amenity.
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.

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.

Ian Campbell
Senior Planning Inspector

8th October 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála	ABP-320941-24		
Case Reference			
Proposed Development Summary	Retention permission for (a) 180 cubicle 8 bay treble agricultural shed with a 3 bay lean-to shed; (b) 7 bay slatted tank; (c) 4 bay double agricultural shed with slatted tank and 2 bay lean-to shed; (d) a concrete silage slab; (e) concrete hardstand areas; (f) an access road to rear of sheds.		
Development Address	Derry, Eyrecourt, Ballinasloe, Co. Galway		
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	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	X		No further action required. No Screening Required.
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			

No		Proposed development is not of a Class.	No Screening Required.
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
No		Proposed development is not of a Class.	No Screening Required.

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

Inspector: Ian Campbell

Date: 8th October 2025