



An
Bord
Pleanála

Inspector's Report

ABP-321067-24

Development

The construction of a slatted cubicle house extension, together with associated slatted underground slurry storage tank, concrete yards and site works.

Location

Ballydine, Goold's Cross, Cashel, Co. Tipperary, E25 VH92

Planning Authority

Tipperary County Council

Planning Authority Reg. Ref.

2460613

Applicant(s)

John Ryan

Type of Application

Permission.

Planning Authority Decision

Grant with Conditions

Type of Appeal

Third Party

Appellant(s)

Peter Sweetman.

Observer(s)

None

Date of Site Inspection

7th of May 2025

Inspector

Caryn Coogan

1.0 Site Location and Description

- 1.1. The subject site is located in a rural area north of Cashel town in a townland called Ballydine in close proximity to Goold's Cross.
- 1.2. The site is a long established farmyard, currently operating as a dairy farm. The yard is located along the western site of the local road.
- 1.3. The site is the subject development is to the rear of two existing cubicle shed, along the rear (western site) boundary of the farmyard.

2.0 Proposed Development

- 2.1. The construction of the slatted cubicle house extension, together with associated underground slatted slurry storage tank, concrete yards and site works.

3.0 Planning Authority Decision

3.1. Decision

Tipperary Co. Co. granted planning permission for the proposed development on the 23rd of September 2024, subject to 5No. standard conditions.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

- The nature of the proposed development within an established farm complex is considered to be acceptable in principle;
- The shed is grouped together with the other structures on the farm and is considered acceptable from a visual perspective.

3.3. Prescribed Bodies

No submissions received.

3.4. Third Party Observations

Peter Sweetman & Associates received 05/08/2024. The Planning Authority has four distinct sets of legal tasks when it deals with an application such as this one.

Planning and Development Act 2000 (as amended)

Environmental Impacts Assessment

Habitats Directive

Water Framework Directive

4.0 Planning History

No relevant cases.

5.0 Policy Context

5.1. Development Plan

6.0 Policy Context

6.1. Development Plan

The relevant development plan is Tipperary County Development Plan 2022-2028.

The following are the relevant extracts from the plan:

8.4.1 Agriculture and Horticulture

In Tipperary, nearly 11% of the workforce are employed in agriculture, forestry and fishing. This is more than double the State average and illustrates the importance of this sector to the county. The Rural Development Programme (DAFM, 2014) supports agriculture, sustainable management of natural resources and climate action, and balanced development of rural economies and communities. In addition, 'Foodwise 2025', (DAFM, 2020) provides a plan for the agri-food sector. The 'Tipperary Food Producers' network are a well-known group of high-quality food producers and an excellent example of smart specialism and clustering for economic

development. This Council will support the sustainable expansion of agriculture and horticulture, where it is demonstrated that it respects the natural functions of the environment, including water systems and ecology. In addition, the Council will favourably consider projects ancillary to existing farming activities, such as renewable energy in agriculture, which contribute toward the viability of the farm and the rural community.

Strategic Objective

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

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).

11 - 14 Ensure that proposals for agricultural developments, as appropriate, comply with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2010 or any amendment thereof.

5.2 National Guidelines

- Climate Action Plan 2023 (as updated)
- Department of Rural and Community Development's Our Rural Future: Rural Development Policy 2021-2025
- Department of Agriculture, Food and the Marine's Food Vision 2030 •
Department of Agriculture, Food and the Marine's Ag Climatise A Roadmap towards Climate Neutrality
- Nitrates Action Programme (NAP) 2022-2025

5.3 Project Ireland 2040 – National Planning Framework (2018) and National Development Plan 2021-2030

National Policy Objective 23

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.

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

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.

5.5 Natural Heritage Designations

The appeal site is not located on or within proximity to any designated Natura 2000 site(s) or Natural Heritage Area(s). The nearest European site to the proposed development is :

Lower River Suir SAC (site code 002137)

Anglesey Road SAC (site code 002125)

5.6 EIA Screening

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.

7.0 The Appeal

7.1. Grounds of Appeal

The proposed development is within the Zone of Influence of site 002165. Appropriate Assessment is required under Article 6.3 in respect of the disposal of the slurry past and future. The planning authority has failed to make a compliant decision under the Water Framework Directive.

Some relevant case law includes:

Kelly -V- An Bord Pleanala (2014)

CJEU Case C323/17

CJEU Case 258/11 at 44

Judgement of Court Case 258/11

Judgement of Court Case C-301/22

7.2. Planning Authority Response

There was no further response from the planning authority.

8.0 Assessment

- 8.1. The proposed development represents an enhancement and improvements to existing and long-established farmyard. The proposal to increase the slurry storage facilities of the overall farmyard, in particular storage associated with the cubicle houses located to the rear of the farmyard. I consider the development to be in

accordance with the Policies 8-4 and 10-3 of the Tipperary County Development Plan 2022-2028. In particular the proposed development complies with the following Strategic Objective **SO - 6** '*To support a sustainable, diverse and resilient rural economy, whilst integrating the sustainable management of land and natural resources*'. In conclusion, I am satisfied with the principle of development.

- 8.2. Having examined the application details and all other documentation on the planning file, after an inspection of the site, and having regard to relevant local and national planning policies and guidance, I consider that the main issue on this appeal relates to potential impacts on European Sites as raised by the third party on appeal.
- 8.3. There is no increase in stock numbers arising from the proposed development, the proposed works will enhance the environmental sustainability of the farm.
- 8.4. The proposed extension to existing sheds along the western boundary of the farmyard will have no visual impact, due to it's scale, moderate height and considerable setback from the public road.

9.0 **AA Screening**

- 9.1. 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.
- 9.2. There was no A.A. screening report submitted by the applicant. I note the planning authority carried out a Habitats Directive Appropriate Assessment Screening report, dated 11/09/2024. There were no submissions or concerns raised by the Prescribed Bodies.

9.3. **European Sites**

- 9.4. 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 8km east, west and north of the nearest European site:

Lower River Suir Site Code 002137

The other European sites are in excess of 10km from the subject site with no hydrological link between the site and the European sites.

9.5. **Likely Impact of the project (alone or in combination)**

- 9.6. The development comprises the construction of (i) an existing farm building extension, (ii) the provision of underground tanks. I noted from my site inspection that there were no open water drains contiguous to the farmyard. 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, the subject site and the European Sites.
- 9.7. 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.
- 9.8. There is no watercourse connected to the farmyard. There are a number of surface water land drains that run through the applicant's landholding to the south and west of the farmyard (the submitted drawings outline the separation distances). There is no hydrological connection between the farmyard and the surface water drains within the applicant's landholding.
- 9.9. There is no hydrological connectivity between the farmyard and the nearest European site to the south, east or west, or any other European sites within a 15km Zone of Influence (which were all listed in the planning authority's screening report).
- 9.10. During site clearance and construction works of the proposed agricultural building, possible impact mechanisms of a temporary nature include generation of noise, dust, and construction related emissions to surface water. The contained nature of the site (defined site boundaries, no direct ecological connections or pathways) and distance from receiving features make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites. The separation

distance between the proposed building works and surface water drains offers a considerable buffer area to ensure the existing drains will not be impacted upon the proposed construction works.

9.11. Likely significant effects on the European sites in view of the conservation objectives

9.12. The construction or operation of the proposed development will not result in impacts that could affect the conservation objectives of the SACs due to separation distance and lack of meaningful ecological/ hydrological connections. There will be no changes in ecological status of the European sites due to construction related emissions.

9.13. In combination effects

9.14. 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.

9.15. Overall Conclusion – Screening Determination

9.16. 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 and is therefore excluded from further consideration. Appropriate Assessment Stage 2 is not required.

The determination is based on:

- 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.
- Having regard to the screening report and determination of the planning authority.

10.0 Recommendation

I recommend the Board uphold the planning authority's decision to grant planning permission for the proposed development.

11.0 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, 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 (to support a sustainable, diverse and resilient 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 retained 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 proposed development shall be designed, cited, constructed and operated in accordance with the requirements as outlined in the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2022, as amended. The applicant shall provide for the relevant

(location dependent) storage requirements as outlined in schedule 3 of the aforementioned regulations. The landspreading of soiled waters and slurry shall be carried out in strict accordance with the requirements as outlined in the aforementioned regulations. Prior to the commencement of the development details showing how the applicant intends to comply with this requirement shall be submitted to and agreed in writing with the Planning Authority.

Reason: In order to avoid pollution and to protect residential amenity.

3. All oxidisable surfaces shall be painted in a colour to match the existing farm buildings on site and it shall be maintained in perpetuity.

Reason: In the interests of visual amenity.

4. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains, watercourses or to appropriately sized soakaways. Uncontaminated waters shall not be allowed to discharge to soiled water and/or slurry tanks or to the public road.

Reason: In order to ensure that the capacity of soiled water tanks are reserved for their specific purposes.

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.

Caryn Coogan
Planning Inspector

12th of May 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	321067-24		
Proposed Development Summary	Construction of (i) extension to an existing slatted cubicle shed, (ii) additional underground slatted tanks, and (iii) concrete yard and all site works		
Development Address	Ballydine, Goold's Cross, Cashel, 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	
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			Proceed to Q3.
No	X		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			

Yes			Preliminary examination required (Form 2)
------------	--	--	---

5. Has Schedule 7A information been submitted?			
No	NO	Pre-screening determination conclusion remains as above (Q1 to Q4)	
Yes		Screening Determination required	

Inspector: _____ **Date:** _____