

TYPE OF APPLICATION: APPLICATION FOR LEAVE TO APPLY FOR SUBSTITUTE CONSENT UNDER SECTION 177C(2)(b) OF THE PLANNING AND DEVELOPMENT ACT 2000, AS AMENDED

PLANNING AUTHORITY: LAOIS COUNTY COUNCIL

PA REG. REF.: 19/200

APPLICANT: PATRICK LALOR, IRONMILLS, BALLINAKILL, CO. LAOIS, R32 HD40

DEVELOPMENT: RETAIN AND COMPLETE AS NECESSARY FOR A SLATTED TANK, ANIMAL HOUSING WHICH INCORPORATES CUBICLE AREA, CALVING BOXES, MILKING PARLOUR, DAIRY, OFFICE, PLANT ROOM, SLATTED FEEDING AREA, COLLECTING AREA, STEEL UPRIGHTS AT FEEDING AREA AND ALL ASSOCIATED ANCILLARY WORKS AND SERVICES

DEVELOPMENT ADDRESS: GRENNAN, ATTANAGH, CO. LAOIS

DATE OF INSPECTION: 17/06/2020

SUBJECT SITE IN 2012



SUBJECT SITE IN 2020



The Secretary,
AnBordPleanála,
64 Marlborough Street,
Dublin 1.

17/06/2020

Dear Sir/Madam,

Emma Pillion Planning has been retained by Patrick Lalor of Ironmills, Ballinakill, Co. Laois, R32 HD40 to make an application for substitute consent on his behalf in respect of an agricultural development at Grennan, Attanagh, Co. Laois.

1.0 Introduction

1.1 This is an application for leave to apply for Substitute Consent under Section 177C(2)(b) of the Planning and Development Act 2000, as amended. The application is seeking leave to apply for substitute consent so that an application can be lodged to the Board.

1.2 The application sets out that exceptional circumstances exist such as to enable such an application to be made. The application is accompanied by an environmental statement in preparation for the Stage 2 NIS which is currently being prepared in the event that leave to apply for substitute consent is granted by the Board.

1.3 The application seeks to apply for leave to apply for Substitute Consent for the following; Permission sought to retain and complete slatted tank, animal housing which incorporates cubicle area, calving boxes, milking parlour, dairy, office, plant room, slatted feeding area, collecting area, steel uprights at slatted feeding area; and all associated ancillary works and services.

2.0 Site Location and Description

2.1 The site is located 2.4km east of Durrow town and 8km south of Abbeyleix town in the midlands. The area is predominantly rural and the general landscape is one of an improved agricultural setting, with larger landholdings and the presence of modern agricultural farmsteads. The River Nore is located approximately 1km to the west of the subject development.

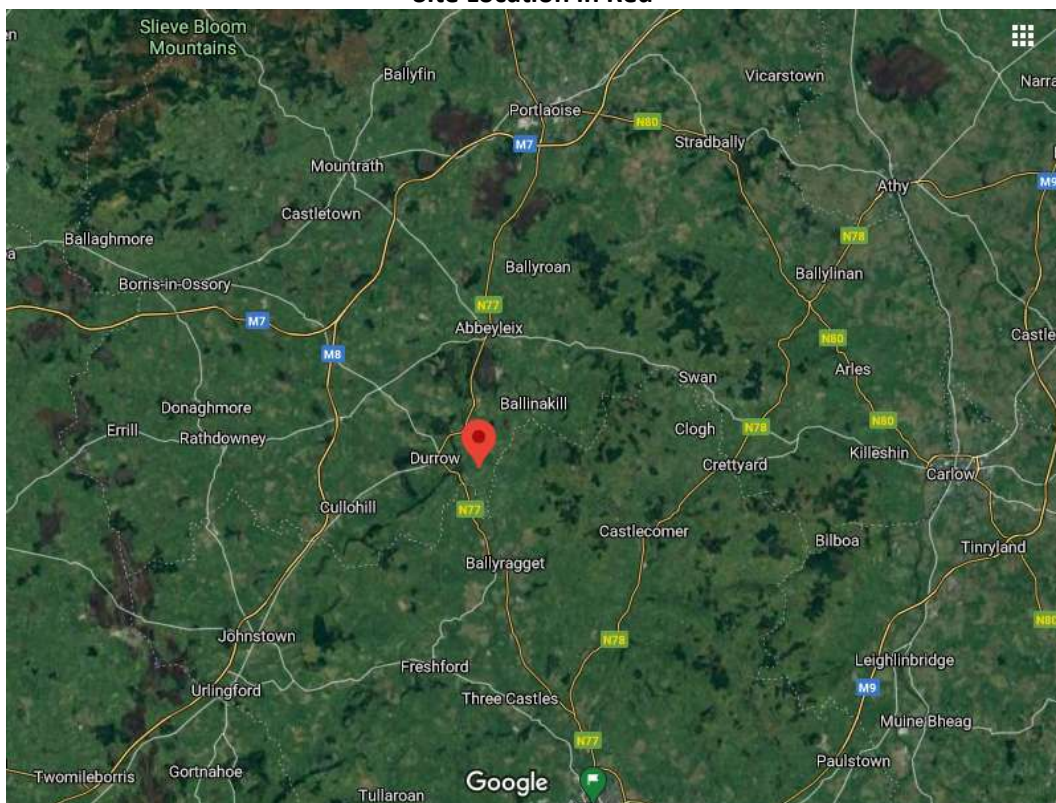
2.2 The site is in the townland of Grennan, Attanagh, approximately 0.95Ha in area and forms part of a traditional family landholding since the mid 1950's, which was extended through the purchase of

other family lands in 2013. The site is accessed via a local public road, a cul-de-sac, which also serves the complainant's house, also dairy farmers who are farming and milking at this location.

2.3 There are a number of pre-existing agricultural buildings on the site, previously permitted, along with the original farmstead buildings and dwelling house. The original buildings and the permitted buildings sit between the complainants lands and dwelling and the subject development seeking regularisation.

2.4 The subject development seeking regularisation, a slatted shed housing the dairy, the milking parlour and ancillary services lies to the most westerly point of the site and is 1,266sq.m. in area. The pre-existing farm buildings up to 2016 are stated as having a combined floor area of 708sq.m.

Site Location in Red



3.0 The Application for Leave to Apply for Substitute Consent

3.1 Application Consultants

The application was prepared by Emma Pillion Planning, Barnes Nolan & Associates Ltd., and Whitehill Environmental in conjunction with the applicant, Patrick Lalor.

3.2 Application Contents

The application includes the following documentation;

1. Planning Report setting out the case for the need for leave to Apply for Substitute Consent.
2. Letter from Laois County Council dated 25th May that it is not possible for the Planning Authority to consider the application for retention due to the fact that AA was required prior to construction.
3. NIS prepared to accompany the application for Leave to Apply for Substitute Consent.
4. Copy of 17/218 planning application file.
5. Copy of 19/200 planning application file.
6. Letter from Barnes Nolan Associates Ltd. in relation to the clarification of animal stock numbers (also raised by the inspector in the 17/218 application).
7. Letter from the applicant setting out the circumstances surrounding the case.
8. Letter from the applicant's son and daughter-in-law setting out the circumstances of the case from their viewpoint.

4.0 Planning History

4.1 Warning Letter

A Warning Letter issued to the applicant on the 17/10/2016 requesting the cessation of any unauthorised works.

4.2 Enforcement Notice

An Enforcement Notice issued to the applicant on the 07/03/2017 requesting the cessation of any unauthorised works and the demolition of any unauthorised structures with any waste generated disposed of via a licenced waste contractor by the 03/05/2017. The retention application 17/218 was lodged 02/05/2017.

4.3 Planning Application 17/218

Permission sought to retain and complete a slatted tank, animal housing which incorporates cubicle area, calving boxes, milking parlour, dairy, office, plant room, slatted feeding area, collecting area, steep uprights at slatted feeding area, and all associated ancillary works and services; permission to cut back steel uprights at slatted feeding area; and permission to construct new crush in collecting yard. Submissions made by Ned and Jacinta Brennan in the initial 5 week period, and again following receipt of Further Information. A decision to grant with 13 Conditions issued on 1/11/2017.

Third party appeal by Ned and Jacinta Brennan to An BordPleanála was lodged on the 29/11/2017, following which a refusal issued by the Board on the 15/08/2018 for 2no. reasons.

4.4 Planning Application 19/200

Permission sought 1).to retain and complete slatted tank, animal housing which incorporates cubicle area, calving boxes, milking parlour, dairy, office, plant room, slatted feeding area, collecting area, steel uprights at slatted feeding area; and all associated ancillary works and services; 2).

for permission to cut back steel uprights at slatted feeding area; and 3) for permission to construct new crush in collecting yard. Submissions made by Ned and Jacinta Brennan in the initial 5 week period, and again following receipt of Further Information. A letter issued on the 25th May 2020 advising that the Planning Authority could not consider the application as an AA was required.

5.0 Applicant Compliance History in County Laois

Application Ref No.	Description	Location	Date
82-425 Permission Granted	Erect Bungalow, septic tank & associated site wk	Ironmills, Ballinakill	10/09/1982
87-481 Permission Granted	Erect Slatted House & Cubicles	Ironmills, Ballinakill	
90-577 Permission Granted	Erect slatted feeding house	Ironmills, Ballinakill	30/11/1990
95-497 Permission Granted	Erect slatted cow unity and calf house	Ironmills, Ballinakill	23/08/1995
02-625 Incomplete Application	Permission for Livestock accommodation over existing slats...	Grennan, Attanagh	12/07/2002
02-721 Permission Granted	Permission for Livestock accommodation over existing slats...	Grennan, Attanagh	12/07/2002
08-923 Permission Granted	Make minor alterations of cubicle shed with lie back area to include change of roof pitch	Ironmills/Kilrush, Ballinakill	27/08/2008
Warning Letter	Pertaining to the construction of a effluent storage tank.	Grennan, Attanagh	17/10/ 2016
Enforcement Notice	Pertaining to the construction of a Effluent storage tank.	Grennan, Attanagh	07/03/ 2017
16-672 Invalidated	Incomplete application Retain and complete as necessary for a slatted tank, animal housing which incorporates cubicle area, calving boxes, milking parlour, dairy, office, plant room, slatted feeding area,	GrennanAttanagh	22/12/2016

	collecting area, steep uprights at slatted feeding area, and all associated ancillary works and services; PERMISSION to cut back steel uprights at slatted feeding area; permission to construct new crush in collecting yard		
17-218 Permission Granted	Retain and complete as necessary for a slatted tank, animal housing which incorporates cubicle area, calving boxes, milking parlour, dairy, office, plant room, slatted feeding area, collecting area, steep uprights at slatted feeding area, and all associated ancillary works and services; PERMISSION to cut back steel uprights at slatted feeding area; permission to construct new crush in collecting yard	GrennanAttanagh	02/05/2019
Application Appealed to An Bord Pleanála 04/01/2018 Appeal Refused	Retain and complete as necessary for a slatted tank, animal housing which incorporates cubicle area, calving boxes, milking parlour, dairy, office, plant room, slatted feeding area, collecting area, steep uprights at slatted feeding area, and all associated ancillary works and services; PERMISSION to cut back steel uprights at slatted feeding area; permission to construct new crush in collecting yard	GrennanAttanagh	30/05/2019
19/200 (*** P Lalor on eplan)	1). retain and complete as necessary for a slatted tank, animal housing which incorporates cubicle area, calving boxes, milking parlour, dairy, office, plant room, slatted feeding area, collecting area, steel uprights at slatted feeding area; and all associated ancillary works and services; 2). permission to cut back steel uprights at slatted feeding area; 3) permission to construct new crush in collecting yard Further information on 8 items Requested 30/05/2019	GrennanAttanagh	06/03/2020
Further Information			
Incomplete Application Notice 25/05/20250			

6.0 Policy Context

6.1 Laois County Development Plan 2017-2023 governs the policy for the subject site and identifies the site as being within 'Zone C' which is made of a mix of lowland farmland and settlements that benefit from links to Strategic Transportation Corridors and other key development areas. The

Development Plan predicts strong growth in the agricultural sector in these areas, with diversification and intensification expected to help the areas to prosper further.

6.2 Section 5.10 outlines the policies for 'Rural Economic Activities', *inter alia*, as follows;

- RUR1 Support the expansion, diversification and intensification of agriculture and the agri-food sector by facilitating appropriate related development subject to environmental and planning considerations
- RUR6 Reconcile the need for resource-based economic activities to conduct a reasonable operation and the needs of residents in rural areas to access a good quality of life and access to rural areas

6.3 Chapter 8 of the County Development Plan outlines, amongst other topics, the 'Development Management Standards' for 'Agricultural Development' in DM33 which states;

"General Consideration for agricultural buildings:

Agricultural developments have the potential to impact on the environment and the landscape. The traditional form of agricultural buildings is disappearing with the onset of advanced construction methods and wider range of materials. Some new farm buildings have the appearance of industrial buildings and due to their scale and mass can have serious major visual impacts. In dealing with applications for agricultural developments the Planning Authority will have regard to the following:

- 1) Require that buildings be sited as unobtrusively as possible and that the finishes and colour used will blend the development into its surroundings.*
- 2) The proposed developments shall meet with the requirements of the Department of Agriculture with regard to storage and disposal of waste.*
- 3) The Council accepts the need for agricultural buildings and associated works (walls, fences, gates, entrances, yards) to be functional but they will be required to be sympathetic to their surroundings in scale, material and finishes.*
- 4) Buildings should relate to the landscape. Traditionally this was achieved through having the roof a darker colour than the walls.*
- 5) Appropriate roof colours are dark grey, dark reddish brown or a very dark green. Where cladding is used on the exterior of the farm buildings dark colours should be used.*
- 6) All agricultural buildings should be located an adequate distance from any watercourse to reduce the risk of contamination."*

6.4 Natura 2000 Designations

While the subject is not located within a designated site, it is however, within 700m of the River Barrow And River Nore SAC (Site Code 002162) and 1km from the River Nore SPA (Site Code 004233).

7.0 Grounds for the Application for Leave to Apply for Substitute Consent

7.1 Scope of the Application

As an application for substitute consent can only be made in respect of development that has already been carried out, the determination in this case will be whether or not to grant leave to make such an application to the Board to regularize the development. The determination will be assessed on the basis of whether exceptional circumstances exist such that the Board considers it appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent.

7.2 Tests for Leave to Apply for Substitute Consent

7.2.1 Section 177D(1) of the Act specifies that the Board can only grant leave to apply for substitute consent in respect of an application under section 177C where it is satisfied that;

- an environmental impact assessment,
- a determination as to whether an environmental impact assessment is required, or
- an appropriate assessment was or is required

in respect of the development concerned and where it is further satisfied that exceptional circumstances exist such that the Board considers it appropriate to permit the opportunity for regularisation of the development by permitting an application for substitute consent.

In this regard Laois County Council's letter dated May 25th 2020 in respect of PA Reg. Ref. 19/200 refers which states;

"I refer to the above planning application and wish to advise that pursuant to Section 34(12) of the Planning and Development Act 2000, as amended the Planning Authority must refuse to consider the application to retain this agricultural shed as, if an application for permission had been made in respect of the development concerned before it was commenced, the application would have required the following be carried out;>

(a) An Appropriate Assessment

The Planning Authority concludes that the development would have required an Appropriate Assessment to assess the potential impacts on the River Barrow and Nore SAC which is in close proximity to the development site."

7.2.2 Section 177D (2) of the Act provides that in considering whether exceptional circumstances exist the Board must have regard to the following:

- (a) Whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive;
- (b) Whether the applicant had or could reasonably have had a belief that the development was not unauthorised;

- (c) Whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired;
- (d) The actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development;
- (e) The extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated;
- (f) Whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development;
- (g) Such other matters as the Board considers relevant.

7.3 Qualifying Development

7.3.1 EIA

Having regard to the scale and nature of the development that has taken place, there is no requirement for either a determination in relation to EIA or for EIA with respect to Article 109(2) of the Planning and Development Regulations 2001, as amended, and the likelihood of significant effects on the environment can be excluded for the purposes of EIA. The development was also assessed in the context of whether or not the development would be likely to have significant effects on the environment based on the criteria set out in Schedule 5 of Regs and significant effects, both direct, indirect and cumulative were ruled out.

7.3.2 Appropriate Assessment

The NIS submitted with the 19/200 application contained a Stage 1 Appropriate Assessment which identifies that the development site is located within 10km of 3no. Natura 2000 sites, namely:

- River Barrow and Nore SAC 002162, which is located 743m west, with spreadlands being within and adjacent to the SAC,
- River Nore SPA 004233, which is located 1.1km west, with spreadlands being adjacent to the SPA, and
- Lisbigney Bog SAC 000869, which is located 1.9km northeast.

7.3.3 Qualifying Interests

From the Whitehill Environmental report the following interests are noted; *“The site is located in an area where agriculture is quite intensive and the dominant habitat is improved agricultural grassland. Other habitats close to the site include hedgerows, treelines and areas of broadleaved woodland. The River Nore and its riparian habitats is 1km west of the site. The site itself currently consists of buildings and artificial surfaces (the existing farm buildings and hard-core areas proposed for retention). There are also some small areas of improved agricultural*

grassland in the western section of the site. These are habitats of low biodiversity and conservation value. There are treelines present along part of the northern and southern site boundaries. An examination of the website of the National Biodiversity Data Centre (Biodiversity Maps application), revealed that there are no records for the presence of any notable plant or mammal species from the relevant 1km squares (S4377) of this proposed development.

The application site is located within the Nore Hydrometric Area, Catchment and Sub-Catchment and the Owveg Sub-Basin. There are no drains or streams within or adjacent to the application site. There is a stream approximately 447m west of the application site. This stream flows southwards, until it meets the River Nore, at a point approximately 1.1km south-west of the application site. At its closest point, the River Nore is 954m south-west of the application site.

*The EPA have defined the ecological status of the River Nore and its tributaries at points close to the application site as good. Under the requirements of the Water Framework Directive, this is satisfactory and this status must be maintained.”*The full list of qualifying interests is outlined in the NIS.

7.3.4 Development within Natura 2000 Sites

The physical development itself is not located within any Natura 2000 site, however the spreadlands are partially located within the River Barrow and Nore SAC and adjacent to the River Nore SPA. The applicant has sufficient lands outside the area the Planning Authority and An Bord Pleanála are concerned about regarding the possible impact on the Natura 2000 sites. However the Planning Authority were receptive to the limiting of spreadlands within the immediate landholding in order to eliminate the need for any traffic to use the public road, passing by the complainants dwelling, save for the milk lorry and the meal lorry, which are common to both the applicant and the complainant (they use the same suppliers and dairy).

7.3.5 Summary of AA Stage 1 Prepared on Behalf of the Applicant (PA Reg. Ref 19/200)

The report prepared by Whitehall Environmental concludes that the development proposed to be retained *“whether individually or in combination with other plans or projects, will have no impacts upon the Natura 2000 sites. The integrity of these sites will be maintained and the habitats and species associated with these sites will not be adversely affected. It is of the opinion of the author that this application does not need to proceed to Stage II of the Appropriate Assessment process.”*

7.3.6 Summary of AA Stage 1 Prepared on Behalf of the Planning Authority (PA Reg. Ref. 19/200)

The report prepared by SLR concludes that *“it is not possible to determine the likelihood of significant effects arising from the construction and operation of the development. River Barrow and River Nore SAC are considered likely to be affected by land spreading activities and the significance of such effects is uncertain.”*

7.3.7 Summary of AA Stage 1 (Revised) Prepared on Behalf of the Planning Authority (PA Reg. Ref. 19/200)

Following receipt of the Further Information request in the planning application 19/200, the AA Stage 1 report was revised by SLR to inform the Planning Authority in relation to the matters of further information requested in relation to the Appropriate Assessment. The following conclusion was devised *"We would contend that the uncertainty around the significance of the effects of the project i.e. the retention of the development and the associated activities such as slurry spreading, have not been adequately addressed. They have not issued a revised report to inform screening for appropriate assessment nor have they submitted a NIS to address the queries and observations raised in Item 7 of the RFI. It is therefore our opinion that there is insufficient information to allow Laois County Council to screen out the project i.e. to exclude likely significant effects on Natura 2000 sites or to carry out an appropriate assessment to exclude effects on the integrity of the Natura 2000 sites."*

7.3.8 Conclusion to AA Requirement

In conclusion, AA is required, as set out by Laois County Council, as it cannot be excluded, on the basis of objective information, that the development would have had or would have a likely significant effect on the River Barrow and Nore SAC, having regard to the Conservation Objectives for the site.

The development, therefore, does qualify for consideration for leave to apply for substitute consent being a development in respect of which AA is required.

7.4 Exceptional Circumstances

Section 177D(2) of the Act sets out the tests for 'exceptional circumstances' and these are assessed hereunder.

7.4.1 *Would the regularisation of the development concerned circumvent the purposes and objectives of the EIA Directive or the Habitats Directive?*

Given that EIA was and is not required, it is considered that the development concerned would not circumvent the purposes and objectives of the EIS Directive. Given that the permitted farm development on site is in excess of 1000sq.m. and that the landholding at Grennan Farm increased from 55 acres to 106 acres in 2013 when the applicant purchased additional lands at this location, the proposed extension and modernisation of the farm with additional footprint (including silage slabs and external aprons) of 1,266sq.m., is not considered to be excessive when considered in its overall context. In addition the nature of the farming business on site changed from beef to dairy, which requires more space in terms of milking machines, dairy, storage spaces etc. in order to comply with Dept. of Agriculture Guidelines and best practice animal husbandry. Having regard to the foregoing, it is not considered that the development proposed to be regularised is excessive in terms of its proposed use, within an existing farm complex and therefore it is concluded that the regularisation of the development would not circumvent the purposes of objectives of the Habitats Directive.

7.4.2 *Whether the applicant has or could reasonably have had a belief that the development was not unauthorised?*

The attached letter from the applicant refers. The applicant is 66 years old, a farmer all his life, living in a rural area, abiding by all life's rules and regulations. He qualified for grants on all other sheds/structures built on his farm at both Ironmills and Grennan and, as such, knew that planning permission was required in order to qualify for the grants. The subject development did not qualify for a grant and when he sought advice in relation to the need for planning, he was mistakenly informed that once the shed was "100m distance from a road and 30m distance from a house that planning wasn't required". Indeed, when the Enforcement Officer from the Planning Authority came out on foot of a complaint from the neighbour, the applicant was advised to continue building and simply seek retention permission. The applicant was misinformed throughout the process, much to his detriment and to that of his livelihood and family welfare. Attached also is a letter from the applicant's son and daughter-in-law which outline their view of the circumstances which have led to the need for the Application for Leave to apply for Substitute Consent.

Given the agricultural nature of the works within a rural area and having regard to the contents of the applicant's letter attached hereto, and to the foregoing, it is considered that the applicant could reasonably have had the belief that the development was not unauthorised.

7.4.3 Whether the ability to carry out EIA or AA and to provide for public participation in such an assessment has been substantially impaired?

As EIA was and is not required no issues arise in relation to this matter. It is not considered that there is any impairment to carrying out AA, including providing for public participation.

7.4.4 The actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development?

Given that EIA was and is not required, no issues arise in relation to this matter.

The possible adverse effects on the integrity of a European site in this case, relate to those that might arise/have arisen from the proximity of the spreadlands to the Natura 2000 sites and the source-pathway-receptor model results which highlighted that impacts could not be eliminated and a Stage 2 assessment was required.

Given that the applicant has not spread on the lands shown in the application closest to the SAC from the development of the shed to date, because of the issues highlighted with the development, the impacts on the environment to date, if any, would have been localised and short-term. The lands located on the western side of the farm, within proximity of the river, have been excluded from the annual rotation of slurry since spring 2016. The continuation of the development could be remediated by way of the preparation of a specialist surface water management plan for the site and by the use of alternative spread lands with no direct or indirect paths to the SAC.

7.4.5 The extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated?

Given that the applicant has not spread on the lands shown in the application closest to the SAC from spring 2016 to date, because of the issues highlighted with the development, the impacts on the environment to date have been limited. Future impacts could be remediated by the operation of a specialist surface water management system on site and identifying alternative spread lands which the applicant owns in the locality, using the farm track to access these lands, rather than the public road by the complainants' house.

7.4.6 Whether the applicant has complied with previous permissions granted or has previously carried out unauthorised development?

The applicant has no history of past failures to seek planning permission or past failures to comply. A full list of permitted developments for both farms and his dwelling house are set out in Section 5.0 of this report. The only enforcement matters issued to the applicant, or indeed any of his family, are the current proceedings with regard to the slatted shed. The applicant has a clean history with regard to compliance also with the Department of Agriculture guidelines, his nutrient management plan as set out by Teagasc for the farm each year and he is a member of the BordBia quality assurance scheme. Patrick's letter, attached to the application, sets out the history surrounding this development in his own hand, summarising how the situation has gotten to this stage.

7.4.7 Such other matters as the Board considers relevant.

7.4.7(i) The history of farming in Grennan stems back to the mid 1950's in the Lalor family, the 1888-1913 OSI maps show the presence of both the Lalor farmyard and the complainant's farmyard. An excerpt from the maps below shows the presence of the farmyards on both the application site and the complainant's landholdings, along with the dwelling house, Patrick's uncles house, which is still on site today, uninhabited at present.

1888-1913 OSI Map Overlain the Current Aerial Photograph for Reference



The excerpt below from the 1995 OSI Maps shows the extent of the permitted farmyard some 25 years ago, which took in the .509, .612 and .314Ha land parcels. In 2020, albeit with an additional shed, the development has not moved beyond the original field boundaries, or extended the footprint beyond what might reasonably be expected with;

- the onset of technological advances & improvements in farming techniques,
- increased environmental and departmental regulations in the industry, and
- the purchase of an additional 51 acres of land, increasing the farm landholding by 48%

1995 OSI Aerial Map (Markers Added to Aid Comparison)



2020 Google Map (Markers Added to Aid Comparison)



7.4.7(ii) The applicant has made every effort to comply, since becoming aware that the development was unauthorised. He has;

- Cooperated with the Planning Authority and the Enforcement Section, meeting the Enforcement Officer on site, who told him to continue building the development and then apply for a routine retention application,
- Engaged numerous consultants to prepare a retention application, had a pre-planning with the Planning Authority to ensure they had everything they needed and lodged the application to retain 17/218,

- Carried out further studies to prepare Further Information responses to the original application 17/218,
- Responded to the third party appeal,
- Created a farm track between his sons house and the farmyard for the passing of machinery,
- Analysed the reasons for refusal and consulted with the Planning Authority, prepared a new application to retain and lodged same,
- Prepared further reports for the Further Information request, and
- Received a letter to advise that the application, the nature of development of which was validated and decided upon under 17/218, could no longer even be considered by the Planning Authority and the file was invalidated, after Further Information had been requested and only a few days before the decision due date.

7.4.8 It is contended that exceptional circumstances do exist in this case, as the regularisation of the development would not circumvent the purposes or objectives of the Habitats Directive; that the applicant reasonably had the belief that the development did not require planning permission, that the ability to carry out AA and provide for public participation has not been substantially impaired; and the limited nature of any actual or likely effects on a European site resulting from the development and its continued use under an appropriate surface water management and spread lands management plan.

8.0 Conclusion

8.1 Having regard to Section 177D of the Planning and Development Act 2000, as amended, it is considered that:

- a) the development is one where an appropriate assessment is required, and
- b) that exceptional circumstances exist by reference, in particular, to the following:
- c) the fact that the regularisation of the development would not circumvent the purpose or objectives of the Habitats Directive;
- d) that the applicant could reasonably have had a belief that the development was not unauthorised;
- e) that the ability to carry out AA and provide for public participation has not been substantially impaired; and
- f) the limited nature of the actual/likely significant effects on a European site resulting from the development based on the actions of the applicant to date and the availability of additional spreadlands with no path to the Natura 2000 sites

and therefore it is respectfully requested that leave to apply for substitute consent be granted on this occasion.

Yours sincerely*,

(*sent by email and accordingly bears no signature)

Emma Pillion
Emma Pillion MIPI

Attachments:

1. Letter from Laois County Council dated 25th May that it is not possible for the Planning Authority to consider the application for retention due to the fact that AA was required prior to construction.
2. NIS prepared to accompany the application for Leave to Apply for Substitute Consent.
3. Copy of 17/218 planning application file.
4. Copy of 19/200 planning application file.
5. Letter from Barnes Nolan Associates Ltd. in relation to the clarification of animal stock numbers (raised by the inspector in the 17/218 application).
6. Letter from the applicant setting out the circumstances surrounding the case.
7. Letter from the applicant's son and daughter-in-law setting out the circumstances of the case from their viewpoint.

ATTACHMENT 1

Letter from Laois County Council dated 25th May

ATTACHMENT 2

Natura Impact Statement

ATTACHMENT 3

Copy of 17/218 planning application file

ATTACHMENT 4

Copy of 19/200 planning application file

ATTACHMENT 5

Letter from Barnes Nolan Associates Ltd. in relation to the clarification of animal stock numbers (also raised by the inspector in the 17/218 application)

ATTACHMENT 6

**Letter from the applicant setting out the circumstances surrounding
the case**

ATTACHMENT 7

**Letter from the applicant's son and daughter-in-law setting out the
circumstances of the case from their viewpoint**

