



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320060-24

<b>Development</b>	Retention of agricultural shed granted under 17/279. An agricultural cattle shed, an agricultural machinery storage shed and all associated site works.
<b>Location</b>	Aughine and Bunalough Townlands, Moydow, Co. Longford.
<b>Planning Authority</b>	Longford County Council
<b>Planning Authority Reg. Ref.</b>	2427
<b>Applicant</b>	James Orohoe
<b>Type of Application</b>	Retention.
<b>Planning Authority Decision</b>	Grant Retention
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Derek Clyne
<b>Date of Site Inspection</b>	25 <sup>th</sup> October 2024
<b>Inspector</b>	Dolores McCague

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## **1.0 Site Location and Description**

- 1.1. The site is located at Aughine and Bunalough Townlands, Moydow, Co. Longford, on the outskirts of the small settlement of Moydow, c 7km south of Longford Town. Although possessing little urban fabric and few services, Moydow has experienced substantial housing development in the recent past. There are no streams in the immediate vicinity, those to the east and west, flow to the Camlin river, some distance away.
- 1.1.1. Sheds 1 and 2 are adjoining cattle sheds, shed 1, farther from the road than shed 2, has an underground tank. These sheds are to the east of the widened site entrance and surfaced yard within which there is a feed silo. Farther east is shed 3, the storage shed. There is a gap in the hedge to the front of this shed but no road entrance.
- 1.1.2. The site is given as 8.524ha. The application form refers to 5ha of silage ground at Lisduff, Longford; that is just south of Longford town. The application form states that 20 ha of land is available for the spreading of slurry.

## **2.0 Proposed Development**

- 2.1. The proposed development is described in the application as the retention of
  - (i) an agricultural cattle shed - 91m<sup>2</sup>, three bay single slatted, (LCC ref: 17/279 planning granted for this shed, but built in an incorrect location),
  - (ii) an agricultural cattle shed - 114m<sup>2</sup>, four bay single slatted,
  - (iii) an agricultural machinery storage shed - 110m<sup>2</sup> single slatted,
  - (iv) 10m length of hedgerow boundary removed, hawthorn hedgerow replanted to this location,and includes all associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The Planning Authority decision, dated 11<sup>th</sup> June 2024, was to grant permission, subject to 9 conditions, including:

2. Full surface water and effluent drainage facilities shall be provided throughout the site in accordance with the Department of Agriculture, Food and Marine Minimum Specifications for Farmyard Drainage, Concrete Yards and Roads.

Reason: In the interests of clarity, public health and environmental protection.

3. The proposed slatted shed shall be installed in accordance with the Department of Agriculture, Food and Forestry, Farm Development Services S123 Specifications for Silage bases.

Reason: In the interests of clarity, public health and environmental protection.

4. All uncontaminated surface waters, including waters from roofs and clean concrete surfaces, shall be separately collected and discharged through an impermeable system with sealed joints, to soak pits or land drains.

Contaminated surface water shall not be allowed to enter a drain or waterway.

All effluents including soiled yard water shall be discharged to the proposed slurry tank.

Reason: In the interests of public health and environmental protection.

5. Where effluent is to be spread on land, such operation shall not be carried out during heavy rainfall and shall not be spread:

Within 20 metres of any drain or watercourse

Within 50 metres of the flood line of any land liable to flooding.

Within 100 metres of a dwelling without the prior consent of the occupier,

Within 50 metres of any domestic well,

Within 30 metres of public water supply sources,

On frozen, snow covered or waterlogged ground,

During any period between the 15<sup>th</sup> October and 15<sup>th</sup> January,

On land sloping steeply towards rivers, streams, or lakes, on exposed bedrock or in situations where there is significant risk of causing water pollution.

Reason: In the interests of public safety, environmental protection and the proper planning and sustainable development of the area.

6. Slurry shall be spread only in accordance with the usage of lands and the capacity of the lands to retain, neutralise and decompose it. The rate of spreading shall be such as to prevent surface run-off, ponding or seepage into covered field drains. It shall be carried out in accordance with the Code of Good Agricultural Practice for Protection of Waters – Regulation SI No 378 of 2006.

Reason: In the interests of preventing pollution and of proper planning and sustainable development.

7. Existing land and road drainage in the area shall not be adversely affected by the proposed development of the area.

Reason: In the interests of road safety and the proper planning and sustainable development.

8. The adjacent public road shall be maintained in a clean manner with all effluent retained on site and where off-site spreading of slurry effluent is undertaken, any wheel borne mud/ spillages etc shall be cleaned by the applicant / operator through sweeping, before the end of the daylight period during which it has been deposited / occurred.

Reason: In the interests of public safety environmental protection and visual amenity.

9. In addition, the rear and lateral boundaries of the site, where necessary, shall be heavily planted with native tree and hedgerow species in the first season following the commencement of development.

The following species or a mixture of these shall be used:

Native evergreens (Holly, Scots Pine, etc)

Native deciduous (Oak, Elm, Ash, Birch, Hazel, Alder, Willow, Elder, Whitethorn, Blackthorn, Irish Whitebeam, Rowan)

Exotic species such as Cypress, Lelandii, Rhodendrum, Laurel, and Sycamore shall not be used.

Reason: In the interests of ecological functioning and the visual amenity of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The applicant intends to retain 3 no. corrugated iron sheds.

Shed 1 is 91m<sup>2</sup> pitched 3-bay single slatted shed and 4.8m high at its highest point.

Shed 2 adjoins shed 1 and is a lean-to 114m<sup>2</sup> 4-bay single slatted shed and 4.9m high at its highest point.

Shed 3 is a 110m<sup>2</sup> machinery shed and 5.2m high at the highest point.

Shed 1 was previously granted planning permission (17279) but was constructed in a different location and larger than permitted.

The proposed development is located to the rear of the existing agricultural buildings and will not be visually intrusive from the adjoining road.

Appropriate assessment screening – nearest sites: Brown Bog SAC c 7.6km; Lough Forbes Complex SAC c 9.5km; Ballykenny-Fisherstown Bog SPA c 9.5km; Mount Jessop Bog SAC c1km; Lough Ree SPA & SAC c 11km. No impact

### **3.3. Prescribed Bodies**

None

### **3.4. Third Party Observations**

- 3.4.1. A third party observation on the file has been read and noted. The issues raised are similar to those raised in the grounds of appeal.

## **4.0 Planning History**

17179 planning permission was granted to construct a 3 bay single slatted shed and all ancillary site works.

## **5.0 Legal and Policy Context**

### **5.1. Planning and Development Regulations 2001-2023**

Notice of planning application. Article 17.

(1) An applicant shall within the period of 2 weeks before the making of a planning application—

(a) give notice of the intention to make the application in a newspaper in accordance with article 18, and

(b) give notice of the intention to make the application by the erection or fixing of a site notice in accordance with article 19.

Notice in newspaper. Article 18.

A notice published in accordance with article 17(1)(a) shall be published in a newspaper approved for this purpose in accordance with sub-article (2), shall contain as a heading the name of the planning authority to which the planning application will be made and shall state—

(a) the name of the applicant,

(b) the location, townland or postal address of the land or structure to which the application relates (as may be appropriate),

### **5.2. Development Plan**

5.2.1. Longford County Development Plan 2021-2027 is the operative plan, relevant provisions include:

The open countryside provides for rural economies and rural communities, based on agriculture, forestry, tourism and rural enterprise. This should be facilitated while avoiding over-spill development from urban areas and urban generated housing. The sustainable development of the open countryside will be supported

Supporting sustainable agriculture and food production practices that safeguard the environmental and ecological elements of our rural setting, with a particular focus on

encouraging less intensive farming practices and catering for localised food markets in a bid to reduce our over-reliance on overseas food producers.

CPO 9.7 promote resource efficiency and support the shift toward a low-carbon and climate resilient economy in the agriculture, food and forestry sectors.

Agriculture remains a vital sector to the economy of Longford and its social fabric.

Notwithstanding decline in direct employment, agriculture remains a significant sector and catalyst for a number of indirect, agri-food related jobs in the County and the wider region, in relation to the provision of feedstores, livestock marts, meat and dairy processing plants, agriculture machinery sales and maintenance and animal welfare amongst many other indirect employment sources,

CPO 9.17 - Facilitate the development of environmentally sustainable agricultural activities, whereby natural waters and watercourses, wildlife habitats, conservation areas and areas of ecological importance and other environmental assets are protected from the threat of pollution, and where development does not impinge on the visual amenity of the countryside.

Where an area is not within an identifiable settlement and is not otherwise zoned as part of this Plan, the use of such land shall be deemed to be primarily agricultural.

### **5.3. Longford County Council Development Contribution Scheme 2023 – 2027**

- 5.3.1. This includes an exemption for agricultural development up to 500 sq m.

### **5.4. Natural Heritage Designations**

- 5.4.1. Mount Jessop Bog SAC (site code 002202), c1km straight line distance to the north, is the nearest Natura site. It not hydrologically connected to the subject site.

### **5.5. EIA Screening**

- 5.5.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.



Appendix 1 refers.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

#### **6.1.1. The third party appeal grounds include:**

- Application is invalid, the correct townland is not stated.
- Conventional septic tank is incorrectly stated on the application form.
- The Planner's report incorrectly states that the applicant intends to upgrade existing agricultural facilities on site. This is incorrect. The applicant intends to retain unauthorised illegal buildings.
- The Planner's report incorrectly states that the development is located to the rear of the existing agricultural buildings. This is incorrect. There are no existing agricultural buildings on the site.
- The Planner's report incorrectly states that the proposed development will not be visually intrusive from the adjoining road. This is incorrect. The proposed development couldn't be more visually intrusive.
- In the file 17/279, the entire building was within Aughine Td.
- The Area Engineer and Roads Design were requested to give advice but no report was submitted.
- The building and large access was located at the worst location, a convex bend on the 3.5m wide narrow country road, with no sightlines. On the current file road engineering advice was sought but not submitted.
- The building are visually intrusive. The provision of sightlines would be more visually intrusive.
- Clearance from dwellings is demonstrated but not from the appellants land on which he and his brother plan to build a house each. The lands are worthless if permission to retain the illegal buildings is granted.

- The application is invalid. Building 3 is in Bunalough Td, 80% of Building 2 is in Bunalough Td, and 50% of Building 1 is in Bunalough Td.
- An Bord Pleanála cannot adjudicate on an invalid application. The application cannot be retrospectively validated.
- The Board is on notice that any grant of planning permission will be subject to Judicial Review.

## **6.2. Applicant Response**

6.2.1. No response.

## **6.3. Planning Authority Response**

6.3.1. No response.

## **7.0 Assessment**

7.1.1. I consider that the main issues which arise in relation to this appeal are appropriate assessment screening, validity of the application, visual amenity, traffic safety and other issues, and the following assessment is dealt with under those headings.

## **7.2. AA Screening**

7.2.1. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site, there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment.

7.2.2. Appendix 2 to this report details my assessment under this heading.

7.2.3. There is no likelihood of impact on any Natura site.

### 7.3. **Validity of the Application**

#### 7.4. Public notice

- 7.4.1. The appellant states that the application is invalid because the published notice incorrectly states the townland. He points out that building 3 is entirely in Bunalough Td. that 80% of building 2 is in Bunalough Td, and that 50% of Building 1 is in Bunalough Td, whereas the notice states Aughine townland. It is his view that An Bord Pleanála cannot adjudicate on this application, which he claims is invalid.
- 7.4.2. The planning regulations require the giving of notice and that the published notice should state ‘the location, townland or postal address of the land or structure to which the application relates (as may be appropriate)’.
- 7.4.3. The site notice states the intention to apply for retention permission for development at this site: Aughine Td, Moydow, Co Longford; and lists the development components.
- 7.4.4. The published notice states the intention to apply for retention permission for development at Aughine Td, Moydow, Co Longford; and lists the development components.
- 7.4.5. The application was submitted on the 29<sup>th</sup> April 2024.
- 7.4.6. An objection from the appellant was received by the planning authority on the 30<sup>th</sup> May 2024.
- 7.4.7. It is worth noting that on the ground the townland boundary is no longer clearly defined. To the rear of subject structures, the ground profile has a shallow linear dip at its location.
- 7.4.8. I note that the site notice, although it states Aughine Td, also states ‘at this site’ and therefore could not have caused any confusion to an interested party.
- 7.4.9. Although the published notice states Aughine Td only, rather than Aughine and Bunalough townlands, when viewed in the context of a retention permission application and that very small areas of land comprise both townlands, the omission of Bunalough in the location description could not, in my opinion, have caused confusion to an interested party.

7.4.10. I am satisfied that the location description in the notices does not invalidate the application.

#### 7.5. Application Form

7.5.1. The appellant questions the validity of the application because of the reference to 'conventional septic tank' on the application form.

7.5.2. In my opinion this is an obvious error which does not invalidate the application.

#### 7.6. Planner's Report

7.6.1. The validity of the process is questioned because of the reference in the Planner's report to upgrade of existing agricultural facilities on site, and that the development is located to the rear of the existing agricultural buildings, both of which are stated to be incorrect.

7.6.2. In the previous application, Reg. ref. 17/279, the planner's report referred to the upgrade of existing agricultural facilities on site, currently in use for agricultural purposes and that the proposed development is located to the rear of the existing agricultural buildings and will not be visibly intrusive from the adjoining road. From the drawings provided with that application, the reference to existing buildings was to a small, roofed enclosure and crush. Similar terms are used in the planner's report on the subject file, which may have been copied from the earlier report.

7.6.3. The appellant's disagreement with the description of the site and the assessment of impact, as included in the Planner's report, have been raised in the grounds of appeal. Since it now falls to the Board for assessment, it does not invalidate the application process.

#### 7.7. Visual Amenity

7.7.1. The grounds of appeal states that the Planner's report is incorrect in stating that the proposed development will not be visually intrusive from the adjoining road, that this is incorrect, and that the proposed development couldn't be more visually intrusive.

7.7.2. The proposed development is of a relatively low profile. The buildings have a horizontal alignment and, as viewed from the direction of the village, are viewed against a backdrop of hedges and trees and do not intrude on the view. They are also buildings of a type which a viewer might expect to see in this location.

- 7.7.3. As viewed from the direction of the adjoining public road, the buildings are low profile and extend along the road. Their presence is more prominent, viewed from this road, because of their proximity to the road. They are nevertheless buildings of a type which a viewer might expect to see in this location. I would not regard them as visually intrusive.
- 7.7.4. The grounds of appeal refers to the applicant's demonstration of distance from dwellings in the application documents. The concern is that distance is not demonstrated from the appellant's land on which he and his brother plan to build a house each; and that the lands are worthless if permission to retain the illegal buildings is granted.
- 7.7.5. The application includes a drawing (24.29-PL-03) which indicates various distances to the subject structures, including from dwellings.
- 7.7.6. The Longford County Development Plan 2021-2027 states that 'the open countryside provides for rural economies and rural communities, based on agriculture, forestry, tourism and rural enterprise. This should be facilitated while avoiding over-spill development from urban areas and urban generated housing. The sustainable development of the open countryside will be supported'.
- 7.7.7. This is a rural area where the predominant land use is agriculture and where agricultural buildings are acceptable.
- 7.7.8. In my opinion impact on visual amenity or impact on views from the appellant's land, in this rural area, should not be a reason to refuse permission to retain.

## **7.8. Traffic Safety**

- 7.8.1. The grounds of appeal refers to the deficiency in sightlines at the entrance to the subject development. The grounds also refers to the lack of an Area Engineer's report or a Road's report, which are not found on either the subject file or the previous file.
- 7.8.2. Longford County Development Plan 2021-2027, refers to DMURS (Design Manual for Urban Roads and Streets) as the basis for its sightline requirements, which relate to road speed. The subject location is very low speed, because of the narrow width

of the road and the lack of forward visibility, both of which are pointed out by the appellant.

- 7.8.3. A site entrance at this location, predates the development which is the subject of this application. There was an entrance to the land here when the development at this site comprised only a containment area for cattle; a situation still visible on Google street view.
- 7.8.4. The proposed development is relatively small scale: 315 sq m, to house mainly sucklers (12) and calves (12), and is not likely to generate any significant volumes of traffic. The road is a cul-de-sac local road, which, at its eastern end, serves a sports grounds. That part of the road will not be impacted by the proposed development. Beyond the site entrance the road serves a small number of dwellings and some farmland. Most road users, along this section of road, would be familiar with the road's constraints and driver behaviour can be expected to respond accordingly.
- 7.8.5. In my opinion traffic safety should not be a reason to refuse permission to retain.

## **7.9. Other Issues**

### **7.10. Development contribution**

- 7.10.1. The development contribution scheme includes an exemption for agricultural development of up to 500 sq m. No development contribution has been attached to the planning authority's decision. A development contribution does not apply.

### **7.11. Conditions**

- 7.11.1. The decision includes conditions on landspreading. These conditions do not appropriately address groundwater protection. It's protection should be prioritised in accordance with its importance as a source or resource, as advocated in the Groundwater Protection Response Matrix for Landspreading, developed by the Department of the Environment and Local Government, the Environment Protection Agency (EPA) and the Geological Survey of Ireland and published by the EPA.
- 7.11.2. The Board should consider, in preference, the conditions drafted hereunder. In relation to landspreading the Board should note that the site is 8.524ha, and the application form refers to an outfarm of 5ha, therefore concerns in relation to sufficient lands for landspreading do not arise.

## **8.0 Recommendation**

- 8.1.1. In accordance with the foregoing, I recommended that planning permission be granted for the following reasons and considerations and in accordance with the following conditions.

## **9.0 Reasons and Considerations**

It is considered that the retention of these agricultural sheds and structures in this rural area would accord with the development plan provisions for the facilitation of agriculture, would not create a traffic hazard or impact unduly on the amenities of the area, or constitute a threat to surface water or groundwater and would accordingly 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, as amended by the further plans and particulars received by the planning authority on the 29 day of April 2024, 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. All uncontaminated surface waters, including waters from roofs and clean concrete surfaces, shall be separately collected and discharged through an impermeable system with sealed joints, to soak pits or land drains.

Contaminated surface water shall not be allowed to enter a drain or waterway.

All effluents including soiled yard water shall be discharged to the slurry tank.

Reason: In the interests of public health and environmental protection.

3 All manure/organic fertilisers shall be collected in leak proof storage facilities in accordance with the requirements of the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2018 or as may be amended.

Waste contractors must be registered with the Department of Agriculture, Food and Marine (DAFM) and manure used in accordance with regulations.

Records of manure movements offsite shall be recorded on 'Record 3' forms as prescribed by the DAFM. These records will be maintained and available to Longford County Council Environmental Section when requested. These records must comply with Article 23 of the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017 (as amended) and meet minimum information requirements.

Reason: In order to avoid pollution.

4 The slatted sheds shall be used only in strict accordance with a management schedule to be submitted to and agreed in writing with the planning authority. The management schedule shall be in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 (S.I. No. 393/2022) (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, storage and disposal of slurry.
- 3) Arrangements for the cleansing of the buildings and structures (including the public road, where relevant).

Reason: In order to avoid pollution.

5 Slurry generated by the proposed development shall be disposed of by spreading on land, or by other means acceptable in writing to the planning authority. The location, rate and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in accordance with the requirements of



the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 (S.I. No. 393/2022) (as amended).

Where slurry or manure generated by the proposed development is moved to other locations, details of such movements are to be notified to the Department of Agriculture, Food & the Marine in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 (S.I. No. 393/2022) (as amended).

Where a slurry or manure is removed by a third party, by agreement, to be landspread elsewhere, details of such an agreement (to include name of third party, lands to be spread, amounts of material) shall be furnished to the local authority in which said lands are located.

Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution.

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.

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Planning Inspector

24<sup>th</sup> December 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	320060		
<b>Proposed Development Summary</b>	Retention of agricultural development: cattle sheds and machinery storage shed and hedgerow boundary removal		
<b>Development Address</b>	Aughine and Bunalough Townlands, Moydow, Co. Longford		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	/
		<b>No</b>	No further action required
<b>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?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>	/		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>	/	N/A	No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....	Proceed to Q.4

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

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix 2

### Template 2: Screening the need for Appropriate Assessment Screening Determination

I have considered the project: retention of agricultural development: cattle sheds and machinery storage shed and hedgerow boundary removal, in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located at Aughine and Bunalough Townlands, Moydow, Co. Longford.

The proposed development comprises retention of agricultural buildings in a field in pasture in a rural area close to the village of Moydow.

No nature conservation concerns were raised in the planning appeal.

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:

- Nature of development: small scale, non-intensive agricultural use.
- Taking into account screening report and determination by PA

I conclude 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.