



An
Bord
Pleanála

Inspector's Report ABP-320821-24

Development	Construction of farm building to include a milking parlour, construction of manure storage pit and removal of septic tank system and percolation area, together with all associated site works.
Location	Ballyoughter, Rathcabbin, Roscrea, Co. Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2460535
Applicant(s)	Gary & Marian Tooher.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Gerard Costello.
Observer(s)	None.
Date of Site Inspection	15 th January 2025.
Inspector	Jennifer McQuaid

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1.0 Site Location and Description

- 1.1. The subject site (1.01ha) is located at Ballyoughter, Rathcubbin, Roscrea, Co. Tipperary approximately 600 metres north of the village of Rathcubbin. The site consists of an existing farm holding with a number of farm buildings. A detached dwelling is located directly to the south of the farmyard. There are no other dwellings opposite (west) or directly to the north of the farmyard. The site entrance is located along the L-51521.

2.0 Proposed Development

- 2.1. The proposed development will consist of:
- Construction of a new farm building to accommodate a new milking parlour, dairy, livestock handling facilities, livestock collection area with an underground slatted soiled water storage tank
 - Livestock housing with cubicles
 - Two underground slatted slurry storage tanks
 - Calving pens with solid concrete floors
 - Livestock separation pens with solid concrete floors and external meal silo
 - Construction of a new farmyard manure storage pit
 - Decommissioning, emptying and removal from the site of existing septic tank and percolation area associated with derelict dwelling house.
 - All associated site works.

3.0 Planning Authority Decision

3.1. Decision

Grant subject to 5 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Principle of development is acceptable.
- No issues raised in relation to entrance.
- Advise that if vacant dwelling is refurbished a new connection to public drainage system should be explored.
- No further issues raised.

3.2.2. Other Technical Reports

- District Engineer: No objection, 70m sightlines are sufficient. No surface water should be allowed to enter the public road.

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

One submission was received from an adjacent landowner. The concerns raised were:

- Require compensation for harm done to lands and property.
- Drains have been made into canals.
- House/property has been obstructed.

4.0 Planning History

04511393: Permission granted for slatted tank, cattle shed and cubicles.

5121317: Permission granted for slatted cubicle house, silage base and ancillary effluent tank.

5.0 Policy Context

5.1. Development Plan

Tipperary County Development Plan 2022-2028

Volume 1, Section 8.4.1 Agriculture and Horticulture

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.

Section 8.4.2 Equine and Related Industries

The Council will seek to ensure that the vitality and viability of the equine industry is maintained through the appropriate management of the rural environment on which the equine industry is reliant. The Council will seek to protect, promote and enhance the development of the equine industry and to continue to promote the county as a recognised centre of excellence for the bloodstock industry and equine based leisure and tourism.

Policy

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.

11-14 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.

Section 11.4 Water Quality and Protection

The protection of water quality and water supply is a critical aspect for our society and for the ecological health of the county. Water quality and management must be balanced with a plan for economic prosperity and consider the pressures arising from climate change. The Council has an important role to play in the protection,

maintenance and improvement of water quality through the planning and management of future development.

5.2. Natural Heritage Designations

The site is not located within a designated site. The nearest sites are:

- River Little Brosna Callows SPA (site code: 004086) located 1.2km north.
- River Little Brosna Callows NHA (site code: 000564) located 1.2km north.
- All Saints Bog and Esker SAC (site code: 000566) & SPA (site code: 004103) located 3.1km northeast.
- All Saints Bog and Esker pNHA (site code: 000566) located 3.1km northeast.
- Redwood Bog SAC (site code: 002353) located 4km northwest.
- Redwood Bog pNHA (site code: 000654) located 4km northwest.
- River Shannon Callows SAC, pNHA (site code: 000216) located 6km northwest.
- Middle Shannon Callows SPA (site code: 004096) located 6km northwest.
- Ballymacegan Bog NHA (site code: 000642) located 6.5km northwest.
- Dovegrove Callows SPA (site code: 004137) & pNHA (site code: 000010) located 5.5km east.
- Ridge Road, SW of Rapemills SAC & pNHA (site code: 000919) located 4.8km northeast.
- Lorrha Bog NHA (site code: 001684) located 5km southwest.
- Ballyduff/Clonfinane Bog SAC & pNHA (site code: 000641) located 5km south.
- Killeen Bog NHA (site code: 000648) located 4.5km southeast.
- Kilcarren-Firville Bog SAC & pNHA (site code: 000647) located 5km south.
- Arragh More (Derrybreen) Bog SAC (site code: 002207) & NHA (site code: 000640) located 5km south.

5.3. EIA Screening

The proposal relates to the construction of a farm buildings and associated works. The site is not located within an environmentally sensitive area or is the proposal a type listed under Schedule 5, Part 2, 1. Agriculture, Silviculture and Aquaculture as

per Planning and Development Regulations 2001 as amended. The need for an environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Refer to Appendix 1 regarding this preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal have been received from an adjacent landowner. The concerns raised are:

- No objection to the applicant constructing a new milking parlour.
- Concerns relate to the location of milking parlour, as it would stand immediately beside the appellants existing sheds and farmyard.
- The position of the proposed buildings would effectively cause great harm and damage to the appellants current farming activities, use and enjoyment of his farm.

6.2. Applicant Response

The applicant has submitted the following response:

- The proposal will improve farm facilities for animal welfare. The existing milking parlour needs updating to comply with the Department of Agriculture, Food and the Marine requirements and regulations concerning animal welfare.
- Slurry storage will be upgraded to comply with storage regulations concerning the separation of slurry and soiled water in separate containment tanks and to have adequate storage to comply with the off season spreading of slurry on lands.
- Issue raised by the appellant is a private matter and should not deter the outcome of the planning application.

6.3. Planning Authority Response

- None

6.4. Observations

- None

6.5. Further Responses

- None

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issue in this appeal are as follows:

- Impact on adjacent farm buildings.
- Appropriate Assessment

7.2. Impact on adjacent farm buildings

7.3. The proposed development relates to the construction of a new farm building to accommodate new milking parlour and associated works including a new farmyard manure pit. There are existing farm buildings on site with a total floor area of 923sqm, the proposed new building will have a floor area of 964sqm. There is a vacant dwelling noted on the site and a further dwelling to the south (noted within the same landholdings). The nearest farmyard is located to the west across the laneway approximately 80 metres from the existing sheds.

7.4. The grounds of appeal have raised concerns in relation to the location of milking parlour and have outlined that the position of the proposed buildings would negatively impact the current farming activities, use and enjoyment of the appellant's farm.

- 7.5. The applicant has responded to the appeal and has stated the new buildings are required to comply with the Department standards.
- 7.6. I have reviewed the site location of the proposed buildings and the location in relation to the adjacent farm buildings to the west. The proposed buildings are located approximately 23 metres from the roadside boundary to the west and the existing shed of the appellant to the west is located approximately 13metres from the roadway to the east. Therefore, there is a total separation is in excess of 36 metres. It is in my opinion, that the separation distance is sufficient in order to avoid any impact on the farming activities of the adjacent landowner. The roadway and surrounding lands are rural and the general practice in the area is farming. The proposed works are within an existing operating farming business. And the existing farm building to the west is also an active operating farming business. I do not believe that the proposed new development will negatively impact on the appellants current farming activities, use or enjoyment of the land due to the proposed separation distance.
- 7.7. Having regard to the location of the proposed new farm building located over 23 metres from the roadside boundary and over 36 metres from the farm building to the west. I do not consider that the proposal will create a negative impact on the farming activities of the adjacent farm.

8.0 AA Screening

- 8.1. Having regard to the proposed development of which includes a new farm building, new manure storage pit and decommissioning of an on-site septic tank and percolation area on lands zoned as Open Countryside. The proposal requires land spreading associated with the development. The applicant has submitted details indicating there is adequate and surplus storage provided. The development will also include the collection of soiled water from channels around the silage pit and this will be directed to the slurry storage tanks.

The nearest European Site is River Little Brosna Callows SPA (site code: 004086) & NHA (site code: 000564) located 1.2km north of the subject site. It is considered that no Appropriate Assessment issues arise as the proposed development would not be

likely to have a significant impact individually or in combination with other plans or projects on a European Site.

9.0 Recommendation

- 9.1. I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

10.0 Reasons and Considerations

- 10.1. Having regard to the location of the proposed development within Open Countryside and within the confines of an existing farm yard, the provisions of Tipperary County Development Plan 2022-2028, the scale and nature of the proposed development, it is considered that the proposed development would not seriously injure the amenities of properties or farm activities in the vicinity, and would be acceptable in terms of amenity. 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 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 1st day of July 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. (a) The spreading of slurry or manure from this facility shall comply with the requirements of the European Union (Good Agricultural Practices for the Protection of Waters) Regulations 2022, or as otherwise updated.
- (b) If slurry or manure is moved to other locations off the farm, the details of such movements shall be notified to the Department of Agriculture, Food and Marine, in accordance with the above Regulations.
- (c) Where a third party removes the slurry or manure, the details of the agreement shall be submitted to the local authority where the waste material is to be disposed to.

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

3. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. In this regard:
 - (a) uncontaminated surface water run-off shall be disposed of directly in a sealed system 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, as amended, or to a slatted tank. Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.
 - (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, as amended shall be strictly adhered to.

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

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.

5. In the event of an accidental spillage of wastewater, organic fertiliser, fuel, machine oil or any other substance which may threaten the quality of any watercourse or ground waterbody either at construction or operational phase, the Planning Authority and Inland Fisheries Ireland, shall be notified as soon as is practicable. A copy of the clean-up plan shall be submitted to the Planning Authority.

Reason: In the interest of public health.

6. The building shall be used for agricultural storage and associated purposes only. The building shall not be used for human habitation or any commercial purpose other than a purpose incidental to farming/horticulture, whether or not such use might otherwise constitute exempted development.

Reason: In the interest of orderly development and the amenities of the area.

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning

authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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.

Jennifer McQuaid
Planning Inspector

20th January 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320821-24		
Proposed Development Summary	Construction of farm building to include a milking parlour, construction of manure storage pit and removal of septic tank system and percolation area, together with all associated site works.		
Development Address	Ballyoughter, Rathcabbin, Roscrea, 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			
No	X		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No		N/A	Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes		N/A	

5. Has Schedule 7A information been submitted?
N/A

Inspector: _____

Date: _____