



An  
Bord  
Pleanála

## Inspector's Report ABP-320971-24

### Development

An extension to existing roofed cubicle house consisting of cubicles for dairy cows, scraped concrete passages and slatted underground tanks, all of which will be roof over along with all associated site works.

### Location

Rockview, Puckane, Nenagh, Co. Tipperary.

### Planning Authority

Tipperary County Council

### Planning Authority Reg. Ref.

24163

### Applicant(s)

James O'Meara

### 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

11<sup>th</sup> of March 2025.

### Inspector

Caryn Coogan

## **1.0 Site Location and Description**

- 1.1. The subject site, 0.88ha is located within an established farmyard in the townland of Rockview, east of Puckane village, Co. Tipperary. The farm is accessed off the local road L10293.
- 1.2. The farm is a dairy yard, and the extension relates to an existing cubicle house located to the east of the established farmyard. The existing cubicle shed to be extended is detached from the main farmyard. It is joined to the main farmyard by a concrete farm laneway.
- 1.3. The subject site is located along the rear elevation of the existing cubicle house.

## **2.0 Proposed Development**

- 2.1. The proposed development is for an extension to an existing roofed cubicle shed consisting of cubicles for dairy cows, scraped concrete passages and slatted underground tanks all of which will be roofed over.
- 2.2. According to the application details the applicant has 350 dairy cows, 60No. 0-1 yearlings, and 60No. 1-2 year olds. The existing slurry tank has capacity of 1791cubic metres. There is a proposed extension of 1461 cubic metres. The existing building is 5885sq.m. and the proposed extension is 1224sq.m.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Tipperary Co. Co. granted planning permission for the development subject to 5No. conditions.

1. Standard condition
2. Noncontaminated surface water run-off
3. Shed surfaces to be dark green
4. Construction works
5. Development Contribution of €2625.20

### 3.2. Planning Authority Reports

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

- The proposal complies with the development plan.
- The proposal is acceptable in scale and design.
- AA screening
- Development contribution applicable.

### 3.3. Prescribed Bodies

None

### 3.4. Third Party Observations

Peter Sweetman made a submission stating the planning authority has 4No. tasks:

- Planning and Development Act 2000
- Environmental Impact Assessments
- Habitats Directive
- Water Framework Directive Judgement case C-301-22. The site is located within the Lough Derg, North-east Shore SAC (002241)

## 4.0 Planning History

### 4.1 ***Reference : 17600776***

Permission granted for a silage slab and an extension to the existing dairy.

### 4.2 ***Reference : 17600569***

Permission granted in 2017 for a cubicle house, underground slatted tank, silage slab and aprons.

## 5.0 Policy Context

### 5.1. Development Plan

### 5.2. 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.

#### **5.3. 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 sites to the proposed development :

Lough Derg NE Shore SAC (Site Code 002241) which is circa 5km west of the subject site. The Priopark Stream (EPA25P21) is 1.3km north of the site and is a tributary of Lough Derg. .

Lough Derg (Shannon) SPA (Site Code 004058). The Knigh Hill Stream (EPA25K12) is 1.59km south west of the application site and is a tributary of Lough Derg SPA

Lough Cloonmoylan Bog SAC (Site Code 000248)

#### **5.4. 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The third-party appeal is summarised as follows:

- No Appropriate Assessment has been carried out. The planner did not read the third-party submission correctly. There should have been Appropriate Assessment Screening carried out on the development as clarified by Finlay Geoghegan J in Kelly-Vs- An Bord Pleanala.
- There is a precise obligation on the Board in relation to Stage 1 Screening by Section 177U. In the event of a significant effect on a site, there is a need to Appropriate Assessment for the purposes of Article 6(3)
- The threshold appropriate assessment must pass in this context as explained in paragraph 44 of CJEU Case.

### 6.2. Applicant Response

None

### 6.3. Planning Authority Response

None

## 7.0 Assessment

- 7.1. The proposed development consists of an extension to an existing roofed cubicle house for dairy cows within an established farmyard. The proposal includes underground slatted tanks, scraped concrete passages, all under a metal roof. I consider the proposed 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.

- 7.2. Having examined the application details and all other documentation on the planning file, having carried out 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 the issue raised by the third-party appellant, i.e. Appropriate Assessment, see below.
- 7.3. There is no increase in stock numbers arising from the proposed development, the proposed works will enhance the livestock accommodation on the farm. The farm mis 184Ha, with 350No. dairy cows, 600No. 0-1 year olds, and 60No. 1-2 year olds.
- 7.4. The proposed rear extension to an existing shed will have no visual impact, due to it's scale, moderate height and considerable setback from the public roads.
- 7.5. Development contributions will be charged under Class 12: The provision of buildings or other structures for the purpose of traditional agriculture as per the County Tipperary Development Contributions Scheme 2020 as set out below:

Contributions will be charged on buildings for the purposes of traditional agricultural development (excluding stables and kennels) this contribution will be applied where the gross floor area, when measured internally, exceeds 500 square metres.

## **8.0 AA Screening**

- 8.1. 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.
- 8.2. 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 28/08/2024.



### 8.3. **European Sites**

8.4. 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:

3.5km from Lough Derg North East Shore SAC to the north-west;

4.3km from Lough Derg (Shannon) SPA located 4.3km to the east

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

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

8.6. The development comprises the construction of (an extension to an existing cubicle house (58885sq.m). by 1224sq.m. with underground slatted 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.

8.7. 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.

8.8. There is no watercourse connected to the farmyard. The nearest watercourse is Priopark Stream which is 1.3km north of the site and is a tributary of Lough Derg, North-east shore SAC. However, there is not hydrological link form the subject site to the stream. approximately 5km east of the site.

8.9. There is no hydrological connectivity between the farmyard and the nearest European site to the east, or any other European sites within a 15km Zone of Influence (which are all listed in the planning authority's screening report).

8.10. 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.

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

8.12. 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.

**8.13. In combination effects**

8.14. 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.

**8.15. Overall Conclusion – Screening Determination**

8.16. 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.

## 9.0 Recommendation

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

## 10.0 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.

6. The developer shall pay to the planning authority a financial contribution of 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.

**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.

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Caryn Coogan  
Planning Inspector

18<sup>th</sup> of March 2025

# Form 1

## EIA Pre-Screening

|  |                                     |   |                                |
|--|-------------------------------------|---|--------------------------------|
| <b>An Bord Pleanála</b><br><b>Case Reference</b>   | 320971-24                           |   |                                |
| <b>Proposed Development Summary</b>  | Extension to existing Cubicle House |   |                                |
| <b>Development Address</b>   | Rockview, Puckane, Co. Tipperary    |   |                                |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br>(that is involving construction works, demolition, or interventions in the natural surroundings) |                                     | <b>Yes</b>  | X                              |
|  |                                     | <b>No</b>   |                                |
| <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)?</b>  |                                     |   |                                |
| <b>Yes</b>   |                                     | State the Class here.   | Proceed to Q3.                 |
| <b>No</b>  | X                                   |   |                                |
| <b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>  |                                     |   |                                |
| <b>Yes</b>   |                                     | State the relevant threshold here for the Class of development. | EIA Mandatory<br>EIAR required |
| <b>No</b>  | X                                   |   | Proceed to Q4                  |

| 4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]? |  |  |   |
|---|--|--|---|
| Yes   |  | State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold. | Preliminary examination required (Form 2) |

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

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