



An
Bord
Pleanála

Inspector's Report ABP-300782-18

Development	Retention of extension and construction of extension to an existing farrowing house.
Location	Clohamon, Newtownbarry, County Wexford.
Planning Authority	Wexford County Council.
Planning Authority Reg. Ref.	20171432.
Applicant	Hogg Enterprises.
Type of Application	Permission.
Planning Authority Decision	Refusal.
Type of Appeal	First Party
Appellant	Hogg Enterprises
Observer	Gerard McCutcheon.
Date of Site Inspection	7 th June 2018
Inspector	Philip Davis.

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1.0 Introduction

This appeal is against the decision of the planning authority to refuse permission for the retention of a farrowing shed and permission for a new replacement dry sow/boar house in an existing pig farm at the edge of the village of Clohamon in Wexford, just south of the town of Bunclody. The three reasons for refusal relate to potential impacts on an SAC, insufficient information on environmental nuisance, and the absence of an EIA.

2.0 Site Location and Description

2.1. Clohamon

Clohamon, in north County Wexford, is a small village just off the N80 on a crossing point of the River Slaney. It is just over 3 km south-east of the town of Bunclody on the border with Carlow, roughly equidistant between Carlow town and Enniscorthy. The landscape is dominated by the meandering Slaney River, which flows to the south-east on a meandering route in an open valley through generally lush and fertile agricultural land. The village is on the eastern side of an early 19th Century 5-arch stone bridge over which a weir separates the river course from a substantial millrace, which formerly served a large flour mill and cotton factory dating from 1840, next to the ruined Clohamon Castle. This former mill is now part of the appeal site, but the main industrial site in the village is the large Slaney Meats plant on the opposite side of the river next to the bridge. The village consists of a small cluster of mostly terraced dwellings at a T-junction for two third class roads east of the bridge - a single public house is the sole obvious commercial use, a small grocery shop having apparently recently closed.

2.2. Appeal site.

The appeal site is a 1.1 hectare irregularly shaped site on low lying land between the millrace and the village of Clohamon. The site extends from an entrance just south of the village centre, leading down to the former floodplain of the Slaney, which is densely occupied by a series of sheds and other structures associated with a pig farm. The site is part of a larger landholding that includes a former 19th

Century mill building and a dwelling belonging to the applicants. The south-western end of the site abuts the mill race.

Just **south** of the site is open agricultural land which contains the former site of Clohamon Castle (no remains clearly visible). **North** of the site are the rear of residential properties facing the road junction at the centre of the village. To the **south-east** is an open field. To the **north-west** is the Slaney, next to a low-lying field. Beyond this is the large Slaney meats complex. The N80 runs north to south on the opposite side of the Slaney.

3.0 Proposed Development

The proposed development is described on the site notice as follows:

Permission for retention of existing farrowing house and permission to construct extension to the existing farrowing house and permission to demolish existing dry sow house and permission to construct a new dry sow / service house and a boar / gilt house with solar panels on the roof and all associated site works.

4.0 Planning Authority Decision

4.1. Decision

The planning authority refused permission for three reasons, I summarise as follows:

1. It is considered that there is a potential impact on the Slaney River Valley SAC and in the absence of an NIS there is insufficient information to conclude that there will be no significant effects.
2. Insufficient information has been submitted with regard to the nature of the proposed development with respect to impacts on water, air emissions, odour and noise.
3. It is considered that the application should have been accompanied by an EIA.

It was further noted that the site notice was incomplete as it did not state that it is subject to a licence from the EPA.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- Notes a number of previous permissions and one refusal on the site, and a 2016 enforcement action on possible unauthorised development.
- States that an EIA would be required as it is over the threshold set out in Part 1(e)(ii) of Schedule 5.
- It is considered that an NIS is required and that the proposed development is contrary to CDP policies relating to the protection of designated habitats.
- The proposed development would be subject to a development contribution under the Scheme of €1145.00.
- It is considered that the application is very deficient in supporting information.
- It is recommended that permission is refused.

4.2.2. Other Technical Reports

Environment Section: Recommends five items of additional information required.

4.3. Prescribed Bodies

Teagasc – Letter submitted by the applicants Teagasc Pig Enterprise Advisor. States that the farm has been in operation for over 45 years. The new farrowing house is to replace an existing dry sow house which is in a poor state of repair and is considered substandard. The new service/dry sow house is to allow a designated area for the mating of loose sows/gilts. The additional farrowing house is to allow pigs to suckle the sow for 5 weeks rather than the 4 at present. It is emphasised that the applicant does not seek to increase stock numbers.

4.4. Third Party Observations

An observation on behalf of **Peter Sweetman & Associates** states that the application is invalid as it requires a variation of an EPA license and this was not indicated on the public notice.

5.0 Planning History

20151133 – permission granted to install solar panels on the roofs of existing pig houses.

2014057 – permission refused to upgrade the existing hydro scheme utilising Archimedes Screw.

200600488 – Permission granted for a manure storage tank on site.

20040404 – Permission granted to erect an agricultural feed store.

0108/2016 – Unauthorised development – works to repair retaining wall.

6.0 Policy Context

6.1. Development Plan

There is no specific zoning objective for the site – the village does not have a zoning plan or area specific policies in the Wexford County Development Plan 2013-2019. There are no LAP's for the village – the nearest is for Bunclody to the north, but this is now out of date.

A number of policies in the CDP are relevant including section 6.4.6 (Agriculture), 10.6.6 (Agricultural Waste) and 14.2 (Natural Heritage).

I note that the bridge over the Slaney is a protected structure. The other former industrial buildings on the landholding are not protected structures, although the former mill structure is listed on the NIAH. The remains of the castle to the south are a recorded ancient monument, and another recorded ancient monument is near the site entrance.

6.2. Natural Heritage Designations

The adjoining Slaney River, including the Mill Race, is part of the Slaney River Valley SAC, site code 000781, with features of interest including freshwater vertebrates and invertebrates, oak and beech woodlands and estuarine habitats.

7.0 The Appeal

7.1. Grounds of Appeal

A detailed background to the proposed development is set out. The points include:

- The existing farm enterprise was started in 1951, and changed from a poultry farm to a pig rearing farm in the late 1960's. This change did not require planning permission at the time. It is noted that most of the premises was established before it required permission under the Planning Acts or the enactment of EIA regulations.
- It is noted that the licence from the EPA was obtained in 2005. As the facility is below the statutory threshold, the applicant commenced proceedings to surrender the licence. It is expected that it will shortly be an unlicensed facility. It will then be regulated under different statutory guidelines/ regulations
- It is argued for the above reasons that the site is unlicensed, and so the site notice is correct.
- With regard to EIS, it is stated that the reasons given would only apply if it was an unauthorised development – it is argued that with the exception of the element for retention, it is fully authorised – most of the buildings are pre-1964 and subsequent structures and the change of use (from chickens to pigs) were exempted development or were permitted. It is argued that the works for permission fall well under any EIA threshold.
- With regard to Appropriate Assessment a Screening Report is attached as an appendix which concludes that NIS is not required.
- With regard to the general environmental issues, it is submitted that given the small scale of the proposed development there will be no significant increase in emissions and that the plant has been operating with no complaints about odours or noise over many years.

7.2. Planning Authority Response

- It is noted that no cumulative assessment of the impact of the works has been carried out.
- It is stated that a Screening was carried out and it was considered that there was insufficient information to determine if an NIS was required.
- It is confirmed that the licence has been surrendered.
- The planning authority remains unclear as to the maximum animal accommodation available on site.
- The additional information submitted is noted but concerns are expressed at issues including the routes of any discharge pipes.
- The Board is requested to uphold the decision to refuse.
- If the Board is minded to grant, a number of conditions are recommended.

7.3. Observations

Gerard McCutcheon of Teagasc

- The observer is a Pig Enterprise Advisor for Teagasc – the observation is to confirm that the IE (previously IPPC) licence has now been formally surrendered.

7.4. Further Responses

- In response to the WCC letter, the applicant provided additional statistics on the number of animals on the site – there are 712 sow places and 1820 fatteners – if permission is granted this will lead to 614 sow places and 1820 fatteners.
- It is stated that there is no objection to the conditions recommended by the planning authority.
- Additional drainage layout plans are provided.

8.0 Assessment

Having inspected the site and reviewed the file documents, I will address the appeal under the following headings:

- Details of the application
- Site notice
- EIA/R
- Principle of development
- Visual impacts
- Pollution and nuisance
- Built heritage
- Flooding
- Appropriate Assessment
- Other issues

8.1.1. Details of the application

The proposed development involves the retention an elongated shed in use as a farrowing house and permission to demolish and replace an existing sow house with a somewhat larger structure. These proposed works are applied for in association with alterations to the operations of the pig farm to bring it in line with market requirements and ongoing regulatory changes. The net increase in floor area is given as 347 square metres.

Both structures are within the existing complex, located on low-lying ground next to lands which are more or less within the existing village, but have a long history of use – first as ancillary to the adjoining mill, and for several decades as a chicken and now a pig farm.

A key element in my assessment below relates to the question as to whether the use of the pig farm will increase in scale and/or intensity as a result of the proposed works. The applicant has stated that the works will not result in an increase in the overall net number of pigs on the site – the changes are in line with changing husbandry requirements. The current farm has capacity for 712 sows and 1820

fatteners. The proposed works will reduce the number of sow places to 614, with the same number of fatteners. I note that correspondence with the EPA and details in the documentation support this. All the evidence available suggests to me therefore that the proposed alterations are, in the overall context of the existing facility, minor, and will not impact the scale or intensity of the pig farm.

8.1.2. **Site notice**

The site notice did not state that the site was subject to an EPA licence (an IE licence, formerly IPC licence). Article 17(1)(d)(iv) of the Regulations states that it must be stated on a site notice:

where the application relates to development which comprises or is for the purposes of an activity requiring an integrated pollution prevention and control licence or a waste licence, an indication of that fact, or

As confirmed by the planning authority, the site, while subject at the time to a licence, did not in fact require one, and this has now been surrendered. As it was not for an activity 'requiring' an IPPC or other licence, and that the previously held licence has now been surrendered, I am satisfied that the notice was correct and as such the application and appeal are valid.

8.1.3. **EIA/R**

The planning authority refused for the reason that it was considered that EIA (or EIA/R) may have been required. The Board will be aware of course that permission for retention cannot be granted for a development that requires EIA.

As I have outlined in section 8.1.1 above, I am satisfied that the proposed development does not significantly increase the scale, intensity, or impact of the existing pig farm. From the file information I am satisfied that the overall farm (apart from the element for retention) was originally established pre-1964 and all subsequent elements were either exempted development or have planning permission. I am also satisfied that the overall scale of the proposed development is sub-threshold for EIA and that the proposed increase is significantly less than the 'change or extension' to an existing development as defined in Class 13 of Part 2 to Schedule 5 of the 2001 Regulations. There is no evidence on file or from my site

visit that the operations have had a serious impact on the Slaney River, or that the works would have a significant effect on the environment.

I am therefore satisfied that the question of the requirement for an EIAR does not arise as it is sub-threshold and the proposed development would not have a serious impact on the environment.

8.1.4. Principle of development

The appeal site is unzoned. The village does not have a specific development boundary and is not subject to an LAP and is, in planning terms, rural lands. The use of the site for intensive animal rearing pre-dates 1964 and is part of lands which have been in agriculture or commercial uses for at least 150 years. There are no policies in the section in the Wexford County Development Plan 2013-2019 specific to intensive animal husbandry. Chapter 18, on Development Standards, does not have any applicable standards or guidelines.

I therefore consider that the application should be judged on its merits having regard to the long term established and permitted use of the site for intensive animal husbandry.

8.1.5. Visual impact

The proposed development is within an existing complex of tightly packed parallel sheds. The site is low-lying, below the level of the village. It is not visible from anywhere within the immediate surrounds of the village. The key views are from the road running south from the village east of the site; from the road and bridge next to the Slaney Meats site to the north and north-west; and from the N80 which runs west of the site.

The piggery is not clearly visible or identifiable from outside the site as it is largely screened from all sides by vegetation and development. From the N80 (which at this point is a busy road without footpaths) and the access road and bridge over the Slaney, the site is part of a complex, the most visible element being the former mill building, a large dwelling on the landholding, and an agricultural building on the landholding that is not directly associated with the pig farm. This screens the piggery buildings from almost all angles.

The closest view from a public area is from the quieter rural road south-east of the site. The complex is clearly visible from the road where it adjoins the first field next to the site – further south it is screened by hedgerows.

In overall terms I consider that even from the clearest viewpoint of the piggery, the proposed development would have a negligible impact on the overall visual impact of the site as the shed for retention and the proposed new shed are within the existing complex and will not increase the overall massing of the building complex. I therefore do not consider that there are any potential impacts with regard to visual amenities.

8.1.6. Pollution and nuisance

Although no longer subject to an EPA licence, the operation of the piggery is covered by the relevant Animal Welfare and Animal By-products Regulations and the EU Good Agricultural Practice for the Protection of Waters Regulations (SI 605 of 2017). There is no evidence from the file information that the ongoing operation of the premises has resulted in noise or odour emissions above and beyond would be expected from a well-run facility, and as noted above, I do not consider that the scale or intensity of the use of the site would increase if the proposed development is granted. I therefore consider that standard conditions would suffice to address the normal controls on such a facility.

8.1.7. Built Heritage

The site is next to the mill complex which is indicated as of regional and local importance in the NIAH, but is not a protected structure. The mill race just west of the site appears to date from the early to mid 19th Century but is not mentioned in the NIAH. The landholding, but not the buildings within the piggery, is visible from the attractive early 19th Century bridge over the Slaney (which itself affords fine views over the river). The lands to the south of the site contain the barely visible remains of a late medieval castle and is a recorded ancient monument. The piggery is not visible from any of the protected structures within the village.

I therefore do not consider that the proposed development would have an impact on the setting or curtilage of a protected structure. Although the site is very close to a recorded ancient monument, all works would be on land which has previously been intensively developed so I would consider that there is no likelihood of

archaeological remains surviving on the site, so I do not recommend a condition for archaeological surveys.

8.1.8. **Flooding**

The site is within what appears to have been originally a low-lying meadow next to the river, but the Mill Race works has significantly changed the drainage pattern and there is no evidence that the site is subject to flooding – from visual inspection it would seem the land levels were raised in the early 19th Century when the Mill complex was built.

As the proposal does not seek to expand the overall area covered by development significantly I do not consider that there will be impacts on run-off from the site to the Slaney.

8.1.9. **Appropriate Assessment.**

The site is east of the Mill Race and the main channel, both of which are part of the extensive Slaney River Valley SAC site code 000781. This SAC follows much of the course of the river from Wicklow through Carlow and Wexford to the sea. The conservation objectives are to protect the status of the following features of interest:

Estuaries [1130]
Mudflats and sandflats not covered by seawater at low tide [1140]
Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]
Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]
Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]
Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]
Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0]
<i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]
<i>Petromyzon marinus</i> (Sea Lamprey) [1095]
<i>Lampetra planeri</i> (Brook Lamprey) [1096]
<i>Lampetra fluviatilis</i> (River Lamprey) [1099]
<i>Alosa fallax fallax</i> (Twite Shad) [1103]
<i>Salmo salar</i> (Salmon) [1106]
<i>Lutra lutra</i> (Otter) [1355]
<i>Phoca vitulina</i> (Harbour Seal) [1365]

The key features of interest would be vertebrates and invertebrates depending on maintaining good water quality of the river and its banks, specifically the fish species listed, the freshwater pearl mussel, and the otter. According to EPA sampling at Clohamon Bridge, the water quality is generally satisfactory along this stretch.

As I have outlined above, I consider that the proposed works would not impact on the scale or intensity of the existing permitted piggery and would have no significant off-site impacts in terms of run-off or pollution of water, and as it is within the existing envelope of development there would be no loss of grassland or other habitat. The applicant submitted a screening assessment which concluded that the development will have no significant impact on the SAC or other Natura 2000 site. I consider this screening assessment report to be reasonable and accurate.

I therefore consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 000781, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.1.10. Other issues

I do not consider that there are other substantive issues arising from this appeal. I note the suggested conditions set out by the planning authority in their response to the Board and I consider them to be broadly reasonable. I also note that the site is subject to a S.48 Development Contribution in line with the adopted Scheme.

9.0 Recommendation

I recommend that subject to the conditions set out below, the Board grants permission for the proposed works.

10.0 Reasons and Considerations

Having regard to the planning history of the site and the nature of the proposed works, which it is considered do not significantly alter the scale or intensity of the existing piggery, it is considered that the proposed development does not require

EIAR, would not seriously injure the amenities of the area, and would otherwise 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 planning application, as amended by the further plans and particulars submitted on the 30th May 2018, 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 agreed particulars.

Reason: In the interest of clarity.

2.

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. All contaminated and soiled waters shall be directed to the manure storage tanks located on site. All drainage details shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

3.

The proposed piggery enterprise shall run in strict accordance with the requirements of the European Communities (Good Agricultural Practice for the Protection of Water) Regulations 2014 (S.I. 31 of 2014) and shall provide at least for the following:-

(a) details of the number of livestock to be housed at the development at any one time,

(b) the arrangements for the collection, storage and disposal of all effluent generated from the facility, and

(c) the arrangements for the cleansing and disinfecting of buildings and

structures including the public road where relevant.

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

4. All liquid effluent and other contaminated run-off generated by the proposed development in the farmyard shall be conveyed through properly constructed channels to the proposed storage facilities and no effluent or other contaminated run-off shall discharge or allowed to be discharged to any stream, river, watercourse or public road.

Reason: In the interest of public health.

5. Slurry generated by the proposed development shall be disposed of by spreading on land or other acceptable means to be agreed in writing with 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 Communities (Good Agricultural Practice for the Protection of Water) Regulations 2014 (S.I. No. 31 of 2014).

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

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan. This plan shall be prepared in accordance with "Best Practice Guidelines on the Preparation of Waste Management Plans for the Construction and Demolition Projects" published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provisions of the Waste Management Plan for the region of which the site is situated.

Reason: In the interest of sustainable waste management.

7. Any asbestos sheeting that is removed from any structures within the site shall not be reused and shall be disposed of appropriately using an authorised waste contractor.

Reason: In the interest of public health and the proper planning and sustainable development of the area.

8. 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.

Philip Davis

Senior Planning Inspector

17th July 2018