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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: 18/477**

**Appeal** by John and Noreen Boland of Tig Johnny, Feoghanagh, Ballydavid, Tralee, County Kerry and by others against the decision made on the 3<sup>rd</sup> day of July, 2018 by Kerry County Council to grant subject to conditions a permission to Eoin Ó Muircheartaigh care of Tomás Ó Seaghdhá of Imleachslat, Ventry, Tralee, County Kerry in accordance with plans and particulars lodged with the said Council.

**Proposed Development:**

Develop a stock feeding shed and underground sewerage tanks and an ancillary farmyard. (Bothán cothú stoic and tanncanna séarachis faoi thalamh agus clós fierme choimhdeach a fhorbairt ar a chuid talún).  
Feothanach, Baile Na nGall, Trá-Lí, Contae Chiarraí.

## **Decision**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

Having regard to the 'Rural General' landscape zoning designation of the site, the separation distances to existing adjoining dwellings, the pattern of development in the vicinity and to the existing and proposed screening and planting on the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not give rise to a traffic hazard or a health hazard and would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The development shall be carried out 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.
  - (i) All concrete walls shall have externally rendered finishes.
  - (ii) All proposed cladding/exterior finish shall be dark green or olive green only, including all doors.

**Reason:** In the interest of visual amenity.

3.
  - (i) The finished floor level shall not be more than 250 millimetres above existing ground level measured at the lowest point along the external walls of the shed.
  - (ii) Within one month of the date of this order, the applicant shall submit to, and agree in writing with, the planning authority, cross-sections through the site indicating the existing and proposed ground levels, public road level and the proposed finished floor level.

The levels shall be referenced to a clearly identifiable and easily located benchmark on the public roadway. The location and value of the benchmark shall be indicated on the drawing.

**Reason:** In the interest of visual amenity.

4. 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 existing drains, streams or adequate soakpits, and shall not discharge or be allowed to discharge to the foul effluent drains, foul effluent and slurry storage tanks, or to the public road, and
- (b) all soiled waters shall be directed to a storage tank. Drainage details shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development.

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

5. The slatted shed shall be used only in strict accordance with a management schedule which shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. The management schedule shall be in accordance with the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2018, 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, and
- (3) arrangements for the cleansing of the buildings and structures (including the public road, where relevant).

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

6. A minimum of 18 weeks storage shall be provided in the underground storage tank. Prior to commencement of development, details showing how it is intended to comply with this requirement shall be submitted to, and agreed in writing with, the planning authority.

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

7. The existing roadside boundary shall be retained, except where its removal is necessary for the construction of an entrance with adequate sight lines. Precise details of the revised entrance layout shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity and traffic safety.

8. A landscape plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. It shall include:
  - (i) proposals for screen planting along the north, south and eastern boundaries,

- (ii) the site shall be landscaped, using only indigenous deciduous trees and hedging species, such as native evergreens (Holly, Scots Pine, Yew), native deciduous (Oak, Elm, Ash, Birch, Hazel, Alder, Willow, Whitethorn, Blackthorn, Irish Whitebeam, Rowan), exotic species such as Cypress, Leylandii, Rhododendron or Laurel, shall not be used, and
- (iii) any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

9. Any external lighting shall be cowled and directed away from the public roadway.

**Reason:** In the interest of traffic safety and to control light pollution in the rural environment.

10. 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 the 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.

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**John Connolly**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2019.**