



Planning and Development Acts 2000 to 2019

Planning Authority: Kerry County Council

Planning Register Reference Number: 19/288

Appeal by Jerry and Geraldine Riney of Killowen East, Kenmare, County Kerry and by Timothy and Sheila O'Reilly of Salmon Lodge, Killowen, Kenmare, County Kerry against the decision made on the 14th day of May, 2019 by Kerry County Council to grant subject to conditions a permission to John O'Sullivan care of MOL Consulting Engineers Limited of Kilmurry Business and Technology Park, Kilmurry, Kenmare, County Kerry in accordance with plans and particulars lodged with the said Council:

Proposed Development: (a) Retain shed number 1 which consists of a slatted house for winter housing of livestock and associated feed storage with underground slurry and (b) retain shed number 2 used for farm storage and all associated site works, all at Killowen, Kenmare, County Kerry.

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 long established use of the site as a farmyard, to the nature and extent of the development to be retained and to the existing character and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the development for which retention is sought would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be prejudicial to public health and would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 and the development shall be retained and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. 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, within three months of the date of this order. The management schedule shall be in accordance with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2017 (S.I. Number 605 of 2017) and shall provide at least for the following:

- (a) Details of the number and types of animals to be housed.
- (b) The arrangements for the collection, storage and disposal of slurry.
- (c) Arrangements for the cleansing of the buildings and structures.

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

3. Shed Number 2, as delineated on the 'As Constructed Site Plan' (Drawing Number MOL092-18-05) lodged with the application, shall be used for agricultural purposes only and shall not be used for the housing of animals or for any commercial purposes.

Reason: In the interest of clarity and to protect residential amenity.

4. Slurry generated by the retained 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 Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2017 (S.I. Number 605 of 2017).

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

5. All foul effluent and slurry generated by the proposed development and in the farmyard shall be conveyed through properly constructed channels to the proposed and existing storage facilities and no effluent or slurry shall discharge or be allowed to discharge to any stream, river or watercourse or to the public road.

Reason: In the interest of public health.

6.
 - (a) All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged 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.
 - (b) Within one month of the date of this order a revised site layout plan with the location of the proposed soakpits delineated thereon and the timescale for their provision and the completion of the guttering to Shed Number 2 shall be submitted to, and agreed in writing with, the planning authority.

Reason: In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.

7. (a) The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this order.
- (b) 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.

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 within three months of the date of this order 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.

Terry Prendergast
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2019.