

An
Bord
Pleanála

Board Order
ABP-317141-23

Planning and Development Acts 2000 to 2022

Planning Authority: Kerry County Council

Planning Register Reference Number: 23232

Appeal by Peter Sweetman and on behalf of Wild Ireland Defense CLG care of PO Box 13611, Bantry, County Cork against the decision made on the 26th day of April 2023 by Kerry County Council to grant, subject to conditions, a permission to Tommy and Patrick Fahey care of Donal Flanagan of Farm Building Services Limited care of Ardscull, Athy, County Kildare in accordance with plans and particulars lodged with the said Council:

Proposed Development: Develop an easyfeed slatted cubicle shed with underground slurry storage tanks, concrete yards, and ancillary works at Ballyreehan West, Lixnaw, Tralee, 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.

Reasons and Considerations

Having regard to the nature and scale of the proposed development which directly adjoins an established farmyard, it is considered that, subject to compliance with the conditions set out below, the development would be in accordance with Objective KCDP 9-53 (Facilitate and support the development of sustainable agricultural practices and facilities within the county, subject to normal planning and environmental criteria and the development management standards contained in Volume 6 of this plan) and Objective KCDP 9-55 (Facilitate the sustainable modernisation of agriculture and to encourage best practice in the design and construction of new agricultural buildings and installations to protect the environment, natural and built heritage and residential amenity) of the Kerry County Development Plan 2022-2028, would not seriously injure the visual or residential amenities of the area and would be acceptable in terms of public health and environmental sustainability. 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 in accordance with the plans and particulars submitted with the planning application except as may be otherwise required by 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: To ensure that the development shall be in accordance with the permission.



2. The cladding to the walls and roof of the proposed development shall be dark grey or dark green in colour.

Reason: In the interest of visual amenity.

3. The proposed development shall be constructed in accordance with the specifications as issued by the Department of Agriculture, Farming and the Marine and referenced in the European Union (Good Agricultural Practice for the Protection of Waters) (Amendment) Regulations 2022, as amended.

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



5. (a) The removal of organic waste material and its spreading on land by the applicant or third parties shall be undertaken in accordance with the systems of regulatory control implemented by the competent authorities in relation to national regulations pursuant to Council Directive 91/676/EEC (The Nitrates Directive) concerning the protection of waters against pollution caused by nitrates from agricultural sources.
- (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.



6. 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.

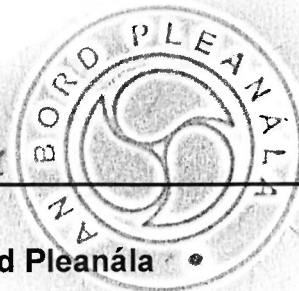
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Liam McGree

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**



Dated this 24TH day of MARCH 2025.