

An
Bord
Pleanála

Board Order ABP-317418-23

Planning and Development Acts 2000 to 2022

Planning Authority: Kerry County Council

Planning Register Reference Number: 23/72

Appeal by Peter Sweetman of Peter Sweetman and Associates, PO Box 13611, Bantry, County Cork against the decision made on the 31st day of May, 2023 by Kerry County Council to grant subject to conditions a permission to Noel O'Driscoll care of Roy Dineen of Dromkeen West, Causeway, County Kerry in accordance with plans and particulars lodged with the said Council.

Proposed Development: Removal of roofs over cow cubicle houses and demolition of store, planning permission for the replacement of roof over this cow cubicle area and extension of this house to include an easy feed straw bedded cattle house. Planning permission for the construction of a hay/straw storage shed. Retention permission to retain a machinery storage shed, as carried out, retention permission to retain a slatted cow cubicle house and associated underground slurry tank, as carried out, retention permission to retain a slatted underground slurry tank, as constructed, and permission to complete the associated cow cubicle house, and all associated site works, all at Castleshannon, Causeway, County Kerry, as revised by the further public notices received by the planning authority on the 4th day of May, 2023.

Decision

GRANT permission for the above 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 provisions of the Kerry County Development Plan 2022-2028 and the nature and scale of the development within an established agricultural farmyard, it is considered that, subject to compliance with the conditions set out below, the proposed development and development proposed to be retained would not seriously injure the visual or scenic amenity of the area and would be acceptable in terms of public health and environmental sustainability. The proposed development and development proposed to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

Environmental Impact Assessment:

The Board considered that the proposed development and development proposed to be retained is not specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, and, in addition, having regard to the nature, size and location, would not have significant effects on the environment. Therefore, an Environmental Impact Assessment is not required.

Appropriate Assessment Screening:

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. The Board, in relation to the screening for Appropriate Assessment of the project, concluded that the project, individually or in combination with other plans or projects, would not be likely to give rise to significant effects on the Kerry Head Special Protection Area (Site Code: 004189), the Lower River Shannon Special Area of Conservation (Site Code: 002165), or any other European Site, in view of the sites' Conservation Objectives, and Appropriate Assessment (Stage 2) is not, therefore, required.

This screening determination is based on the following:

- Information provided by the applicant.
- Objective information provided in the screening report undertaken by the Inspector.
- Standard pollution controls that would be employed regardless of proximity to a European Site and effectiveness of same, including in relation to information provided by the applicant concerning the application of fertilisers on farmland as regulated by the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2022.
- Distance from European Sites.
- The absence of a meaningful pathway to any European Site.
- Impacts predicted would not affect the Conservation Objectives.

The Board further noted that this screening determination is not reliant on any measures intended to avoid or reduce potential harmful effects of the project on a European Site.

Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 12th day of April, 2023, 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 retained, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The use of the retained and proposed buildings shall be for agricultural purposes only.

Reason: In the interest of clarity.

3. All external finishes shall match those of the existing adjoining structures.

Reason: In the interest of visual amenity.

4. Prior to commencement of development, a Resource Waste Management Plan (RWMP), as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

5. The development shall be designed and constructed in accordance with the Department of Agriculture, Food and the Marine specifications, as per the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 (S.I No. 113 of 2022).

Reason: In the interest of public health and residential amenity.

6. Slurry generated by the proposed development shall be disposed of by spreading on land, or by other means acceptable 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 Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations 2022.

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

7. 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:

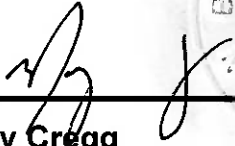
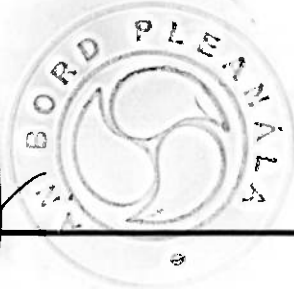
(a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and

(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.

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 (development proposed to be retained) and 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. The application of any indexation required by this condition 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.

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.

Mary Cregg

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

Dated this 23rd day of April 2024.