

Planning and Development Act 2000, as amended

Planning Authority: Kerry County Council

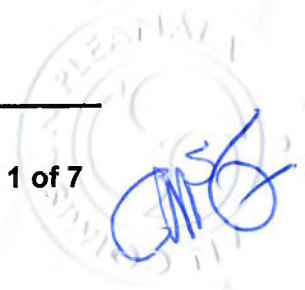
Planning Register Reference Number: 25/60056

Appeal by Mark Hallisey against the decision made on the 18th day of February, 2026 by Kerry County Council to refuse permission.

Proposed Development: Demolish existing sheds and replace with a new agricultural shed with a slatted tank. Retention of the existing tank to be used for the storage of soiled water, all at Ards, Fossa, Killarney, County Kerry.

Decision

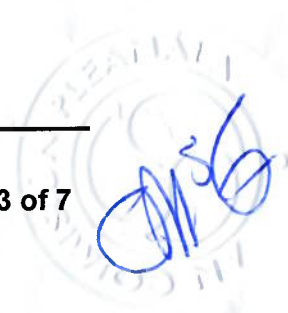
GRANT permission for the above development based on the reasons and considerations under and subject to the conditions set out below.



Reasons and Considerations

Having regard to the nature and scale of the proposed development which incorporates a replacement shed, including slatted tank and associated works to provide an upgraded facility for agricultural activities currently undertaken, dungstead and retention permission to retain an existing tank to be used for the storage of soiled water, all within an established agricultural farmyard, the poor quality of the existing shed structure to be replaced and the benefit to the management of current agricultural practices on site, from its replacement, the positioning of a separate existing operational farmyard between the site and the location of residential dwellings relative to the elements of the development set out in the current application, the relevant provisions of the Kerry County Development Plan 2022-2028, specifically Objective KCDP 9-55 (facilitate the sustainable modernisation of agriculture and encourage best practice in the design and construction of new agricultural buildings) and Objective KCDP 9-56 (ensure agricultural waste is managed and disposed of in a safe, efficient and sustainable manner), it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the visual amenity of the area, would be acceptable in terms of public health, traffic and environmental sustainability, would not seriously injure the amenities of neighbouring dwellings by reason of noise or odour, and would constitute an acceptable form of development within this established farmyard complex, adjoining a separate operational farmyard complex. The proposed development and development proposed to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the recommendation of the Inspector to refuse permission, the Commission reviewed and considered the full documentation on file, including the submissions of the third-party observers and the respective noise reports of the applicant and the third-party observers. The Commission noted that the subject site forms part of an established operational farmyard and that the replacement shed, which forms the mainstay of the application, will provide an improved quality of environment for the housing of animals compared to the current situation. Furthermore, the Commission noted the respective analyses and commentaries regarding noise impact; these relate to established operations on site. While these respective submissions set out different conclusions on alleged noise impact, it is considered, on the facts of the case, that the proposed development itself will not materially affect the established operational noise environment. The Commission noted the reference of the Inspector to a Technical Note dated 16th February, 2026 from the third-party observer, which identified noise emanating from the Sheehan farm alone and from that note, in conjunction with the other documentation available on file, formed a view that, 'while the noise level would appear to [be] at high levels in both yards, the nature and duration of the livestock activities is impulsive and disturbing in nature as compared to the dairy farm activities'. The Commission considered that (a) the key point is that the livestock activities in both separate farmyards are existing, established activities which would continue regardless of whether permission is granted or refused in the current application and (b) the precise nature of livestock handling and associated activities may validly change at either of the separate farmyards at any time.



The Commission, therefore, did not share the opinion of the Inspector that the proposed development itself could reasonably be identified as generating a noise source outwards to neighbouring properties such that a refusal of permission would be warranted. The Commission also considered that the proposals with regard to managing slurry were logical, typical of farmyard complexes across the country and appropriate in this instance, such that the proposed development and the development proposed to be retained would not lead to an unacceptable odour impact, noting that the subject site is an established farmyard and that the nearest dwelling to the subject site is located closer to a separate established and operational farmyard.

Finally, the Commission did not share the opinion of the Inspector that a refusal of permission would be warranted on the basis of general disturbance. As noted above, the subject site comprises an established, operational farmyard complex. In addition, it adjoins a separate operational farmyard complex. The nature of the proposed development is comparable to the type of facilities provided at operational farmyards and it would be unreasonable, on the basis of the established use (which could continue to operate even if permission was refused in this instance), to refuse permission for the proposed works and the associated retention permission on the basis, as set out by the Inspector, when the evidence, as presented, concludes that no material change in outward impact from the farmyard is likely to occur as a result of the proposed development and the development proposed to be retained. While the Inspector noted that 'it would appear that the applicant has developed a substantial livestock enterprise involving multiple yards' and then considers cumulative impacts, the Commission disagreed and determined that the net issue before it is to consider the consequence of the proposed development, by reference to the baseline established context whereby established agricultural activities take place on the subject site. In this regard the Commission concluded that the proposed development would be in accordance with the proper

planning and sustainable development of the area. The Commission noted and shared the opinion of the Inspector that the retention of permission of the constructed tank for the storage of soiled water run-off would not likely be a source of significant nuisance.

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 16th day of September, 2025, the 6th day of January, 2026 and the 22nd day of January, 2026, except as may be otherwise 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. All external finishes shall harmonies with those of the existing agricultural structures on site.

Reason: In the interest of visual amenity.

3. (a) Slurry generated by the proposed 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 Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 (S.I. No. 393/2022) (as amended).

(b) Where slurry or manure generated by the proposed development is moved to other locations, details of such movements are to be notified to the Department of Agriculture, Food & the Marine in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 (S.I. No. 393/2022) (as amended).

(c) Where slurry or manure is removed by a third-party, by agreement, to be land spread elsewhere, details of such an agreement (to include name of third party, lands to be spread, amounts of material) shall be furnished to the planning authority in which said lands are located.

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

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:

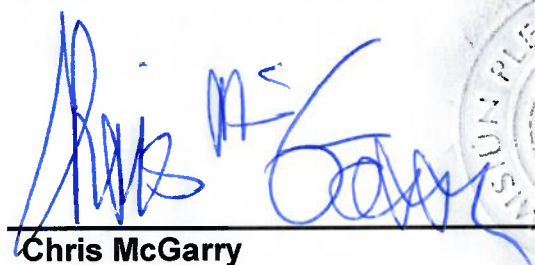
(a) Uncontaminated surface water run-off shall be disposed of directly in a sealed system to ground in appropriately sized soakaways.

(b) All separation distances for potable water supplies as outlined in the European Union (Good Agricultural Practice for the Protection of Waters) (Amendment) Regulations 2025, as amended shall be strictly adhered to.

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

5. 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 the An Coimisiún 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.



Chris McGarry
Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.

Dated this  day of  2026.