



An  
Bord  
Pleanála

## Inspector's Report PL04.247381.

### Development

1. Demolition of existing agricultural building to include machinery and general store, cubicle, slatted and straw bedded livestock housing.
2. Construction of 2 no. agricultural buildings for storage of agricultural machinery and dry goods, straw and feed.
3. Construction of agricultural building to include cubicle and straw bedded livestock housing along with slatted slurry storage tanks, along with associated site works.

### Location

Kilpatrick, Bandon, Co. Cork.

### Planning Authority

Cork County Council

### Planning Authority Reg. Ref.

16/5490

### Applicant(s)

Derek Sweetman

### Type of Application

Permission

### Planning Authority Decision

Grant permission subject to conditions

<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Denis Greaney
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	8 <sup>th</sup> December, 2016
<b>Inspector</b>	A. Considine

## **1.0 Site Location and Description**

- 1.1. The subject site is located in the rural area of Kilpartrick, approximately 3km to the north east of the town of Bandon. The site comprises a large farm yard with many farm buildings and the overall landholding also includes Kilpatrick House.
- 1.2. Access to the site is via the Regional Road, the R589 in part, and then a series of local roads which run parallel to the regional road. The access road to the farm is quite narrow and poorly surfaced.
- 1.3. The subject site is elevated and offers views over the countryside.

## **2.0 Proposed Development**

- 2.1. Permission is sought, as per the public notices, for the following:
  1. Demolition of existing agricultural building to include machinery and general store, cubicle, slatted and straw bedded livestock housing.
  2. Construction of 2 no. agricultural buildings for storage of agricultural machinery and dry goods, straw and feed.
  3. Construction of agricultural building to include cubicle and straw bedded livestock housing along with slatted slurry storage tanks, along with associated site works.

All at Kilpartrick, Bandon, Co. Cork.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to grant planning permission for the proposed development subject to 18 conditions.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planning Officer initially considered the proposed development in terms of development plan requirements, planning history and the comments submitted by internal departments of Cork County Council as well as third party comments. Further information was sought with regard to a number of issues including issues relating to roads and environmental concerns as well as landscaping. The further information request also sought the submission of a Waste Management Plan. Following the response of the applicant, the Planning Officer considered that the proposed development was acceptable and recommended that permission be granted for the proposed development.

### 3.2.2. Other Technical Reports

- **Area Engineer:** The Cork County Council Engineer for the Area considered the proposed development in terms of roads and water services and concluded that further information was necessary in relation to the points of access to the public road, boundary queries and sight distances. In terms of water services, further information is required to show details of how all run-off will be prevented from flowing onto the public road. Following the receipt of the response to the further information request, the Area Engineer advised no objection to the proposed development subject to conditions.
- **Environment Section:** The report notes that the applicant operates a large dairy farm with 278 dairy cows and 124 other cattle who are housed over the winter period on a 180ha landholding. The report submits that the proposal provides adequate slurry / soiled water storage capacity for the development. The report concludes advising no objection to the proposed development, subject to conditions. Following receipt of the response to the further information request, the Environment Section commented on the third party submission in relation to the ability of the applicant to manage farm wastes and submits that the proposed development will enable better management of farm effluents. It is also noted that the applicant has submitted details for the disposal of wastes generated on the farmyard. No objection to the development, subject to conditions.

### 3.3. Prescribed Bodies

None

### 3.4. Third Party Observations

One third party observation was submitted to the Planning Authority from a local resident, Mr. Denis Greaney. The issues raised are summarised as follows:

- The development is too large and will negatively impact third party property.
- Large number of animals has left the local roads in terrible condition and the construction traffic will cause further damage.
- History of non-compliance and concern raised as to the ability of the applicant to manage the waste in an acceptable manner.

## 4.0 Planning History

**PA ref 96/741:** Permission granted for the construction of farm buildings, farm passage and 2 agricultural entrances to the current applicant.

**PA ref 15/4395:** Permission granted for the construction of a cattle underpass beneath the public road (R589) and all associated site works. The location of this underpass is at the northern area of the landholding.

## 5.0 Policy Context

### 5.1. Development Plan

#### 5.1.1. Cork County Development Plan, 2014:

The site is located approximately 3km to the north of Bandon and lies within the Bandon Green Belt. Section 4.5 of the Plan deals with Greenbelts and the following policy objectives are relevant:

- RCI 5-3: Land Uses within Metropolitan Greenbelt  
Preserve the character of the Metropolitan Greenbelt as established in this Plan and to reserve generally for use as agriculture, open space, recreation uses and protection / enhancement of biodiversity of those lands that lie within it.

- RCI 5-6: Long Established Uses

Recognise the requirements of long established commercial or institutional uses located entirely within the Greenbelt which may make proposals for expansion / intensification of existing uses. Such expansion proposals of an appropriate scale would only be considered in special circumstances, having regard to the overall function and open character of the Greenbelt and where development would be in accordance with normal proper planning and sustainable development considerations.

Chapter 6 of the Development Plan deals with Economy and Employment. Section 6.8 is relevant, in that it deals with Agriculture and Farm Diversification and the following objectives are considered relevant:

- Objective EE 8-1: Agriculture and Farm Diversification

Encourage the development of a dynamic and innovative, sustainable agricultural and food production sector by:

- Encouraging the development of sustainable agricultural and infrastructure including farming buildings;
- .....
- .....

5.1.2. Bandon Electoral Area Local Area Plan, 2011

As advised above, the subject site is located within the greenbelt around Bandon. In this regard, the following objective is relevant:

- GB 1-1 Green Belts Around the Ring and County towns

(a) .....

(b) It is an objective to reserve generally use as agriculture, open space or recreation uses those lands that lie in the immediate surroundings of towns.

Where Natura 2000 sites occur within greenbelts, these shall be reserved for uses compatible with their nature conservation designation.

5.2. **Natural Heritage Designations**

There are no natural heritage designations affecting the site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a third party appeal against the decision of Cork County Council to grant planning permission for the proposed development. The grounds of appeal are summarised as follows:

- Recent refusal of planning permissions fronting onto the public road due to the unsuitability of the road. Road becoming unusable
- Dramatic increase in animal numbers on the farm as well as traffic movements. The proposed development will increase movements even further.
- Ongoing issues with farm management methods with slurry spills on the local public road and it is suggested that the applicant should be requested to use the R589 which fronts the main access to the property and is capable of accommodating the level of traffic.
- The local residents should not be required to tolerate the situation and property values have been affected.

### 6.2. Applicant Response

The applicant responded to the third party appeal. The submission is summarised as follows:

- The farm has been in the applicants family for approximately 60 years, and has been farmed by the applicant for approximately 25 years.
- The farm is primarily dairy with a beef and sheep enterprise also.
- A decision to consolidate farming operations and to concentrate on dairy farming.
- Permissions refused related to houses in the mid 2000s. House recently permitted.

- The livestock population has remained static over the past 20 years, but as a result of consolidation, there has been an increased number of cows at Kilpatrick.
- A grant of planning permission will reduce traffic on the road as there will be no need to haul feed to outside rented farm yards and adequate slurry storage will be available.
- The applicant acknowledges that the condition of the road has been very poor for a number of years and he too would be in favour of it being repaired.
- References to silage spillages on the road are noted but it is submitted that when incidents occur, the applicant cleans the road promptly.
- The use of the entrance to the R589 is for the house, while the farm yard has always used the current entrance – before the construction of the house.
- The proposed building is not to facilitate the expansion of the farm, rather to accommodate existing livestock.
- The applicant cannot be blamed for the devaluation of the appellants property.
- The applicant is trying to control the spread of Johnes within his herd.

In addition to the response, the applicant has submitted the following letters:

1. From his Veterinary Surgeon with regard to stock numbers and the issue with Johnes Disease. It is indicated that a control programme, which includes the construction of the development as proposed, must be put in place, to improve animal welfare, to protect the financial viability of the farm and jobs, as well as protecting wider public health.
2. From Teagasc who support the decision to improve facilities at the farm.

### 6.3. **Planning Authority Response**

The Planning Authority has not responded to this appeal.

### 6.4. **Observations**

There are no observers noted in relation to this appeal.



## 7.0 Assessment

### 7.1. Introduction

Having regard to the relevant policies pertaining to the subject site, the nature of existing uses on the site, the nature and scale of the proposed development and the nature of development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. The principle of the development and compliance with policy,
2. Impact of the development on the amenities of adjacent properties
3. Appropriate Assessment

### 7.2. The principle of the development and compliance with policy

- 7.2.1. In terms of the principle of the development, the subject site is located within the countryside, in the Greenbelt area to the north of the town of Bandon, and the wider area is generally in agricultural use. The site is currently occupied by a large farm yard which is long established at this location and in this regard, I consider that in principle, the proposed development of agricultural buildings at the proposed location is acceptable and is in accordance with the policies of Cork County Council.
- 7.2.2. The site is within a greenbelt area and Objective RCI 5-3 of the CDP, which deals with land uses in such areas, clearly provides that it is the policy of the County Council to preserve the character of the greenbelt and to reserve generally for use as agriculture, open space,.... In addition, Objective EE 8-1: Agriculture and Farm Diversification, is considered relevant in that it encourages the development of a dynamic and innovative, sustainable agricultural and food production sector by encouraging the development of sustainable agricultural and infrastructure including farming buildings. In this regard, I am satisfied that the development the subject of this appeal is, in principle, acceptable in terms of compliance with the requirements of the County Development Plan.

7.2.3. Further to the above, the Board will note that the Bandon Electoral Area Local Area Plan, 2011, reflects the policy requirements of the County Development Plan and in this regard, I am satisfied that the development is acceptable in principle.

### **7.3. Impact of the development on the amenities of adjacent properties**

7.3.1. The subject development site is located in an area which is not heavily populated and the closest neighbours are the occupiers of Kilpatrick House and the applicants house, to the south of the farmyard site. I am generally satisfied that there is no issue arising in terms of noise, odour or indeed, visual impact associated with the proposed development.

7.3.2. In terms of the submissions from the first party in response to this appeal, I acknowledge that the subject proposed development is seeking to improve farm management without increase stock numbers. The applicant has previously rented lands to accommodate a wider farming enterprise but has decided to focus on dairy farming and consolidate activities associated with same to the subject site, the primary farm yard. In this regard, it is submitted that there is inadequate slurry storage capacity or housing for animals. The proposed development will address this issue and will reduce traffic movements on the roads associated with the management of the overall farm. The first party submits that a grant of planning permission will improve the facilities of the farm, improve working conditions for the farmer and farm employees and will help to prevent the spread of Johnes Disease within the herd.

7.3.3. Access to the site is over the public road network, including the regional road, the R589 as well as smaller local roads. Access to the farm yard is via a small local road L95892-2, which runs in a north south direction from Lovell's Cross Roads in the south, to Kilpatrick in the north. The road runs to the east of the Regional Road and serves a small number of houses as well as the subject farm. The road itself is quite narrow and poorly surfaced in the vicinity of the site. There are a number of entrance points to the farmyard. The L95892-3 connects the L95892-2 to the Regional Road to the south of the subject site. In terms of impacts on immediate adjoining neighbours, I am satisfied that the development does not present a significant impact.

7.3.4. The primary concern arising from the third party appeal relates to the condition of the public roads in the vicinity of the subject site, together with the increase in livestock numbers, and it is considered that poor farm management by the applicant has resulted in the deterioration of the road condition, to the detriment of general amenity and property values in the area. I would note that on the date of my inspection the condition of the public road was poor. The road itself is quite narrow and was quite muddy. This condition was also extended into the farmyard and notwithstanding the weather conditions, it is likely that farming activities might be considered as contributing.

7.3.5. I can empathise with the frustrations of the third party appellant in terms of the condition of the road and would likely agree that, the impact of agricultural machinery on the small road could be considered significant. The applicant advises however, while acknowledging the poor condition of the road, that his machinery operates within the legal weight restrictions. It is further submitted that the applicant seldom uses the road beyond the junction of the L95892-2 and L95892-3 to the Lovell's Cross Roads to the south due to the size of the road and the number of houses on this road. A grant of planning permission will reduce traffic on the road. I would concur with this conclusion and would consider that improvements to the overall management of the farm, which includes the construction of the buildings as proposed, is appropriate and acceptable, subject to compliance with conditions.

#### 7.4. **Appropriate Assessment**

The subject site is located approximately 1km from the nearest designated site, being pNHA Bandon Valley Above Inishannon (Site Code 001740). Having regard to the nature and scale of the proposed development, together with the separation distance from the pNHA, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### 8.0 **Recommendation**

8.1. Having regard to the provisions of the current Cork County Development Plan and the Bandon Electoral Area Local Area Plan, 2011, the pattern of existing and permitted development in the vicinity and having regard to the information submitted

as part of the planning application, together with the information submitted in the appeal, I am satisfied that the proposed development accords with the policy requirements of the Cork County Development Plan as it relates to agricultural developments.

- 8.2. I further consider that a grant of planning permission in this instance will not significantly impact upon the existing residential amenities of existing properties in the vicinity, or the wider general amenities of the area, and will contribute to a reduced impact on the local road network. A grant of planning permission in this instance will not remove the requirement for best farming practices being implemented by the applicant.
- 8.3. It is recommended that planning permission be **granted** in this instance, subject to the following stated conditions.

## 9.0 Reasons and Considerations

Having regard to the provisions of the current Cork County Development Plan, the pattern of existing and permitted development in the vicinity, the planning history of the site and area and having regard to the information submitted as part of the planning application, together with the information submitted in the appeal, it is considered that the proposed development accords with the policy requirements of the Cork County Development Plan as it relates to agricultural developments, would not be injurious to the residential or general amenities of the area, would not be prejudicial to public health, will contribute to a reduced impact on the local road network and will improve the overall management of the farm. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 18<sup>th</sup> day of August, 2016, 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. 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.

3. The slatted tank shall be used only in strict accordance with a management schedule to 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 Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2009 (SI no. 101 of 2009), 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.
  - (3) Arrangements for the cleansing of the buildings and structures.

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

4. 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.

5. 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 Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2009 (SI no. 101 of 2009).

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

6. Details of the finishes of the agricultural sheds, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In order to allow the planning authority to assess the impact of these matters on the visual amenity of the area before development commences and in the interest of orderly development.

7. The landscaping scheme shown on drg no. 211-PL1, as submitted to the planning authority on the 18<sup>th</sup> day of August, 2016, shall be carried out within the first planting season following substantial completion of external construction works, and in accordance with the requirements of the Planning Authority.

All planting shall be adequately protected from damage until established. 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 the interest of residential and visual amenity.

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A. Considine  
Planning Inspector  
17<sup>th</sup> January 2017