



An  
Bord  
Pleanála

## Inspector's Report PL08.248237

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<b>Development</b>	Slatted cubicle house with associated underground slurry tank, milking parlour, dairy and plant room.
<b>Location</b>	Clashmelcon, Causeway, Co. Kerry.
<b>Planning Authority</b>	Kerry County Council.
<b>Planning Authority Reg. Ref.</b>	16/1285
<b>Applicant(s)</b>	John P. O'Mahony.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Stuart Knowles.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	02.06.2017
<b>Inspector</b>	Fiona Fair.

## 1.0 Site Location and Description

- 1.1. The application site, with a stated area of 0.2648 ha, is located in Clashmelcon, Causeway in north west County Kerry. The general area comprises of an open coastal, rural location approx. 5.4 Km north west of Ballyduff village.
- 1.2. The appeal site is located east off a local county road, with a road frontage of some 28m. The local county road runs north westwards the Coast, some 700m distant.
- 1.3. The subject appeal site is located to the north east of an existing agricultural farmyard which comprises two existing farm structures adjacent to the roadway, a small cubical house and a dairy / milking parlour / calf house. A new slatted shed with associated silage apron and manure pit apron are located some 12 m from the local road to the east of the small stone cubical house. The slatted shed is clad in grey external cladding and has a feed silo located to its rear. The cubical house and dairy / milking parlour are stone plastered structures with corrugated iron roofs.
- 1.4. There are two dwellings located in proximity of the appeal site. One the applicants home house is located approx. 50 m to the south west on the opposite side of the county road. Secondly, a neighbouring dwelling (the appellant's property), located some 80 m distant, to the north west, further along the county road towards the coast.
- 1.5. The area in general is populated with one off rural dwellings and farm buildings / homesteads. From my site visit it was evident that the area is a dairying livestock area with numerous slatted sheds and large farm building in conjunction with older style traditional farm buildings.

## 2.0 Proposed Development

- 2.1. Permission for:
  - Slatted cubicle house with associated underground slurry tank,
  - Milking parlour,
  - Dairy and plant room,
  - A cattle handling yard,

Floor Area of the proposed works is stated as 649 sq. m

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Planning permission Granted subject to nine number conditions. I note the error in the numbering on the notification of decision to grant planning permission which results in the order stating 10 number conditions. Conditions of note include:

Condition 2 requires that within one month of the grant of planning permission the applicant shall submit cross – sections through the site in a north south direction showing existing slatted unit on farmyard relative to the proposed development.

Condition 3. Landscaping plan to be prepared

Condition 4. External lighting to be cowled and directed away from the public roadway and shall not be visible from any point more than 100m away from the light.

Condition 5 cladding to external finishes to be a dark grey colour

Condition 6 all roof waters from existing and proposed buildings shall be piped uncontaminated by slurry, feedstuffs or other pollution matters into a suitable soakpit or free flowing watercourse.

Condition 8 relates to slurry storage tank

Condition 9 proposed milking parlour, dairy and plant room shall be constructed in accordance with the relevant and current Department of Agriculture, Food and the Marine specification.

Condition 10. Surface water drainage

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

- Planning Report: The planning report supports the draft decision to grant planning permission. It is considered having regard to the agricultural nature of the area, the sitting of the proposed development adjacent to an existing

farmyard facility and distance from neighbouring properties that subject to condition the proposed development is acceptable.

#### 3.2.2. Other Technical Reports:

- County Archaeologist. The proposed development is located adjacent to the zone of notification / potential, as shown in the Record of Monuments and Places and sites and monuments record around recorded monument Ke009 029, listed a ringfort. However, there is sufficient distance between the development and the monument and no further mitigation is required.

#### 3.2.3. Prescribed Bodies:

- An Taisce: The proposed development is in a scenic area, fairly close to a national monument, i.e. a ringfort. Conditions should be attached with respect to colour of cladding and landscaping to help integrate the building into the landscape. Desirable to check that the ringfort is far enough away that it would not be impacted upon.

### 3.3. **Third Party Observations**

One objection received concerns raised are similar in nature to those raised in the third party appeal on file, summarised below.

## 4.0 **Planning History**

**Reg. Ref. 14/338** Permission Granted to demolish a section of a cubical house and a derelict lean -to and to construct a slatted house with associated underground slurry tank, manure pit and concrete silage base.

The planning authority response to the appeal indicates all planning reference numbers, for all planning applications in the vicinity of the subject appeal site since 1991.

## 5.0 Policy Context

### 5.1. Development Plan

The site is governed by the policies and provisions contained in the Kerry County Development Plan 2015-2021. The site is located in an area zoned 'Rural General' which is detailed in section 3.3.2.1 of the Plan. 'These areas constitute the least sensitive landscapes through the county and from a visual impact point of view have the ability to absorb a moderate amount of development without significantly altering their character.'

The following sections of the Development Plan are of relevance:

Section 4.8.1 Agriculture

Section 10.2 Environmental Designations

Objective NE-11, Objective NE-12 and Objective NE-13

Chapter 12 Zoning and Landscape

Objective ZL-1 Protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to people's lives.

Chapter 13 sets out the Development Management considerations

Section 13.12 Agricultural Buildings

The appeal site is within the line of Protected Views and Prospects

Section 12.4 deals with Views and prospects

Map 12.1b Amenities / Views and Prospects - indicates views and prospects from the local county road to the east of the appeal site, westwards towards the appeal site and the coastline.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

#### Scale of the Building

- Concern with respect to the physical size of the development.

- New north / south cross section on B-B submitted to comply with condition 2 indicates that the building would have more of a visual impact due to it being in excess of 9m higher than the existing ground level at the north end
- Much higher than any other building in the area
- Higher than the appellants dwelling house

### **Lighting**

- Concern with respect to lighting
- Request that any lights on or around the building is directed away from the appellant's home.
- External lighting would be visible from almost every room in the appellant's house.

### **Landscaping**

- Concern that proposed trees and shrubs to be planted along the north boundary of the appeal site will grow to 12 meters high. This is the southern boundary of the appellant's property and their whole front garden.
- Whilst it is appreciated that the development needs to be screened, a 12 m high wall of planting would reduce natural light and sunshine into the appellant's house.
- Ask that the planting is changed to take account of this.

### **Visual Impact**

- The proposed building will have a negative visual impact which may contradict the Kerry County Development Plan 2015 – 2021
- The appeal site is located within an area designated as an area of 'views and prospects'. A brown sign directs tourists from the coast road, which is part of the wild Atlantic Way, to the historic Clashmelcon Caves and three monuments / memorials to the tragedy are on our road.
- The size of the building and planting would interfere with the character of the landscape and seriously injure amenity of the area.

**Appeal accompanied with:**

- Photograph
- Map 12.1b Amenities / Views and Prospects

**6.2. Planning Authority Response**

Two responses received, summarised as follows:

- GIS map indicating the file reference numbers of all developments (planning applications) adjoining the subject appeal site since 1991
- The revised detail submitted is considered acceptable and will further reduce the visual impact of the proposed development.

**6.3. First Party Response**

- 6.3.1. A response was received from Roy Dineen on behalf of the first Party, it is summarised as follows:

**Scale and Design**

- The proposed height of the original slatted unit was 8.15m at the apex from the level of the tank.
- Taking 0.97m as the difference between the south end and the north end of the unit, then the rear height at the north end would have been 9.12m
- To compensate and to lower this height, it is now proposed to:
  - Adjust the slope of the roof from 15 degrees to the min allowed under the Department of Agriculture Specification No. 101, of 12 degrees. This reduces the height at the north end by 0.78m to 8.34m
  - Adjust the slatted floor level at the south end to 0.12m below the existing ground level. This reduces the tank height above ground at the north end to 0.85m
  - Grade the ground at the north end from the top of the slat / floor, away to blend in with the existing ground.

- It would be impossible to lower the floor level of the house to that of the existing ground at the north end, due to having to be at least one meter lower than the concrete yard at the South end.
- Health and Safety rules demand that machine working platforms are relatively level

### **Lighting**

- Lights will be fitted within the slatted house, milking parlour / dairy / plant room and in the external yard at the west side of the parlour.
- All lights will be operated manually only
- There will not be any dusk to dawn solar cell lighting fixtures
- Given the slatted house and milking parlour are to be fully enclosed there is no danger of strong lights shining on the appellant's property.
- There will be a n external 'yard light' fitted reasonably low on the southern elevation of the slatted house

### **Landscaping**

- Agree to landscape the site according to the accompanying site layout plan, prepared by a suitably qualified horticulturalist, which will not interfere in any way with the appellant's residence.
- The landscape plan will enhance the enjoyment of his home, because most of the farmyard would be screened from view.
- The trees / shrubs would be at a distance of some 50m from the appellant's southern garden boundary and 80 m from his dwelling house.

### **Impact Upon Adjoining Residential Amenity**

- The proposed slatted house is situated adjacent to an existing farmyard which contains a slatted house of 5.52m in height.
- The proposal will not impinge to a greater degree on anybody's enjoyment of the countryside.
- There are dwelling houses and farm buildings along this roadway of similar height to the proposed slatted house.



- The proposed slatted house is in accordance with requirements and details laid down in the Department of Agriculture, Food and The Marine Specifications No.'s 101 and 123
- The appeal site location is a rural agricultural area and the proposal seeks to provide adequate housing of stock and the consequent provision of adequate slurry and effluent facilities.
- The siting of the buildings has been cognisant to the appellant's property

#### **Need**

- This is the only area available for building such a development, within an existing working farmyard.
- The applicant's family have been farming on this farm for generations, since the 1830's
- The appellant purchased his house some 8 – 10 years previous and would have been aware that the area is an agricultural area, which was 95 % dairying and dry stock farming.
- He should have been aware that a proposal to construct a house for livestock in winter time within an existing farmyard complex could have been a possibility.
- Acknowledge the right of Mr Knowles to express his concerns.
- The applicant has in the first instance anticipated Mr. Knowles concerns and has agreed to modify his proposal in order to reach an amiable solution, satisfactory to both parties.

#### **Response accompanied with:**

- Letter of proposed landscaping detail, dated 11<sup>th</sup> April 2017, from Philip O'Dwyer B.Agr.Sc. (Hort.) M.B.A.
- Site Layout & Landscaping Plan
- Elevation Drawings

## 6.4. Third Party Response

6.4.1. A response was received from Stuart Knowles, new issues are summarised as follows:

### **Scale and Design**

- Still concerned regarding the physical size of development proposed.
- The building is going to be almost 2m higher than the existing slatted shed
- Other farm and agricultural buildings in the area are smaller than the proposed new building at 4.5 to 6m tall.
- Set a negative precedent along the road and hard the predominantly residential quiet road with views, monuments and proximity to the Wild Atlantic Way.

### **Lighting**

- Still concerned with respect to light pollution
- Concern that perforated sheeting proposed on the west side of the building would allow light escape the confines of the building.

### **Landscaping**

- Concern that landscaping plan will not be implemented
- Harsh environment for trees and planting to grow.
- Screening cannot be relied upon to integrate this large building into the landscape.
- The appellant's property is nearer to the development than the planting plan illustrates.

## 7.0 Assessment

I consider the key issues in determining this appeal are as follows:

- **Principle of the Proposed Development**
- **Visual Impact**
- **Impact Upon Residential Amenity**
- **Appropriate Assessment**

### 7.1. Principle of the Proposed Development

The current proposal is for the construction, extension, and intensification of agricultural facilities on an agricultural landholding in a rural area. Such development is consistent with the pattern of development in the area, and is broadly supported by the policies of the development plan, subject to the preservation of landscape amenity, including residential amenities in the vicinity.

### 7.2. Visual Impact

The current arrangement of farm buildings has a relatively minor visual impact. The slatted house constructed on foot of Reg. Ref. 14/338 runs in an east west direction to the south of the existing old-style masonry sheds with corrugated iron roofs. It has a height of some 5.52 m at apex and a feed silo slightly higher associated with it. Set back from the public road and given landscape character and planting, the agricultural farmyard does not give rise to a visually incongruous feature.

The appeal site is located within an area designated as an area of 'views and prospects' as per Map 12.1b 'Amenities / Views and Prospects' of the Kerry County Development Plan 2015 – 2021. The view north westwards towards the coastline is protected from the adjoining local county road, located approx. 700m distant at its

closest point, to the east of the subject appeal site. The appellants submit that a brown sign directs tourists from the coast road, which is part of the wild Atlantic Way, to the historic Clashmelcon Caves and three monuments / memorials to the tragedy are located off the local county road.

The proposed shed originally had a height of 8.15m at the apex, from the level of the tank. Taking 0.97m as the difference between the south end and the north end of the unit, therefore, the real height at the north end would have been 9.12m (8.15m +0.97m). Subsequent to the appellants concerns and appeal the applicant now proposes to lower this height, it is now proposed to:

- Adjust the slope of the roof from 15 degrees to the min allowed under the Department of Agriculture Specification No. 101, of 12 degrees. This reduces the height at the north end by 0.78m to 8.34m
- Adjust the slatted floor level at the south end to 0.12m below the existing ground level. This reduces the tank height above ground at the north end to 0.85m
- Grade the ground at the north end from the top of the slat / floor, away to blend in with the existing ground.

While the landscape is generally flat the ground level, of the proposed shed site, has from visual inspection, been raised slightly, with excavated material, possibly as a consequence of the existing slatted shed constructed to the south. The applicant proposes to plant trees and landscape the site in accordance with a landscape plan submitted to An Bord Pleanala on the 13<sup>th</sup> April 2017. The detailed landscape plan, proposes a tree screen at the north of the development. It is submitted that the plants chosen for the site are native and grow reasonably well in sea areas provided they are planted correctly and screened from cattle eating them. The plan proposes indigenous species, only, including Alder Grey, Alder, Whitethorn, Green common Holly and White Birch, but not leylandii.

Considering the distance of the proposed shed from the designated View / Prospect and from my observations on site, there would not appear to be much in the way of sensitive viewpoints. The local county road serving the appeal site is not a

designated walking route. The area is sparsely populated, there are numerous examples of agricultural buildings incl. slatted houses and sheds located in the landscape. Agriculture is clearly the largest employer in the area. It is important to recognise that as an agricultural structure in a rural setting, the proposed shed would be generally consistent with the visual character of the area. As such, I consider the proposed development is acceptable in visual terms.

### **7.3. Impact Upon Residential Amenity**

The distance of the proposed shed from the appellants dwelling, is in excess of 80 m at its closest point. The distance of the proposed planting (as proposed in the landscape plan submitted to An Bord Pleanala on the 13<sup>th</sup> April 2017) along the northern boundary of the appeal site from the southern boundary of the appellant's garden, is in excess of 40 m at its closest point. Therefore, I do not believe that the proposed development would be likely to impact negatively on residential amenity by way of overbearing, loss of light or overshadowing. I note indigenous, only, species are proposed in the landscape plan and no leylandii trees are proposed.

The proposed development would be likely to cause an increased dis-amenity to the appellants in terms of noise, odour, and general activity on this adjacent site. However, these impacts would not, in my opinion, be unduly injurious, and would be consistent with what could reasonably be expected in a rural area.

I note the conditions attached by the planning authority, to the draft grant of permission (Reg. Ref. 16/1285), with respect to landscaping and lighting and I recommend that should the Board agree that planning permission be forthcoming, in the subject appeal case, that similar conditions be reattached to any decision to grant permission.

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

- 7.4.1. Overall I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the 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**

- 8.1.1. I recommend that the decision of the planning authority be upheld and planning permission be Granted to the proposed development.

#### **9.0 Reasons and Considerations**

Having regard to the existing use of the site for agricultural purposes, the proposed arrangements for site drainage, and the proposed screening planting on site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. 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 to An Bord Pleanála on the 13th April 2017, 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. (i) The landscaping scheme as submitted to An Bord Pleanála on the 13<sup>th</sup> day of April, 2017 shall be carried out within the first planting season following substantial completion of external construction works. The landscaping of the development shall comprise of indigenous species, only, including Alder Grey, Alder, Whitethorn, Green common Holly and White Birch, but not leylandii.

(ii) 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.

3. A minimum of 18 weeks' storage shall be provided in the underground storage tank. Prior to commencement of development, details showing how it is intended to comply with this requirement shall be submitted to and agreed in writing with the planning authority.

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

4. 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, prior to commencement of development. The management schedule shall be in accordance with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2014, as amended, 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, including the public road.

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

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. 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 the proposed new slatted 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, public health and to ensure a proper standard of development.

7. 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.

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

8. 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, 2014, as amended.

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

9. (i) All concrete walls shall have externally rendered finishes.  
(ii) All galvanised roofing and cladding shall be painted dark grey or other colour as agreed with the planning authority.

**Reason:** In the interest of visual amenity.

10. Any external lighting shall be properly cowled and directed away from the public roadway and from the property to the north. It shall also not be visible from any point more than 100m away from the light.

**Reason:** In the interest of traffic safety and to control light pollution in the rural environment.

11. The proposed Milking Parlour, Dairy and Plant room shall be constructed in accordance with the relevant Department of Agriculture, Food and Marine specification.

Any storage facilities for the milking parlour washings shall be constructed in accordance with the relevant and current Department of Agriculture, Food and the Marine specification.

All milking parlour washings shall be discharged to suitably constructed storage facilities of adequate capacity. The capacity of these facilities shall be based on the storage requirements specified in S.I. No. 31 of 2014, European Union (Good agricultural practice for Protection of Waters) Regulations 2014, or any amending or substituting Regulations.

**Reason:** In the Interests of pollution Control.

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Fiona Fair

Planning Inspector

23.06.2017