



An  
Bord  
Pleanála

## Inspector's Report ABP-302210-18

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<b>Development</b>	Construction of cubicle house including straw bedded area and slatted tanks.
<b>Location</b>	Velvetstown, Buttevant, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	18/4924
<b>Applicant(s)</b>	Kieran Kennedy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant, subject to 28 conditions
<b>Type of Appeal</b>	Third party -v- Decision
<b>Appellant(s)</b>	Patrick McCarthy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	9 <sup>th</sup> November 2018
<b>Inspector</b>	Hugh D. Morrison

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## 1.0 Site Location and Description

- 1.1. The site is located 2.7 km to the north of Buttevant in an area of open farmland. This site encompasses the applicant's existing farm yard and a green field site to the north of this yard where the proposed cubicle house would be sited. The existing farm yard comprises a collection of buildings and pens that serve the applicant's dairy farm. The farmhouse lies in a position adjacent to the south western corner of the farm yard and they are both accessed via a shared entrance way further to the west.
- 1.2. To the south of the applicant's farm yard and farmhouse on adjoining land lie the appellant's farm yard and farmhouse, the entrance to which is beside the applicant's entrance. Both entrances lie at the end of a cul-de-sac, which forms part of the local network (the L55442 and the L55441) that connects the locality to the N20 to the west.
- 1.3. The site extends over an area of 1.32 hectares, which forms part of the applicant's 110-hectare farm. Existing buildings within the farm yard have a total floorspace of 1713 sqm and the dairy herd presently numbers 130 cows.

## 2.0 Proposed Development

- 2.1. The proposal would entail the construction of a 180-space cubicle house with a floorspace of 1597 sqm. This house would have a straw-bedded area at its western end and 2 slatted tanks with a volume of 598 cubic metres each at its eastern end. Feeding barriers would extend along the northern, eastern, and southern sides of the house and these sides would feature a 2.5m wide overhang to the roof above.
- 2.2. The proposal would facilitate an increase in the applicant's dairy herd of 140 cows.

## 3.0 Planning Authority Decision

### 3.1. Decision

Following receipt of further information, permission granted, subject to 28 conditions.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

Further information requested with respect to outstanding condition 4 attached to permitted application 15/5600 and comprehensive landscaping scheme.

### 3.2.2. Other Technical Reports:

- Cork NRO: No objection.
- Area Engineer: Following receipt of further information, no objection, subject to conditions.
- Environment: No objection, subject to conditions.

## 4.0 Planning History

- 13/4743: Slatted cubicle house and extension to cubicle house: Permitted.
- 15/5600: Demolition of milking parlour and construction of new milking parlour: Permitted.
- 18/5718: Retention of extension to existing calf house: Withdrawn.

## 5.0 Policy Context

### 5.1. Development Plan

Under the Cork County Development Plan 2014 – 2020 (CDP), the site is shown as lying within an area of Town Green Belt 1-1 and within the landscape character area known as (5) Fertile Plain with Moorland Ridge. Landscape value and sensitivity are very high and landscape importance is rated as County.

Policy Objective EE 8-1 addresses agriculture and farm diversification.

### 5.2. Natural Heritage Designations

Blackwater River SAC (site code 002170)

Kilcolman Bog SPA (site code 004095)

Kilcolman Bog pNHA (site code 000092)

Eagle Lough pNHA (site code 001049)

Ballinvonear Pond pNHA (site code 000012)

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- Attention is drawn to an alleged unauthorised entrance and passageway to the west of the appellant's dwelling house along which cows pass. Under the proposal, the applicant's herd of cows would more than double and so the use of this entrance and passageway would increase, leading to the appellant's dwelling house becoming landlocked and a greater impact upon its amenities.
- The said entrance is the subject of enforcement enquiry EF/18/105. Photographs are submitted which illustrate that this is a new entrance and passageway. These items are not shown on the submitted plans.
- Attention is drawn to an allegedly unauthorised cattle shed on the southern boundary of the site. The Planning Authority erred in granting a proposal for a site within which there is an unauthorised structure. This structure is the subject of an enforcement enquiry, too, EF/18/105. It is the subject of retention permission application 18/5718.
- The adequacy of the site notice exercise is questioned, and the view is expressed that the application should have been invalidated.

### 6.2. Applicant Response

- The applicant explains that prior to the advent of the entrance in question, his cattle had to traverse a 290m section of the public road to access lands to the south. Thus, the current and envisaged future scenarios of cattle simply crossing this road would lead to less disruption to other road users.

The applicant cleans the 10m width of public road twice daily, once his cattle have traversed the same.

- The entrance in question was widened in 2018, which in itself leads to quicker crossing times. This widening and the associated passageway are considered to be exempted development.

Attention is drawn to the appellant's own farm yard, which is closer to his dwelling house than the said passageway.

Any increase in traffic movements would be minimal.

- The farm building, which is the subject of 18/5718, was re-sited and enlarged.
- With respect to the site notice, the Planning Authority was satisfied by the same.

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

No new comments made.

### **6.4. Observations**

None

### **6.5. Further Responses**

None

## **7.0 Assessment**

7.1. I have reviewed the proposal in the light of the Cork County Development Plan 2014 – 2020, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Legalities,
- (ii) Land use and access,
- (iii) Amenity,
- (iv) Water, and
- (v) Screening for EIA and AA.

### **(i) Legalities**

- 7.2. The appellant draws attention to an alleged unauthorised entrance and passageway to the west of his dwelling house and to an alleged unauthorised cattle shed to the north of his farm yard. With respect to the former, he expresses the concern that the current proposal would lead to the greater use of the said entrance and passageway and his property becoming landlocked. With respect to the latter, as the shed in question lies within the application site, he states that the draft permission should not have been granted.
- 7.3. The applicant has responded by stating that prior to the opening of the entrance he had to use a 290m section of the public road along which to draw his cattle for milking, thereby risking greater inconvenience to road users than would now pertain. He adds that it was recently widened and so speed and ease of crossing the public road has improved.
- 7.4. The applicant has also responded by stating that the cattle shed is the subject of planning application 18/5718.
- 7.5. I note that matters to do with alleged unauthorised development and planning enforcement do not fall within the remit of the Board. That said, I note, too, that the appellant has linked the matters complained about to the current proposal.
- 7.6. Firstly, with respect to the intensity of use of the entrance and passageway, during my site visit, I observed that these items are insitu and in use at present. Thus, their provision services the applicant's farm "as things stand" and so presumably they would continue to do so whether or not the current proposal is permitted and implemented. While the intensity of their use could increase in the presence of the proposed cubicle house, the essential planning question is whether or not they, as physical development, require planning permission and that is a question for the Planning Authority to address.
- 7.7. Secondly, the cattle shed was formerly described as a hay and straw store on a site plan submitted under application 15/5600. Under the current application, it is described as a calf house. The applicant has made an application for a retention to the extension to existing calf house, 18/5718. According to the Planning Authority's website, this application has been withdrawn. A letter of objection states that, as the entire shed is being used as a calf house, the retention application should pertain to

the whole building rather than its extension. At the time of writing, any letter of withdrawal was not posted on the website and so I am unable to comment on whether or not there is a link between this letter of objection and the subsequent withdrawal. In any event, as this building is insitu and in use, its presence has not been prompted by the current proposal and so I would anticipate that if it is retained then the need for such retention would continue to be independent of this proposal, too. In these circumstances, the inclusion of the calf house within the application site boundary does not debar the Board from assessing and determining the current application in the normal manner.

- 7.8. The appellant also draws attention to the site notices, which were posted at the applicant's entrance and at the "T" junction at the foot of the cul-de-sac leading to this entrance. He states that they were not insitu from the date that the applicant claimed. The applicant has responded by drawing attention to the absence of objection from the Planning Authority to the public consultation exercise undertaken by himself. I note that the application was validated by the Planning Authority and that this is its prerogative rather than that of the Board's.
- 7.9. I conclude that there are no legal impediments to the Board proceeding to assess and determine the current application/appeal in the normal manner.

**(ii) Land use and access**

- 7.10. The proposed cubicle house would be sited on land adjoining the applicant's existing operational farm yard and it would be accessed via this yard. This yard has a cubicle house (permitted application 13/4743) and so this intensive method of accommodating dairy cows already exists on the farm. The proposed one would thus represent an expansion of, rather than the innovation of, this methodology.
- 7.11. Policy Objective EE 8-1 of the CDP addresses agriculture and farm diversification. It undertakes to "Encourage the development of a dynamic and innovative sustainable agricultural and food production sector by: Encouraging the development of sustainable agricultural and infrastructure including farm buildings." The proposal would comply with this Policy Objective.
- 7.12. The proposal would be appropriate in terms of land use and it would be capable of being satisfactorily accessed by existing arrangements. This proposal would comply with the Policy Objective EE 8-1 of the CDP.



### **(iii) Amenity**

- 7.13. While the appellant expresses concern over his residential amenities, this relates to the use of the matters discussed under the first heading of my assessment rather than the current proposal *per se*.
- 7.14. During my site visit, I observed that the siting of the proposed cubicle house would be on land that adjoins the northern end of the applicant's existing farm yard and thus on the far side of this farm yard from the vicinity of the appellant's farm yard and farmhouse. Given these circumstances, I consider that the impacts upon the appellant's residential amenities would continue to be affected by the proximity of his own farm yard and that of the applicant's in the first instance and that any increase in such effects may in practise be either negligible or difficult to distinguish from the existing baseline. Besides the applicant's farmhouse, all other dwelling houses are at a considerable remove from the site.
- 7.15. Under the CDP, the site lies within an area of Town Green Belt 1-1 and within the landscape character area known as (5) Fertile Plain and Moorland Ridge. The former designation is of most relevance to rural housing proposals, while the latter designation signals that landscape value and sensitivity are very high and landscape importance is rated as County.
- 7.16. The proposed cubicle house would be a relatively large building within its context. Thus, its length and breadth would be 61.910m and 32.640m, respectively, and its eaves and ridge heights would be 4.200m and 9.587m, respectively. Its resulting mass would be relieved by the presence of open sides to the north, east, and south and so its double pitched roof at an angle of 15 degrees would be the most noticeable feature of the building, when viewed from points to the north, east, and south. Public views in these respects would be from middle and long-distance vantage points only and so the proposed cubicle house would be seen within the context of the existing farm yard, the buildings comprised in which would collectively be of a similar scale.
- 7.17. The applicant proposes to plant hedging and deciduous trees around the site of the proposed cubicle house, which would extend to enclose the eastern and western sides of the existing farm yard. Such planting would, in time, serve to provide a partial screen of the house and thus assist with its assimilation into the local

landscape. It would be of particular importance to the west, where the solid western end elevation of the proposed house would feature and where shorter-range views of it from residential properties along the local road network to the west would be available.

- 7.18. In the light of the foregoing discussion, the submitted indicative landscaping scheme should be worked up into a detailed one. A condition to this effect should be attached to any permission.
- 7.19. I conclude that the proposal would be compatible with the residential and visual amenities of the area.

#### **(vi) Water**

- 7.20. The proposed cubicle house would be served by rainwater goods that would discharge to 2 soakaways to the north of the site. At its eastern end, this house would incorporate two slatted tanks, which would facilitate the storage of animal waste water. The soakaways and slatted tanks would be separate from one another. No watercourses lie within the vicinity of the site, although there are small ponds at some remove to the east and to the west.
- 7.21. Details of water supply to the proposed cubicle house have not been submitted. Such details should be conditioned.
- 7.22. I conclude that arrangements for the handling of surface and waste water would, in principle, be satisfactory, subject to standard conditions.

#### **(v) Screening for EIA and AA**

- 7.23. Under neither Part 1 nor Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2018, the proposal is not of a development type that would potentially be the subject of EIA and so the possibility of sub-threshold EIA does not arise.
- 7.24. The site does not lie within a Natura 2000 site and the nearest such sites are at some remove to the east and to the west. I have not been able to identify a source/pathway/receptor route between this site and these Natura 2000 sites.
- 7.25. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity to the nearest Natura 2000 sites, 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. That permission be granted.

## 9.0 Reasons and Considerations

Having regard to the Cork County Development Plan 2014 – 2020, it is considered that, subject to conditions, the proposal would be appropriate in land use terms and it would be compliant with the agriculture and farm diversification Policy Objective EE 8-1 of the Development Plan. The proposal would be compatible with the residential and visual amenities of the area and it would be capable of being satisfactorily accessed and serviced for drainage purposes. No Appropriate Assessment issues would arise. The proposal would thus accord 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 June 2018, 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. The proposed development shall be amended as follows:
  - (a) Details of water supply arrangements for the proposed cubicle house.
  - (b) Details of the colour of the finishes to the proposed cubicle house.  
Revised drawings showing compliance with these requirements shall be

submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of orderly and well-planned development.

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing the species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include prunus species.

(b) A timescale for implementation.

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 visual amenity

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 Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2018, 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.

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. 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 soak pits 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.

7. 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) (Amendment) Regulations, 2018.

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

8. A minimum of 16 weeks storage shall be provided in the underground storage tanks. 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.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, off-site disposal of construction/demolition waste, and measures to ensure that no polluting material or contaminated surface water enters groundwater, any watercourse, or any public road.

**Reason:** In the interests of public safety and residential amenity.

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Hugh D. Morrison  
Planning Inspector

19<sup>th</sup> November 2018