



An
Bord
Pleanála

Inspector's Report

ABP-308030-20

Development	Retention permission for existing excavation works and construction of a new calf rearing house.
Location	Rockfield Middle, Faha, Killarney, Co. Kerry.
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	20514
Applicant(s)	David Courtney
Type of Application	Permission.
Planning Authority Decision	Grant Permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Aiden Howe.
Observer(s)	None.
Date of Site Inspection	19 th October 2020
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to a site 0.5139 hectares located within the rural townland of Rockfield Middle, Faha, Killarney Co Kerry. The site is circa 10km north east of Killorglin and 11km northwest of Killarney, 7km southwest of Farranfore and 5km southeast of Milltown. The site which has a stated area of .5139 hectares comprises an established farmyard occupied by a number of agricultural structures.
- 1.2. This appeal relates to the area to the eastern side of the site whereon excavation works have been recently carried out. The farmyard which relates to a dairy enterprise is adjoined to the east and west by residential dwelling sites with a number of residential dwellings in ribbon format in the immediate vicinity of the site and a high level of residential development in the local area. Agricultural lands adjoin to the north and south.

2.0 Proposed Development

- 2.1. The application as set out involves permission to construct a new calf rearing house / straw store adjacent to the existing farm buildings, with all associated ancillary site works. The proposed calf shed extends to 241.9sq.m and is located to the eastern side of the site. The building is an A frame structure and is divided into calf house and straw store with provision for effluent drainage to the existing slatted tank.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 By order dated 10th August 2020 Kerry County Council issued notification of the decision to grant permission and 6 conditions were attached including the following of particular note.

Condition 6. The existing and proposed farmyard structures shall be screened along the eastern boundary with additional native hedges and trees.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

3.2.1.1 Planner's report considers that additional hedging can be conditioned to mitigate impact on adjacent dwelling and undue impact on residential amenity is not envisaged. Permission recommended subject to conditions.

3.2.2. Other Technical Reports

None

3.3. **Prescribed Bodies**

No submissions

3.4. **Third Party Observations**

3.4.1 Submission from the appellant Mr Aiden Howe who resides in the dwellinghouse adjacent to the east of the appeal site. Application arises following unauthorised excavations in the area adjacent to the appellants site. Object on grounds of

- Proximity to dwellinghouse and rear garden amenity area.
- Noise and other disturbance
- Slurry smells negative impact on quality of life.
- Rodent infestation arising from hay and straw storage.
- Crows and blackbirds using roof of the building, creating noise and bird droppings
- Fire hazard.
- Negative impact on property value.

4.0 **Planning History**

07/373 Permission granted to demolish a hay shed and cow barn construct a calving house and extension to slatted cubicle shed.

01/3374 Permission to retain extension to farm building and permission to lay silage slab.

5.0 Policy Context

5.1. Development Plan

The Kerry County Development Plan 2015-2021 refers.

The site is within rural area type “Rural General”. These areas constitute the least sensitive landscapes throughout 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.

Chapter 13 Sets out Development Management Standards and Guidelines.

At 13.12 Agricultural Buildings

The following will be taken into account in all proposals for new agricultural buildings:

- Proximity to adjacent dwellings.
- The rural character of the area.
- Utilisation of natural landscape and land cover as screening.
- Waste management in terms of storage and disposal.
- Environmental carrying capacity.
- It is a requirement that agricultural buildings are designed, located and orientated in a manner that will minimise their environmental impacts. A number of exemptions apply to farm buildings as set out in Part 3 of the Planning and Development Regulations 2001-2013. These exemptions will generally only apply to farms in rural locations.
- All agricultural development that results in manure, soiled water and slurry etc shall comply with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2010 [S.I. No. 610 of 2010], as amended by European Communities (Good Agricultural Practice for Protection of Waters) (Amendment Regulations 2011[S.I No 125 of 2011], and/or any substituting or amending regulations.

5.2. Natural Heritage Designations

The site is not within a designated area. The closest such sites include:

- The Castlemaine Harbour SAC within 1km to the south of the site.
- The Slieve Mish Mountains SAC 10km to the northeast
- Castlemaine Harbour SPA 8km to the west.
- Killarney National Park SPA 7.8km.
- Killarney National Park Macgillycuddy's Reeks and Caragh River Catchment SAC 8km to the south.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1 The appeal is submitted by Aiden Howe on behalf of the Howe family who live in the dwelling adjacent to the east of the appeal site. Grounds of appeal are summarised as follows:

- Appellants dwelling was constructed adjacent to the family farm circa 18 years ago. Boundary hedging planted to minimise impact.
- Acknowledge location within a rural agricultural area however proposed shed is unduly proximate to the dwelling.
- Retention application arises following unauthorised excavation.
- Weaning calves and cattle in the shed will result in intolerable noise and smells along with vermin that will nest in the hay cattle feed storage area.

- Bedrooms in the appellant's dwelling are on the side adjacent to the shed.
- Distance of house to boundary fence is 9m. Shed will be 13m from the house.
- Seasonal basis of calf rearing does not mitigate impact on residential amenity.
- Trees and screening removed on the site.
- Concern that the shed will not be used primarily for storage as suggested.
- Alternative locations are available within the farmyard where development would not interfere with residential amenity.

6.2. Applicant Response

6.2.1 The response by the first party is summarised as follows:

- Proposed shed is needed to improve productivity in the farmyard.
- Distance of shed is 6m from the boundary and 20m from the dwelling.
- Noise levels will not be significant.
- Only two trees were removed to facilitate works.
- Undertake to plant 5 birch trees, and 5 rowan trees.
- Floor level of new shed will be 7 feet below the appellant's driveway.
- Vermin control applies on the farm which has a good record in this regard.
- Proposed location is appropriately sited for practical purposes between the slatted shed and milking parlour and within the environs of the existing farmyard complex.

6.3. Planning Authority Response

6.3.1 The Planning Authority did not respond to the grounds of appeal.

7.0 Assessment

- 7.1 Having examined the file, considered the prevailing local and national policies, inspected the site and assessed the proposal and all submissions, I consider the key issues arising in this appeal for determination by the Board relate to the principle of the development and the impact on the residential and other amenities of the area. I note that the main concerns raised within the grounds of appeal refer to the potential negative impact on the established residential amenity of the appellant's adjacent dwelling to the east of the site with particular reference to noise and odour and visual impact.
- 7.2 The appeal site is part of a well-established overall farm holding. It is evident that the works subject of the application are for the purpose of improving the efficiency and viability of the farm and reducing the possibility of negative environmental effects. Having regard to the well-established nature of the farm complex, I consider it reasonable that there would be a presumption in favour of improving and upgrading farm buildings to meet current farming standards.
- 7.3 The appellant's family home which is the nearest dwelling is located within approximately 18m of the proposed shed. I note that the proposed shed to be sited at a level of the existing farmyard which is circa 2m below the ground level at the site boundary with the appellant's dwelling. The appellant's site includes a substantial hedgerow which provides a good level of screening and the applicant proposes to provide additional tree planting to screen the proposed shed. I consider that in light of the siting and scale of the shed which is 5.49m to ridge level it will not be visually prominent.
- 7.4 As regards potential negative impacts on residential amenity, I note the established nature of this farm complex and rural / agricultural character of the immediate area where there is a tradition of farming practice with associated farm buildings and structures, and also having regard to the extant agricultural buildings and the practice already established on the appeal site. I do not consider that any significant increased loss of residential amenity or other nuisance will arise due to the proposed building. I also note the reasoning as set out by the first party regarding the siting of

the structure between the slatted shed and the milking parlour and consider that it would be impractical to require the adoption of an alternative location. On the issue of practices and vermin control I note that on the date of my site visit I observed the farm buildings and farm yard to be well kept and I consider that subject to ongoing good farm management and practice no significant negative amenity impacts are likely.

7.5 On the issue of appropriate assessment screening under the Habitats Directive (92\43\EEC) having regard to the nature and scale of the proposed development and nature of the receiving environment, the possible impacts arising from the project relate to possible impacts arising from farm waste. As the proposal relates to an existing farm enterprise with provision for adequate effluent storage and compliance with SI No 605/2017 – European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017 I consider that it is reasonable to conclude that there is no potential for significant effects and that therefore Appropriate Assessment is not required. 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 Recommendation

I have read the submissions on file, visited the site and had due regard to the provisions of the Development Plan and all other matters arising. I recommend that planning permission for retention and completion of the development as set out be granted subject to the following conditions.

Reasons and Considerations

Having regard to the nature and extent of the proposed development and to the history of on-site agricultural activity, to the existing character and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development to be retained and completed would not seriously injure the amenities of the area or of property in the vicinity and

would therefore be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented 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, to soakaways and
 - (b) all soiled waters shall be directed to the 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.

3. All foul effluent and slurry generated by the proposed development and in the farmyard shall be conveyed through properly constructed channels to the 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.

4. The roof and side cladding of the structures shall be coloured to match the existing buildings within the farm complex.

Reason: In the interest of visual amenity.

5. The landscaping of the development shall incorporate a continuous hedge of indigenous species using only indigenous deciduous trees and hedging species (e.g Holly, hawthorn, or beech) which shall be planted along the eastern boundary.

Reason: In the interest of residential and visual amenity.

Bríd Maxwell
Planning Inspector

27th November 2020