



An
Bord
Pleanála

Inspector's Report

ABP-312099

Development	Erect an easy feed slatted unit with an underground slurry tank and all associated site works.
Location	Ballygrenane Listowel, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	21458
Applicants	Conor Breen
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	Dr. John Buckley
Observer(s)	None
Date of Site Inspection	1 st April 2022
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. This subject site of .266 hectares is located in a rural area south of Listowel. It is in elevated hillside setting and part of a farmholding that is access via gated track set back from the public road.
- 1.2. The site relates to a fenced enclosure with some farm structures and is part of a field used for cattle grazing. The surrounding area is predominantly agricultural with some one-off housing. To the north there is a large, detached house on extensive grounds and at a significantly lower level than the site. There is a mature boundary with glimpsed views of the house. There is an adjacent dwelling to the south at the entrance from the public road.

2.0 Proposed Development

- 2.1. The application involves permission for construction of an easy feed slatted unit with a floor area of 447.11 sq.m., an underground slurry tank and all associated site works. Main elements comprise:
 - 19.2m x 24.41m structure with feed passage each side of a slatted area and calving area. The shed is enclosed with a series of sliding doors on both side.
 - The tanks measure 26.9m (length) x 4.724m (width)x 2.74m (height)
 - 7.75m ridge height above the lower ground level as exists. It is set into the slope (the existing ground level slope from 100mOD to 101.5) and the finished height will be 107.75
 - The structure is made of a steel frame with concrete and dark grey pvc coated corrugated sheeting.
 - Rainwater is discharged to a sump.
- 2.2. In further information it is explained by consulting engineers that the ambient road speed is 49km/hr and 50km/hour based on surveys and that the required stopping distance is 70m in line with NRA's DMRB but can be relaxed if ambient speed is lower. In this case 90m and 50m sight distances can, as stated, be provided respectively to the north and south and the 50m is only one step below the desirable minimum distance. It is in an urban speed limit of 50km/hr.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Following receipt of further information Kerry County Council, by order dated 8th November decided to grant permission subject to 9 conditions of a standard nature. Condition 4 and 6 controls surface water run-off. Condition 5 relates to slurry tank construction and farmyard management - all 3 conditions being in the interest of pollution control. Condition 7 relates to external lighting. Condition 8 relates to retention of boundary screening and condition 9 relates to construction works and management.

3.2. Planning Authority Reports

3.2.1. Planning Report: Further information was sought details including a revised site layout map and notices as required in respect of

- Surface water disposal measures
- Location of watercourse as referred to in application form
- Comments on 3rd party observations.
- Entrance details and provision of sightlines

3.2.2. The planning report refers to the location of the site in an agricultural zone, the mature boundary and the acceptable visual impact at this location. It also notes the existing semi-derelict dwelling, existing access track and its historical use. There is also reference to a conversation with the Roads department and its verbal response that the proposal is acceptable in terms of traffic safety. The FI response regarding drainage is also considered acceptable.

3.2.3. Other Technical Reports

Roads report: Further information sought regarding sightlines and ambient traffic speed. On receipt of this information no further report from the Roads Division.

3.3. **Prescribed Bodies**

Irish Water: No objection – public main is 1km away.

3.4. **Third Party Objections**

- 3.4.1. The resident of the neighbouring house raises concerns about scale, traffic, noise, odour, surface water and discrepancies in drawings. These matters are elaborated on in the grounds of appeal.

4.0 **Planning History**

- 4.1 None on site.

5.0 **Policy Context**

5.1. **Development Plans**

- 5.1.1. Listowel Municipal District Plan 2020-2026: The site is within the development boundary of Listowel and is part of tract of land zoned Agricultural which is a class of use (P1) within the Primary Sector Class which deals with exploiting natural resources such as agriculture, forestry and quarrying.
- 5.1.1 The Kerry County Development Plan 2015-2021, as extended is the overall development plan. While the site is in the town boundary of Listowel, the CDP provides context for agricultural related development and protection of the county's resources.
- 5.1.2 It is not within the view shed of any protected amenities/views or prospects in Map 12.1c
- 5.1.3 Chapter 8 refers to objectives for the agricultural sector . NR1, NR-2, and NR-3 all seek to provide for the sustainable development of the natural resources while protecting both the natural environment and the local communities by ensuring no adverse effects.

5.1.2. Chapter 13 Sets out Development Management Standards and Guidelines. Section 13.12 refers to 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**

5.2.1. The nearest sites are:

- Lower River Shannon SAC (Site code 002165) c. 300m to the north
- Moanveanlagh Bog SAC (site code 002351) is c 4km to the east
- Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA(Site Code 004161) is c 4.4km to the south.

5.3. **EIA Screening**

5.3.1. Having regard to the nature of the development, which is a single cattle shed and associated site works, the absence of features of ecological importance within the site, I consider that the necessity for submission of an EIAR and carrying out of EIA can be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third party appeal has been lodged by Dr. John Buckley against the decision to grant permission. The grounds are based on the following:

- The drawings particularly the site layout as revised are unclear and confusing, Details of excavation are unclear in absence of contour details
- Visual impact in an scenic elevated area adjacent to an area of secondary special Amenity
- Impact on old farmhouse (also owned by the appellant) adjacent to the proposed site , e.g. sharing access
- The size of the shed appears to exceed size of volume of cattle hat can be supported by the 20 acre holding.
- Scale of slurry tank: Impact of slurry etc on odour. The volume of 314000 also has traffic implications.
- Scale of development and impact of noise.
- Discharge point at 60m from site is upgradient – no detail on how this is to be addressed – would need storage and pump .
- There will be a high volume of run-off and there is risk of localised overloading of drains and watercourses feeding into the River Feale .
- Traffic issue not adequately addressed. E.g. no map supporting the further information, insufficient interest to maintain sightlines as applicant does not own the adjacent roadside boundaries.
- Construction traffic is an issue. It is anticipated to be significant given the required ancillary access and site preparation works.
- The ongoing traffic is also of concern.

6.2. Planning Authority Response

6.2.1. The Planning Authority has nothing further to add.

6.3. **Applicant's response**

6.3.1. None

6.4. **Further details**

6.4.1. The applicant was requested to submit information in accordance with a notice under Section 132 of the PDA 2000. The information required was in relation to existing site features and particulars of proposal. The applicant did not respond either by the initial due date of 8th August or by the extended date of 19th September 2022 as revised on foot of the applicant's request.

7.0 **Assessment**

7.1. **Issues**

7.1.1. Having examined the file and inspected the site, I consider the key issues relate to the principle of the development and the impact of cattle housing on the residential and visual amenities of the area . There are also concerns about associated traffic and surface water drainage. Appropriate Assessment is also a mandatory consideration.

7.2. **Principle**

7.2.1. The site relates to a c.20 acre holding in a rural area immediately south of the town of Listowel and is zoned for agricultural use in keeping with local area plan. It does not directly interfere with any scenic amenities. The principle of accommodating infrastructure such as cattle housing in pasture lands where there is an evidently an established use is further supported in the county development plan as cited. I therefore consider it reasonable that there would be a presumption in favour of improving and upgrading farming facilities to meet current farming standards including provision for adequate slurry storage. However, by reference to the development management guidelines for agricultural development, which I consider reasonable, permission is predicated on meeting a range of criteria:

- 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

7.2.2. Submitted details: In order to appraise the proposed development by reference to the development plan criteria and to address concerns raised in the appeal, the applicant was issued a section 132 notice and requested to submit the following drawings and particulars:

- A detailed topographical site survey on a scale of 1:500 including features (walls, fences, gates, structures, water tap, contours, trees /hedges etc) on the ground that are on the site and contiguous to and surrounding the site as outlined in red. The applicant in this regard is requested to clarify existing field access arrangements for the adjacent vacant dwelling and its curtilage to the southwest.
- A site layout plan (1:500) and elevations showing more detailed interface of the proposed development with surveyed topographical features and details of interface with the existing yard and gates and property to the southwest of the site.
- Details of existing and proposed livestock volumes on the subject lands served by the proposed development.
- Details of capacity of the cattle shed and projected volumes of slurry per annum together with details of slurry emptying and spreading (volume and location). This is necessary to ascertain the intensity of proposed development and its use in terms of volume of cattle and traffic associated with slurry tank management.
- Details of agitation points for slurry tank (on the site layout) and rationale for location having regard to the relationship with surrounding properties.
- Details of how a set back of the proposed shed of at least 60m could be achieved from the adjoining boundary/curtilage of the property to the southwest while providing vehicular access/turning together with details of boundary treatment around yard/site and boundary landscaping for the proposed development.

7.2.3. The applicant has not submitted any details in response to the notice notwithstanding acceding to the request for additional time. While not statutorily required to respond with any of the information sought, the lack of details as itemised makes it difficult to conclude with reasonable certainty that the development can be completed in a manner that is consistent with the proper planning and development of the area. While the Board may provide a further opportunity for the applicant to clarify the said matters, I consider a decision on the information on file is appropriate at this stage and make the following comments.

7.3. Residential impact:

7.3.1. 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 north west of the site with particular reference to noise and odour and visual impact. While I note the site is elevated and the shed will be visible, I consider, having regard to the separation distance and the mature boundary as noted by the planning authority, that the physical presence of the structure is not objectionable in terms of its relationship with the dwelling to the north and can be reasonably absorbed in the wider landscape which provides for agricultural development. There is however an issue with the interface with the existing vacant dwelling adjoining the site to the south and down gradient. The boundary appears to be 9m from the proposed shed. It would appear that the vacant and somewhat dilapidated dwelling was the original farmhouse associated with the subject lands from which it has been subdivided. In this context a degree of latitude in allowing a cattle shed in relative proximity is not unreasonable. The curtilage would appear to indicate a former yard but access arrangements are unclear and may be obstructed. The proximity which appears to be 9m from the boundary of a dwelling raises concerns. I refer moreover to the matter of the management of slurry in terms of volume, agitation points and times and the interface of the yard with curtilage of this property. The noise and traffic on the shared access are also potentially problematic. In the absence of a more detailed submission I do not consider the Board can be reasonably satisfied that the proposed development would not result in significant injury to residential amenity by reason of odour, nuisance and disturbance.

7.4. Traffic

- 7.4.1. The planning authority considers the proposal acceptable in terms of traffic safety having regard to the existing track , the historical use and has raised no concerns about the sightlines or the need for any further information in this regard. The agent for the applicant provides a case for stepping down of stopping distances due to the ambient traffic level as requested by the Roads Department. There is however only reference to a conversation regarding the further information. The road is narrow and its alignment does present challenges for heavy machinery particularly if frequent. The applicant has provided limited details to ascertain traffic nature and volumes. There appears to be reliance on the neighbouring landowners to maintain hedges and evidence of this would be preferable. However it is my understanding under the Roads Acts that the Council as the Roads Authority can maintain hedges for road safety purposes.
- 7.4.2. On balance having regard to the ambient speed and 50km/hr speed zone and established access, I consider the issue of traffic relates more to its intensity and nature and conflict with residential amenities rather traffic safety on the public road.

7.5. Surface water drainage

- 7.5.1. I note that the direction of the drainage outlet for surface water is north of the site where it appears upgradient but in the absence of contours and topographical features and details and also the possible need for re-siting due to interface with existing property, this matter is difficult to fully appraise. As regards effluent storage and pollution prevention I consider that details are insufficient to ensure compliance with Schedule 2 of the Nitrate Regulations. SI 605 of 2017 European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017 and based on the information cannot I consider, be subject to agreement with the planning authority by condition.

7.6. Appropriate Assessment

- 7.6.1. The nearest designated site is the Lower Shannon SAC (Site code 002165) c. 300m north. Having regard to the nature and scale of the proposed development and the distance from the said designated site 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 I recommend that permission be refused based on the following reasons and considerations.

- 1 Having regard to the location of the proposed development in close proximity a dwelling and the lack of adequate information on the siting , site layout, nature and intensity, management of the effluent and surface water run-off, the Board is not satisfied that the proposed development would not seriously injure residential amenities of properties in the vicinity. The proposed development would not therefore be in accordance with the proper planning and sustainable development of the area.
- 2 Based on the submitted details the Board is not satisfied that the proposed development would not cause water pollution due to the run-off from the site and lack of sufficient details in relation to the number and types of animals to be housed, arrangements for the collection, storage and disposal of slurry and failure to adequately demonstrate that the development and its management can comply with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2017 (SI No 605 of 2017).

Suzanne Kehely
Senior Planning Inspector

17th November 2022