



An
Bord
Pleanála

Inspector's Report ABP-312968-22

Development	Construction of shed for cattle including underground slurry storage tanks. Removal & replacement of boundary wall, demolish disused house to facilitate yard extension and decommission of associated septic tank & percolation area.
Location	Ballybeg, Currow, Killarney, Co Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	211458
Applicant(s)	Matthew & Margaret Bronan
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Pat Breen
Date of Site Inspection	23 rd June 2022
Inspector	Liam Bowe

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.468 hectares is located to the east of Kerry Airport in Co. Kerry. It is situated in the countryside approximately 5.6km to the east of Farranfore and the junction of the N22 and N23 national secondary roads, and approximately 5.3km to the south of Castleisland. The site is located on a county road and there are a significant number of one-off houses to the southeast of the site. The house associated with the farm is located immediately to the south of the site.
- 1.2. The site is comprised of a large agricultural shed at the roadside, a number of other associated agricultural sheds and an unoccupied farmhouse. There are significant hardstanding areas throughout the site and the area where the proposed shed is to be located is presently used to store farm machinery. The appeal site is enclosed along the western roadside boundary by the gable of an agri-shed, a c.1.8m high block wall and a sod and stone wall with low hedgerow. There are three existing farm accesses along this roadside boundary. The northern site boundary is framed by agri-buildings, the eastern site boundary is a mature hedgerow, and the southern boundary is a 1.2m high sheep wire fence.

2.0 Proposed Development

- 2.1. The development comprises a 494m² shed for cattle including underground slurry storage tanks, the removal and replacement of boundary wall, the demolition of a disused house to facilitate a yard extension and the decommissioning of an associated septic tank and percolation area. The replacement boundary is proposed as a 2.4m high wall with the existing farm accesses to remain in place, all at Ballybeg, Currow, Killarney, Co. Kerry.

3.0 Planning Authority Decision

3.1. Decision

By order dated 17th February 2022 Kerry County Council issued notification of decision to Grant Permission for the proposed development subject to 10 No. standard conditions. The Conditions include, inter alia, the following:

Condition No.3: All external cladding on the easy feed shed shall be dark grey in colour.

Condition No.4: The proposed roadside boundary wall shall be a maximum of 2m in height.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Planning Report on file dated 16th February 2022 stated that the location of the site is in an area designated as 'Rural General' per the Kerry County Development Plan, and states that 'it is important that development in these areas be integrated into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development'. The report recommended that permission should be granted subject to 10 No. conditions, consistent with the notification of decision which issued.

Appropriate Assessment Screening was carried out and concluded that there is no likely potential for significant effects to any Natura 2000 site.

3.2.2. Other Technical Reports

Conservation Officer – No objections.

Environmental Services – No objections. Conditions recommended.

3.3. Third Party Observations

- 3.3.1. A submission on the proposal was received from Pat Breen, whose property abuts the appeal site. The submission reflects the principal concern raised in this appeal,

which is related to the intensification of use on the site and further levels of wastewater entering the watercourse adjacent to his property.

- 3.3.2. A submission / unsolicited further information was made by Ross Planning and Design on behalf of the applicant / First Party, in response to the third party submission. This submission states that all effluent from the existing farm and farm structures are drained into existing underground slatted tanks and the silage slab drains into the underground tank under the sheds. It confirms that all rainwater from the sheds, house and domestic garage is piped into this open land drain and states that as the proposed shed has its own underground tank it will not have a negative impact on the existing water quality.

4.0 Planning History

None referenced in the report of the planning officer.

5.0 Policy Context

5.1. Kerry County Development Plan 2015 - 2021 (as extended)

5.1.1. Section 4.8.1 Agriculture

The plan is aimed at growing the value of the agricultural sector's output, with a view to the agriculture and food industries playing a key role in the overall recovery of the Irish economy.

Objective ES-32:

Support the agricultural sector in meeting its Food Harvest 2020 targets in a manner that is sustainable and has due regard to the objectives, policies and standards of this Plan, particularly as they relate to the Natural Environment.

5.1.2. Section 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. National Guidelines and Legislation

The following legislation is relevant:

EU (Good Agricultural Practices for the Protection of Waters) Regulations (2017) Statutory Instrument (SI) No.605 of 2017, as amended by SI No.65 of 2018.

5.3. Natural Heritage Designations

The site is not located within any European site. The closest Natura 2000 site is the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site code: 004161)) located approximately 5.1km to the east of the appeal site.

5.4. EIA Screening

The proposed development is not a class of development for which EIA is required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third party appeal was submitted by Pat Breen. The issues raised are as follows:

- Concerned that the intensification of use on the site will lead to further odours from the watercourse that the farmyard presently drains into adjacent to his property.
- Includes an assessment of the watercourse demonstrating high levels of ammonia, nitrogen, phosphorous, suspended solids and orthophosphates from an analysis of the watercourse (results of analysis are submitted with the appeal).
- Does not see any measures evident on the drawings submitted to prevent contaminated water from the existing and proposed farm buildings and the silage pit entering the watercourse.

6.2. Applicant Response

6.2.1. A response to the appeal was submitted by the First Party, Matthew & Margaret Bronan. The issues raised are as follows:

- Confirm, after dye testing, that there is some seepage from two old calf rearing sheds to the stormwater drains.
- Also confirm that the existing silage slab and drainage channels may have become porous due to the acidity of the silage.
- State that they will fit aco drains across the calf rearing sheds and connect these drains to the new easy feed shed.
- Advise that an application will be made for a new silage base and work apron with all drainage channels piped to the underground tanks associated with the proposed easy feed shed.
- Confirm that there will be no new pit or baled silage stored on the site until there is clarification from the current appeal and proposed planning application.

6.3. Planning Authority Response

No further comments to make on the 3rd party appeal but reiterate that the Environment Section of Kerry County Council gave their expert opinion on the proposed development and suggested that conditions be attached to a grant of permission.

7.0 Assessment

I consider that the main issues relevant to this appeal are as follows:

- Principle of the development
- Surface water disposal
- Other issues
- Appropriate Assessment

7.1. Principle of the development

- 7.1.1. The Kerry County Development Plan 2015-2021 (as extended) supports the growth of the agricultural sector's output and meeting its Food Harvest 2020 targets in a manner that is sustainable and has due regard to the objectives, policies and standards of this Plan, particularly as they relate to the Natural Environment (Objective ES-32).
- 7.1.2. The proposed development for a new easy feed shed that would provide modern livestock housing for wintering cattle and would enable the further development of beef production on this farm holding. I, therefore, consider that the proposed development would be consistent with Objective ES-32 of the County Development Plan 2015 and that the principle of the proposed development is acceptable at this rural location in Co. Kerry.

7.2. Surface water disposal

- 7.2.1. The Appellant is concerned that the intensification of use on the site will lead to further odours from the watercourse adjacent to his property that the farmyard presently drains into, and he does not see any measures evident on the drawings

submitted to prevent contaminated water from the existing and proposed farm buildings and the silage pit entering the watercourse.

- 7.2.2. In response to the appeal, the First Party carried out some dye testing on the site to trace possible sources of contamination to the watercourse referenced in the appeal. The First Party has confirmed that there is some seepage from two old calf rearing sheds to the stormwater drains and confirms that the existing silage slab and drainage channels may have become porous due to the acidity of the silage.
- 7.2.3. Consequently, and in response to these findings, the First Party's agent (Ross Planning & Design) has submitted a revised site layout plan demonstrating aco drains across all calf rearing sheds access doors that were showing evidence of seepage. It is proposed connect the aco drains to the underground slurry storage tanks associated with the easy feed shed proposed under this application / appeal.
- 7.2.4. Further to this, the First Party advises that they will submit a planning application for the construction of a new concrete silage base, perimeter walls and a work apron that will also channel silage effluent to the underground slurry storage tanks associated with the easy feed shed proposed under this application / appeal.
- 7.2.5. On the day of my site inspection, I observed the stream from the public road to the south of the First Party's house. The stream presently takes all surface water from the appeal site. I am satisfied that the proposed development would result in no additional hardstanding areas and, consequently, no increase in surface water loading to the stream.
- 7.2.6. I consider that the construction of the proposed easy feed shed with an entirely enclosed wastewater collection system in the form of underground tanks would have no negative impact on the water quality in the adjacent stream. Similarly, I am satisfied that the demolition of the existing house on the site and associated septic tank would not adversely affect the stream.
- 7.2.7. The First Party proposals for additional aco drains across the access doors of existing calf rearing houses are noted and this proposal can be incorporated into the proposed development. Their proposals for the provision of new silage storage facilities on the site, although noted, cannot be given consideration herein. However, I am satisfied that this will not impact the proposed development or exacerbate any environmental impacts that could accrue as a result of the proposed development.

- 7.2.8. On the basis of the above, I consider that the surface water run-off from the proposed development can be adequately disposed via the existing discharge to the stream at the eastern boundary of the site with the additional measures (aco drains) in place to prevent seepage. I, therefore, do not recommend that planning permission is refused on grounds of potential impacts of stormwater disposal.

7.3. Other issues

Design and layout

- 7.3.1. As stated earlier in this report, all proposals for new agricultural buildings must consider the proximity of adjacent dwellings, the rural character of the area, their setting in the natural landscape and it is a requirement of the County Development Plan that agricultural buildings are designed, located and orientated in a manner that will minimise their environmental impacts.
- 7.3.2. The proposed easy feed shed would have a height of 7.139m. It is to be sited adjacent to an existing agricultural shed on the site of similar height (6.663m). Both the existing and new sheds will run parallel to the public road to the west of the appeal site.
- 7.3.3. The First Party proposes to replace the existing wall and roadside hedgerow on this western boundary with a 2.4m high block wall. In this regard, I note condition no.4 of the notification of decision issued by the Planning Authority requiring the height of this boundary wall to be limited to 2m for visual amenity purposes. I agree with this assessment, and I recommend that the Board include this condition on any grant of permission issued.
- 7.3.4. The proposal to demolish the existing house on the site and decommission the associated septic tank is noted. I further note the condition report from a structural engineer submitted as part of the planning application and the comments thereon from Kerry County Council's Conservation Officer. Following my observations on site, I am satisfied that the building is in poor condition, is of no significant architectural merit and, therefore, I consider that its removal is justified.
- 7.3.5. In conclusion, I am satisfied that the design and layout of the proposed development is typical of the provision of modern agricultural facilities for farm animals and can be

incorporated into this existing farmyard without any significant adverse visual impact on this rural area.

Waste storage capacity and disposal

- 7.3.6. The Frist Party has included proposals for slurry storage in the amount of 777m³. Based on a requirement for 22 weeks storage, I calculate that the provision of a cubicle shed for 42 no. cattle would require 240m³ of slurry storage capacity. I am satisfied that the excess storage capacity can easily accommodate any additional wastewater diverted through aco drains from calf rearing sheds or from channels associated with any new silage pit.
- 7.3.7. In conclusion, I consider that there is sufficient storage capacity to accommodate the proposed development with a surplus of 530m³. Furthermore, on the above basis, I do not consider that the proposed development represents a significant risk to water quality and would not be prejudicial to public health.

7.4. Appropriate Assessment

- 7.4.1. The site is not located within or close to any European site. The closest Natura 2000 site is Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site code: 004161)) located approximately 5.1km to the east. Having regard to the nature, scale, and location of the proposed development, the nature of the receiving environment, and the separation distance to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on this or any European site.

8.0 Recommendation

I recommend that planning permission be granted, subject to the conditions outlined below.

9.0 Reasons and Considerations

Having regard to the nature, scale and appearance of the proposed development, the nature of the receiving environment, and the provisions of the Kerry County Development Plan 2015-2021 (as extended), it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area, would not be likely to be prejudicial to public health, and would not be likely to cause a deterioration in the quality of surface waters in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be completed in accordance with the plans and particulars lodged with the application and the details submitted to An Bord Pleanála on the 8th day of April 2022, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>All external cladding on the easy feed shed shall be dark grey in colour.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>The proposed roadside boundary wall shall be a maximum of 2m in height.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>A minimum of 22 weeks storage shall be provided on the landholding. Planning permission will be required for any additional storage capacity to accommodate any increase in livestock numbers.</p> <p>Reason: In the interest of environmental protection and public health.</p>

5.	<p>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) Regulations 2014 (as amended).</p> <p>Reason: To ensure the satisfactory disposal of water material, in the interest of amenity, public health and to prevent pollution of watercourses.</p>
6.	<p>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 public road.</p> <p>Reason: In the interest of public health.</p>
7.	<p>(a) All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged into the watercourse at the western boundary of the site and shall not discharge or be allowed to discharge to the storage tanks or the public road.</p> <p>(b) The discharge point to the watercourse shall be monitored and inspected on a weekly basis with inspection records of the discharge inspection by the Planning Authority or other statutory body on request. Where a discharge of potentially polluting mater is noted the Planning Authority shall be notified immediately.</p> <p>Reason: In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes and in the interest of public health.</p>
8.	<p>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 and off-site disposal of construction / demolition waste.</p>

	Reason: In the interests of public safety and residential amenity.
9.	<p>Construction and demolition waste shall be managed in accordance with the On-site Construction Waste Management Plan submitted in respect of the application.</p> <p>Reason: In the interest of sustainable waste management.</p>
10.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission</p>

Liam Bowe
Planning Inspector

11th July 2022