



An
Bord
Pleanála

Inspector's Report

ABP-314591-22

Development

Retention for roofless cubicles and permission for roof to same. New easy feed cubicle house, milking parlour, roofed dairy holding yard with slurry tanks, and associated buildings and facilities including demolition works.

Location

Fortwilliam, Abbeydorney, Tralee, Co. Kerry.

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

22671

Applicant

William and Brian O'Leary

Type of Application

Permission

Planning Authority Decision

Grant permission

Type of Appeal

Third Party

Appellant

Mary Brassil and others

Observers

None

Date of Site Inspection

3/5/2023

Inspector

Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The subject site situated in the townland of Fortwilliam is located approximately 4.4km to the north-west of the village of Abbeydorney, Co. Kerry. It is located approximately 10km to the south-east of the town of Ballyheigue and 8.8km to the south-west of the village of Lixnaw.
- 1.2. The site has a stated area of 1.4 hectares and is accessed via the local road to the north. The site comprises the farmyard which forms part of a dairy farm. The existing farmyard complex contains a dairy parlour and calf house, roofless cubicles and silage storage base. Immediately to the north of the site there are two detached single storey dwellings. To the west of the site there are further dwellings. To the east of the site circa 324m away and to the south of the site circa 345m away there are other farmyards with their associated buildings and sheds.

2.0 Proposed Development

- 2.1. Permission is sought for the retention permission to retain existing roofless cubicles their automatic scrapers, barriers and feed passages.
- 2.2. Permission is sought for (1) Construction of a roof over these external easy feed cow cubicle areas with their feed barriers and feed passages. (2) Construction of new easy feed cubicle house with calving pens. (3) Construction of a new milking parlour, dairy, roofed dairy holding yard complete with slatted slurry tanks, drafting area, cattle crush with part of dairy yard unroofed. (4) Construction of new calf house with penning on site of old calf house and old milking parlour complex. (5) Extend the silage base and construct a wall at the west side, and incorporate a manure pit with walls and effluent channel. (6) Construction of a machinery shed. (7) Demolish old calf house, old milking complex, old dairy and all associated ancillary site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted retention permission and permission subject to nine conditions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The report of the Planning Officer noted that the proposed development is consistent with the zoning of the site, that the proposal would not have a significant negative visual impact given the nature and location of the proposed development. Regarding roads and traffic consideration the report noted that the application refers to an existing farm complex. The report concluded that the having regard to the agricultural nature of the area, the siting and design of the development within an existing farmyard and the distance to neighbouring properties it was considered that the proposed development would not be prejudicial to public health and would not seriously injure the amenities of the area or property in the vicinity.

3.2.2. Other Technical Reports

3.2.3. **Environment Department** – Report included recommended conditions in the event of a grant of permission.

3.2.4. **County Archaeologist** – No mitigation required.

3.3. **Prescribed Bodies**

Uisce Éireann – No objections.

3.4. **Third Party Observations**

3.4.1. The Planning Authority received one submission/ objection in relation to the application. The main issues raised are similar to those set out in the appeal.

4.0 **Planning History**

4.1.1. Reg. Ref. 22/892 – Permission was granted to (A) Demolish existing farm feed shed (B) Demolish existing farm storage shed (C) Construct a two-storey dwelling house which will be served by a mechanical aeration unit and percolation trenches (D) Construct a domestic garage and all necessary ancillary site works.

- 4.1.2. Reg. Ref. 22/627 – Permission was granted to construct a pre-cast concrete cattle road underpass with effluent holding tank together with all associated site works at 3 locations to connect farm lands.
- 4.1.3. Reg. Ref. 21/1036 – Permission was granted to construct a single storey dwelling with attic accommodation and garage served with waste water treatment unit and soil polishing filter.
- 4.1.4. Reg. Ref. 19/1205 – Permission was refused to (1) retain all topless cubicles, slurry channels and feed passages that have replaced open feed areas, (2) retain milking parlour extension and (3) retention permission for a mobile home on site. Permission was refused for the following reasons;

- (1) Based on the information submitted with the planning application, the Planning Authority is not satisfied that the facilities provided on the lands for the storage of organic fertilisers generated on the farmyard are adequate for the purpose intended. Therefore, the retention of the proposed topless cubicle, slurry channels and feed passages and the proposed milking parlour extension would cause water pollution and would be contrary to the proper planning and sustainable development of the area.
- (2) Based on the information submitted with the planning application, the Planning Authority is not satisfied that the facilities provided on the lands for the treatment and disposal of domestic sewage generated by the proposed mobile home would cause environmental pollution and would be contrary to the proper planning and sustainable development of the area.
- (3) It is the policy of Kerry County Council not to permit one-off mobile homes in the rural area. The retention of a mobile home on the application site would contravene Objective RS-2 of the Kerry County Development Plan 2015-21 and would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Kerry County Development Plan 2022-2028

- 5.1.1. The site at Fortwilliam, Abbeydorney, Tralee, Co. Kerry is located in the rural area outside of a designated visually sensitive area or designated view/prospect.
- 5.1.2. Chapter 9 refers to Economic Development
- 5.1.3. Section 9.7.6 refers to Agriculture, Agri-Food and Agri-Tech
- 5.1.4. It is an objective of the Council to:
- 5.1.5. KCDP 9-39 – Support and facilitate the thematic outlined in “Our Rural Futures”, rural development policy 2021-2025, to strengthen economic activity and employment in rural areas.
- 5.1.6. KCDP 9-40 – Promote employment growth in rural areas.

5.2. Natural Heritage Designations

- 5.2.1. The nearest designated sites are:
- 5.2.2. Tralee Bay Complex SPA (Site Code 004188) is situated to the north, west and south of the appeal site. At the closest point it is situated 6.3km to the west.
- 5.2.3. Stack’s to Mullaghareik Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161) is situated to the east and south-east. At the closest point it is situated 7.3km to the south-east.
- 5.2.4. Akearagh Banna and Barrow Harbour SAC (Site Code 000332) is situated to the west and south-west of the appeal site. At the closest point it is situated 6.4km to the west.
- 5.2.5. Lower River Shannon SAC (Site Code 002165) is situated 7km to the east of the appeal site.

5.3. EIA Screening

- 5.3.1. The form of development proposed and which is the subject of this application, is such that it would not be of a class for the purposes of EIA as per the classes of development set out in the Fifth Schedule of the Planning and Development Regulations, 2001 (as amended). No mandatory requirements for EIA therefore arises and there is also no requirement for a sub threshold assessment.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal has been submitted by Ger O’Keeffe Consulting Engineers Ltd. on behalf of Mary Brassil and the Brassil Family. The issues raised are as follows;

- The appellants wish to advise that they do not have an issue in principle with the proposed farm development generally. They state that they recognise that the applicants seek to modernise their farm complex.
- The appellants have strong concerns in relation to the location of the silage base, the manure pit and the calf house proposed to be constructed along the edge of a County Road which serves the appellants three houses and their farm complex and lands.
- Concern is expressed in relation to the use of the public road by the applicants where farm machinery and other vehicles block the public road access regularly.
- The proximity of the public road to the busy farm complex is of concern, particularly ancillary parking and other related issues regarding access to the lands on the other side of the public road.
- The report of the Planning Officer refers to the planning history in the area. The appellant notes Reg. Ref. 22/627 a current application to construct pre-cast concrete cattle road underpasses with effluent holding tank together with all associated site works at three locations to connect farm lands.

- The appellants consider that application Reg. Ref. 22/627 and the application subject of this appeal Reg. Ref. 22/671 should have been dealt with concurrently.
- There are currently three planning applications to develop the farm complex, roads and to develop a house to be located on the western side of the County Road which services the appellants properties and farm lands.
- This application being appealed relates to the proposed development on the eastern side of the public road and along the public road.
- It is stated that a considerable amount of activity occurs on the roadway due to the nature of the activities and the developments which have been carried out to date, access for milk lorries etc is severely curtailed and although an alternative access appears to be available at the moment there is no specific agreements between the parties in relation to this particular access.
- It is highlighted that the appellants rely on the county road for access/egress to their property.
- It is stated that there are a number of bends on the road where the development is proposed. They submit that the proposed development will curtail the possibility of allowing proper access for modern farm machinery to access the farm complex. It is stated that the sight lines are restricted.
- It is the opinion of the appellants that to comply with good planning practice and to comply with criteria in the Development Plan, all developments fronting onto a public County Road should be set back an appropriate distance providing adequate sight lines, safe means of access for pedestrians and for vehicle users along the public road.
- It is considered that sightlines require to be improved and that passing laybys need to be provided.
- The appellants have provided a number of photographs of the access road and the public road.
- They submit that prior to any grant of permission that road geometrics need to be upgraded to provide safe access and egress to all users of the road.

- Kerry County Council granted planning permission for the proposed development to be carried out in accordance with the plans and particulars received by the Planning Authority on the 24th of June 2022. It is highlighted that they did not include any variation to or relocations of any building which are proposed along the public road.
- They note that condition no. 4 specifies the payment of €27,531.50 as a Roads and Transport levy. They submit that this has been attached because the roads require to be reconstructed.
- The collection of surface water on the road edges is another matter which needs to be addressed, having regard to the extent of development proposed and the potential surface water run-off from buildings adjacent to the public road. The appellants expressed concern as there appears to be an inadequate surface water system incorporated into the overall development.
- The appellants state that off street parking is necessary to be provided due to the extent of agricultural machinery use.
- Regarding the planning application Reg. Ref. 22/627 the appellants submitted an observation. They highlight that the right of access is not confined to the metal surface where there are grass margins etc. at either side. It is stated that due to developments of the northern side of the County Road that the metal surface and margins are ill defined.
- There is no construction management plan submitted with the application and the planning authority did not request the submission of one.
- Any development along the public road will have machinery utilising the public road and where works may require to be carried out from the public road. A road opening licence is likely to be required. There is no reference to this in the planning permission decision.
- There is no reference to the method of demolition and the removal of the demolished buildings from the site. Issues of noise, nuisance and disturbance to users of the County Road have not been addressed.
- There is no reference in the report of the Planning Officer in relation to surface water disposal to water courses and field drains. There is no layout with the

plans and particulars lodged with the application of how surface water and other related waters associated with the developments adjacent to the public road are going to be dealt with.

- The appellants request that the potential issues arising associated with the development at either side of the public road and along the public road are taken into consideration in relation to any planning decisions.
- The appellants request that should the Board grant permission for the proposed development that conditions should be included requiring the set back of all buildings, the provision of appropriate drainage systems to be incorporated along inside the public road to ensure that the public road to ensure that the public road is not compromised and used for off road parking for the applicants agricultural machinery.
- It may be appropriate for the Board to request a Traffic Safety and management Plan to be provided for the construction and demolition phase and a road safety audit for the ongoing use of the public road extending through the farm complex.

6.2. Applicant Response

A response to the third party appeal was submitted by Philip O'Dwyer Agricultural Consultant on behalf of the applicants William and Brian O'Leary. The issues raised are as follows;

- Mr. O'Leary, his son and their family have farmed at this location for generations.
- It is a dairy farm with land, buildings, livestock and equipment associated with most day to day running of dairy farms.
- The proposal is for the retention of roofless cubicles and permission to roof over the same cubicles, a new easy feed cubicle house, a new milking parlour, a new roofed over dairy holding yard with slurry tanks, a new machinery shed, demolition of the old calf house and dairy milking parlour and construction of a new calf house on same, and permission to extend and build a wall around the existing silage base.

- The appeal refers to PA Reg. Ref. 22627 which refers to three under passes for the O'Leary farm. The application is in the pipeline. Permission has been applied for under PA Reg. Ref. 22892 for a dwelling for Brain O'Leary and Laura Locke.
- It is submitted that the farmyard needs to be improved and updated. It is proposed to modernise the calfhouse with a shed which has more ventilation and space for calves. It is highlighted that the height of the eaves is the standard height at the western eaves as per Department of Agriculture, Food and the Marine Building Specifications S101. The height of the eaves is 4m. the apex of the roof at the midpoint will not be at the western side of the road. The centre of the calf house would be more than 13m from the eave on the west.
- It is submitted that the new dairy and milking parlour will remove the intensive trafficking near the road away from the road and it will improve the situation. It is stated that milk collection lorries or meal delivery lorries will not need to park on the road again under the current proposals.
- Trucks making deliveries to the farm will park beside the proposed new milking parlour and proposed new dairy to collect milk or to deliver meal/ration. This represents a significant improvement to road users.
- In relation to the proposed silage wall, it is stated that its construction set in a metre into the site will serve to cordon off the silage yard from the public road. It will also serve to significantly improve the visual appearance of the farm yard.
- The appeal response includes two photographs which indicate the width of the road to the south of the farmyard.
- The proposed development includes the construction of a new machinery shed. This will house all implements, tractors, trailers and any goods that are presently stored out in the open.
- New and existing machinery will be stored under roof in the proposed new machinery shed. Therefore, the machinery shed will be secure and will not be visible to people passing by the location.

- The appeal refers to incumbrances on the public road by machinery. The proposed machinery shed will house all the implements and existing machinery parked on the area adjacent to the proposed site.
- In relation to the planning application for the underpass, Reg. Ref. 22627 it is stated that if it receives permission then the cattle will not be crossing the roads in the future, the roads will be kept cleaner, and it benefits the travelling public.
- It is noted that the appellants have no issue in principle with the O'Leary's farm development. The main grounds of appeal refer to concerns regarding the roads adjoining the development. It is submitted that this farmyard upgrade will improve the road and the underpass will improve it more.
- The applicants wish the front and entrance of their site to be attractive and have a clean level and top quality surface to the road.
- Regarding the public road adjacent to the farmyard it is stated that the road is widest at the proposed site. If sightlines are to be achieved the overall road will need to be re-aligned.
- Off road car parking will be available for the O'Leary's cars and for other service personnel beside the milking parlour. Therefore, the requirement to park on the road will be unnecessary in the future as parking will be provided beside the machinery shed or beside the dairy complex.
- It is stated in the appeal that the Planning Authority erred in not requiring the setting back of the buildings proposed from the road. However, the buildings are inside the previous boundary as present on the farmyard. The applicants are satisfied with the decision to grant permission from the planning authority.
- They state that should they be required to further setback the buildings that it would not be feasible.
- Regarding the matter of surface water, it is stated that surface water on the road is not an issue at this location because the site is located on a high point. It is stated that ground percolation rates are very good in the general area.

- All new buildings will have gutters and downpipes in working order and they will direct surface water to an area on the east of the site. It is confirmed that it will not be deposited onto the road.
- The location of the silage base and the dung stead are in the same place as before. They will be walled in, and baled silage will be included with the pit silage as one silage base.
- It is stated that the silage base and channels will be constructed as proposed and all effluent will be collected and dealt with in accordance with the Nitrates Regulations. Bales of silage will not be stored in the fields or in other parts of the yard.
- In conclusion, it is submitted that the proposed development will modernise the O'Leary's farm complex.

6.3. Planning Authority Response

- None received.

7.0 Assessment

I consider that the main issues pertaining to the proposed development can be assessed under the following heading:

- Roads and traffic
- Surface water
- Appropriate Assessment

7.1. Roads and traffic

- 7.1.1. The grounds of appeal refer to the issues of access and the potential impact the proposal would have on the roads in the vicinity. The appeal refers to farm machinery and other vehicles parked on the surrounding roads, which impede access. The matter of the setback of proposed buildings from the roads is also

raised. It is suggested in the appeal that buildings could be setback further from roads.

- 7.1.2. In response to these issues the first party stated that the proposed the proposed machinery shed will house all the implements and existing machinery parked on the area adjacent to the proposed site.
- 7.1.3. Regarding the setback of the proposed buildings, the first party confirmed that the buildings are inside the previous boundary as present on the farmyard. In relation to the appellants suggestion that the proposed buildings and structures could be setback further from road the first party stated that this would not be feasible. In relation to this matter, I would note that the setting back of the proposed buildings may not be feasible in relation to the specifications and requirements of the siting and design of the farm buildings as per the requirements of Department of Agriculture, Food and the Marine specification as per the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2022 (S.I 113 of 2022).
- 7.1.4. In relation to the location of existing buildings within the farmyard relative to the roads and also the proposed new buildings, as illustrated on the Site Layout for the Farmyard Development the proposed new calf house will be built on the footprint of the existing old parlour, dairy and calf house. A silage wall is proposed to be constructed between 9m and 15m to the west of the existing silage base. This wall will be setback between 2.55m and 3.67m from the western site boundary which runs along the centre of the adjoining road. I note the point made by the first party in relation to the proposed silage wall, they highlighted that it will be set in a metre into the site and the proposed wall will serve to cordon off the silage yard from the road. I would note that this would be beneficial from both a safety perspective and that it would also improve the visual appearance of the farm yard.
- 7.1.5. The appeal refers to the application for a cattle road underpass with effluent holding tank at three locations to connect farm lands under Reg. Ref. 22627. In relation to that separate planning application which relates to this farm and the movement of cattle between the pasture lands to the farmyard, I note that permission was granted and that it includes an underpass located to the south of the farmyard and that this

will provide for a more efficient and safe movement of cattle within the landholding, and it will limit their usage of existing roads.

- 7.1.6. In relation to the matter of traffic and deliveries, I note that the proposed development would provide improvements and modernisation of the existing farmyard complex with the replacement of the old parlour, dairy and calf house with a new facility, along with a new machinery shed, the provision of roofed cubicle houses and an extension to the silage base. Accordingly, I am satisfied that the proposed development will not generate additional traffic movements. The first party submit that the proposed new dairy and milking parlour will remove the intensive trafficking near the road away from the road. They confirm that milk collection lorries and meal delivery lorries will no longer need to park on the road under the current proposals as they would park beside the proposed new milking parlour and proposed new dairy to collect milk or to deliver meal/ration.
- 7.1.7. Accordingly, I am satisfied that the proposed development would not give rise to an undue traffic hazard or obstruction of road users, and would be acceptable in terms of traffic safety and convenience.

7.2. Surface water

- 7.2.1. The appellants raised concerns that the surface water could collect on the road edges. They submitted that there appears to be an inadequate surface water system incorporated into the overall development.
- 7.2.2. In response to the matter the first party stated that surface water on the road is not an issue at this location because the site is located on a high point. It is stated that ground percolation rates are very good in the general area. The first party confirmed that the new buildings will be constructed with gutters and downpipes which will direct surface water to an area on the east of the site.
- 7.2.3. In relation to the silage base and the dung stead the first party highlighted that they are to be located in the same place as before. As part of the proposed development, it is proposed to construct a wall around the silage base and the dung stead. The first party confirm that baled silage will be included with the pit silage as one silage base

and that the silage base and channels will be constructed as proposed and all effluent will be collected and dealt with in accordance with the Nitrates Regulations.

- 7.2.4. The Environment Section in their report dated the 11th of August 2022 stated that they had no objections to the proposed development subject to the attachment of a number of conditions. The recommended conditions refer to the requirement that all organic fertilisers such as livestock manure, dungstead manure, farmyard manure, slurry, soiled water, silage and effluent and parlour washing generated on the farmyard shall be collected and stored in suitable receptacles in line with the 'Nitrates Regulation' – European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2022 or future revisions of these regulations. Secondly, that all organic fertilisers generated on the farmyard shall be land spread in line with the 'Nitrate Regulation' – European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2022 or future revisions of these regulations.
- 7.2.5. Also, that there shall be no discharge of polluting matter to any waters. In relation to this I would recommend the attachment of a condition requiring the submission of a nutrient management plan complying with the requirements of the Good Agricultural Practice for the Protection of Water Regulations to be agreed in writing with the Planning
- 7.2.6. Accordingly, subject to the operations on the farm being carried out as per these details and having regard to the recommendation of the Council's Environment Department, I am satisfied that the proposal would not result in any undue environmental impact. Having regard to the above details, I would consider that subject to adequate conditions regarding surface water and good agricultural practice, that the proposal would pose no significant risk of contamination of surface water or groundwater sources.

7.3. **Appropriate Assessment**

Stage 1 Screening

- 7.3.1. The appeal site is located approximately 6.3km from Tralee Bay Complex SPA (Site Code 004188) at the closest point. Akearagh Banna and Barrow Harbour SAC (Site Code 000332) is situated to the west and south-west of the appeal site. At the

closest point it is situated 6.4km to the west. Lower River Shannon SAC (Site Code 002165) is situated 7km to the east of the appeal site.

7.3.2. Stack's to Mullaghareik Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161) is situated to the east and south-east. At the closest point it is situated 7.3km to the south-east.

7.3.3. The qualifying interests/special conservation interests of the designated sites referenced above, are summarised as follows:

7.3.4. Table 1.

Tralee Bay Complex SPA Site Code (004188)	Akearagh Banna and Barrow Harbour SAC – Site Code (000332)
Whooper Swan (<i>Cygnus cygnus</i>) [A038]	Annual vegetation of drift lines [1210]
Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]	Salicornia and other annuals colonising mud and sand [1310]
Shelduck (<i>Tadorna tadorna</i>) [A048]	Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]
Wigeon (<i>Anas penelope</i>) [A050]	Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]
Teal (<i>Anas crecca</i>) [A052]	Embryonic shifting dunes [2110]
Mallard (<i>Anas platyrhynchos</i>) [A053]	Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]
Pintail (<i>Anas acuta</i>) [A054]	Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]
Scaup (<i>Aythya marila</i>) [A062]	Humid dune slacks [2190]
Oystercatcher (<i>Haematopus ostralegus</i>) [A130]	European dry heaths [4030]
Ringed Plover (<i>Charadrius hiaticula</i>) [A137]	
Golden Plover (<i>Pluvialis apricaria</i>) [A140]	
Grey Plover (<i>Pluvialis squatarola</i>) [A141]	
Lapwing (<i>Vanellus vanellus</i>) [A142]	
Sanderling (<i>Calidris alba</i>) [A144]	
Dunlin (<i>Calidris alpina</i>) [A149]	
Black-tailed Godwit (<i>Limosa limosa</i>) [A156]	
Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]	
Curlew (<i>Numenius arquata</i>) [A160]	
Redshank (<i>Tringa totanus</i>) [A162]	
Turnstone (<i>Arenaria interpres</i>) [A169]	
Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]	

Common Gull (<i>Larus canus</i>) [A182] Wetland and Waterbirds [A999]	
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7.3.5. The Conservation Objectives for Tralee Bay Complex SPA (Site Code 004188) are to maintain the favourable conservation condition of each qualifying bird species in the Natura 2000 site as defined by a list of attributes and targets. The conservation objective also includes to maintain the favourable conservation condition of the wetland habitat in Tralee Bay Complex SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

7.3.6. The Conservation Objectives for Akearagh Banna and Barrow Harbour SAC (Site Code 000332) are to maintain the favourable conservation condition of Annual vegetation of drift lines, *Salicornia* and other annuals colonising mud and sand, Mediterranean salt meadows, Embryonic shifting dunes and European dry heaths. The conservation objective also includes to restore the favourable conservation condition of Atlantic salt meadows, Shifting dunes along the shoreline with *Ammophila arenaria*, Fixed coastal dunes with herbaceous vegetation and Humid dune slacks as defined a list of attributes and targets.

7.3.7. Table 2.

Lower River Shannon SAC Site Code (002165)	Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA – Site Code (004161)
Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]	Hen Harrier (<i>Circus cyaneus</i>) [A082]

Salicornia and other annuals colonising mud and sand [1310]	
Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]	
Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]	
Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]	
Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]	
Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0]	
<i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]	
<i>Petromyzon marinus</i> (Sea Lamprey) [1095]	
<i>Lampetra planeri</i> (Brook Lamprey) [1096]	
<i>Lampetra fluviatilis</i> (River Lamprey) [1099]	
<i>Salmo salar</i> (Salmon) [1106]	
<i>Tursiops truncatus</i> (Common Bottlenose Dolphin) [1349]	
<i>Lutra lutra</i> (Otter) [1355]	

7.3.8. The Conservation Objectives for Lower River Shannon SAC (Site Code 002165) are to maintain the favourable conservation condition of Brook Lamprey, River Lamprey, Sandbanks which are slightly covered by sea water all the time, Estuaries, Mudflats and sandflats not covered by seawater at low tide, Large shallow inlets and bays, Reefs, Perennial vegetation of stony banks, Vegetated sea cliffs of the Atlantic and Baltic coasts, Salicornia and other annuals colonising mud and sand, Common Bottlenose Dolphin, Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation and Molinia meadows on calcareous, peaty or clayey-silt-laden soils. The maintenance of the favourable conservation condition of these qualifying species/habitats are defined by a list of attributes and targets.

7.3.9. The conservation objective also includes to restore the favourable conservation condition of Freshwater Pearl Mussel, Sea Lamprey, Atlantic Salmon, Coastal

lagoons, Atlantic salt meadows, Mediterranean salt meadows, Otter and Alluvial forests. The restoration of the favourable conservation condition of these qualifying species/habitats are defined by a list of attributes and targets.

- 7.3.10. The Conservation Objectives for Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161) is to restore the favourable conservation condition of hen harrier in Stack's Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA which is defined by a list of attributes and targets.
- 7.3.11. Consideration of likely significant impacts in terms of Stage 1 AA Screening, is based on the source-pathway-receptor risk assessment principle. In relation to Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA having regard to the lack of physical connection between the appeal site and the designated site and the absence of a hydrological connection there is no potential, therefore, for the subject development to have a significant effect on the Natura 2000 site.
- 7.3.12. In relation to Tralee Bay Complex SPA and Akearagh Banna and Barrow Harbour SAC they are situated 6.3km and 6.4km respectively from the appeal site. There is no hydrological connection to Tralee Bay Complex SPA and Akearagh Banna and Barrow Harbour SAC and having regard to the inland location of the appeal site it has no known connectivity with the coastal European sites and it has no known habitat to support any of the Special Conservation Interests of these European sites.
- 7.3.13. In relation to Lower River Shannon SAC (Site Code 002165) it is situated 7km to the east of the appeal site. The River Brick and the Shanow River and its tributary streams form part of the Lower River Shannon catchment which extends to lands to the south of the appeal site at Fortwilliam, Abbeydorney. Accordingly, a tributary stream of the Shanow River is located circa 798m to the south-east of the appeal site and is hydrologically linked to the Lower River Shannon SAC.
- 7.3.14. In relation to the matter of potential adverse effects due to the distance between the development and the European Site and the nature of the development, it is not considered that the construction phase of the development would have any direct impacts on the priority habitats of the SAC.
- 7.3.15. The potential impact which could arise to the qualifying interest species of the Lower River Shannon SAC would be in relation to impacts upon water quality which may

occur during the operation phase of the development. There is potential for discharges of polluted water to occur and to travel via groundwater or drainage ditches to the Lower River Shannon SAC.

7.3.16. Regarding slurry storage, the total storage requirement on the farm is 3,048.81 cubic metres. The storage available on the farm is 10,575.26 cubic metres. It is proposed that the effluent collected, from the herd on the farm, will be spread on the land across the farm holding as part of the overall farming practices. The spreading of slurry on lands is governed by the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2017, as amended. In this context, I am satisfied that there is no direct SPR between the slurry tanks and the river catchment subject to best farming practices being adhered to.

7.3.17. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. (002165), European Site No. (004161), European Site No. (004188) and European Site No. (000332), or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

8.1. I recommend a grant of permission.

9.0 Reasons and Considerations

9.1.1. Having regard to the:

- The established agricultural activities carried out on site,
- The location, nature, scale and design of the proposed development,
- The provisions of the Kerry County Development Plan, 2022-2028, and,
- The specific characteristics of the site and surrounds,

It is considered that, subject to compliance with the conditions set out below, the development proposed to be retained would not seriously injure the residential amenities of the area or of property in the vicinity, it would not have unacceptable impact on the landscape or ecology, it would not be prejudicial to public health and would constitute an acceptable use at this location. 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 retained, 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 required 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. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. A nutrient management plan complying with the requirements of the Good Agricultural Practice for the Protection of Water Regulations shall be submitted and agreed in writing with the Planning Authority prior to the commencement of development.

Reason: In the interest of public health.

3. The colour of the proposed farm structures hereby permitted shall be dark grey, grass or dark green, dark brown, dark red or unfinished concrete. Roof colours shall be darker than wall colours.

Reason: In the interest of visual amenity.

4. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health.

5. The proposed development shall be designed, sited and constructed in accordance with the Department of Agriculture, Food and the Marine specification as per the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2022 (S.I 113 of 2022).

Reason: In the interest of public health and residential amenity.

6. All uncontaminated surface water, including roof water, shall be separately collected and shall not in any circumstances be allowed to discharge to the foul storage facilities.

Reason: In the interest of public health.

7.

- (a) All waste generated during construction, including surplus excavation materials to be taken off site, shall be recovered or disposed of at an authorised site which has a current waste licence or waste permit in accordance with the Waste Management Acts, 1996 to 2008. This shall not apply to the reuse of excavated uncontaminated soil and other naturally occurring material within the site boundary.

- (b) The effluent storage tanks must be constructed in accordance with the minimum specification documents issued by the Department of Agriculture, Food and the Marine S123 Minimum Specification for Bovine Livestock units and Reinforced Tanks.
- (c) The livestock sheds must be constructed in accordance with the minimum specification document issued by the Department of Agriculture, Food and the Marine, S101 Minimum Specification for Agricultural Buildings.
- (d) All new buildings must be cognisant of the separation distances as outlined in the European Union Good Agricultural Practice for the Protection of Waters Regulations 2021.

Reason: In the interest of public health.

8. 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.

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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Siobhan Carroll
Planning Inspector

12th February 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-314591-22		
Proposed Development Summary	Retention for roofless cubicles and permission for roof to same. New easy feed cubicle house, milking parlour, roofed dairy holding yard with slurry tanks, and associated buildings and facilities including demolition works.		
Development Address	Fortwilliam, Abbeydorney, Tralee, Co. Kerry.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	✓		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No	✓		No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____