



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306410-20

#### Development

Permission to construct a welfare facility, to include toilet and canteen, and a wastewater treatment system and percolation area. Permission for retention of a mobile unit currently used as a mobile welfare facility for the duration of the construction works and associated site works

#### Location

Pallas Little, Portlaoise, Co. Laois

#### Planning Authority

Laois County Council

#### Planning Authority Reg. Ref.

19/591

#### Applicant

John Holohan

#### Type of Application

Permission and Permission for Retention

#### Planning Authority Decision

Grant Permission and Permission for Retention

#### Type of Appeal

Third Party v Grant of Permission and Permission for Retention

#### Appellant

Brendan McEvoy

**Date of Site Inspection**

20.03.2020

**Inspector**

Anthony Kelly

## 1.0 Site Location and Description

- 1.1. The site is located approx. 3km west of Portlaoise.
- 1.2. The site is located in a backland area to the rear of a single-storey house with rooflights which itself is located on a short, poorly surfaced, cul-de-sac. The site is relatively flat and is accessed via a poorly surfaced track along the southern boundary of the site to a yard area at the rear. There are two stable structures and a hay shed (all constructed of corrugated material) and a mobile home unit in this yard area. A fenced paddock comprises most of the site area. There are trees around the site boundary. There is a substantial amount of one-off housing in the vicinity of the site.
- 1.3. The site has a stated area of 0.789 hectares.

## 2.0 Proposed Development

- 2.1. The application is for:
  - Permission to construct a welfare facility to include a toilet and canteen.
  - Permission for a wastewater treatment system and percolation area.
  - Permission for retention of a mobile unit (currently used as a mobile welfare facility) for the duration of the construction works.
- 2.2. The proposed welfare facility has a stated floor area of 51sqm and a height of 4.65 metres. External finishes are to comprise plaster walls and a blue/black slate roof. The mobile home has a stated floor area of 40sqm.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to grant permission and permission for retention subject to 12 no. conditions of a standard nature, including a temporary permission for the mobile home and its subsequent removal from the site, effluent disposal, surface

water discharge, external finishes of the welfare facility and restriction of use of the site/welfare facility.

### 3.2. **Planning Authority Reports**

3.2.1. The Planning Officer's report is the basis of the planning authority decision. It states that, having regard to the provisions of the Laois County Development Plan 2017-2023, the development would not seriously injure the amenities of the area, would not be prejudicial to public health, would be acceptable in terms of traffic safety and would be in accordance with the proper planning and sustainable development of the area.

### 3.2.2. **Other Technical Reports**

**Road Design** – No objection.

**Central Area Office** – No objection.

**Planning Enforcement** – The Planning Officer's report states that Planning Enforcement states that warning letters have been sent to the site owner.

**Fire Officer** – Comments relating to a fire safety certificate and building regulations.

### 3.3. **Prescribed Bodies**

None received.

### 3.4. **Third Party Observations**

A submission was received from Brendan McEvoy, Pallas Little, Portlaoise. The issues raised are largely covered by the grounds of appeal with the exception of the following:

- While the application is not to develop and build a domestic dwelling, if granted it will only serve as a precursor to a full domestic development application.
- If permission is granted the mobile home will become a permanent installation.
- There is no specific need for this development in this specific area.

## 4.0 Planning History

- 4.1. P.A. Reg. Ref. 00/1158 – Permission was refused in 2001 for a house, garage and septic tank because (i) haphazard, disorderly backland development with no direct access to the public road, (ii) prejudicial to public health as evidenced by the failure of standard percolation tests, (iii) would contribute to an excessive density of housing development in an unserviced rural area as well as an excessive concentration of septic tanks and access points, and (iv) contrary to Section 4 of the County Development Plan which states that where percolation tests fail the site shall be increased to a minimum of 2 acres.
- 4.2. UD18/78 relates to unauthorised development comprising a mobile home.

## 5.0 Policy Context

### 5.1. Laois County Development Plan 2017-2023

- 5.1.1. Development of the type subject of the application is not specifically referenced within the Plan. In Section 4.3 (Natural and Recreational Activities) the Council recognises that horse riding is a countryside recreational activity, that the countryside provides an important resource in outdoor recreational facilities and that it is a major resource for local people. Section 5.10 (Economic Development) (Rural Economic Activities) refers to the rural economy. Section 8.5 (Development Management Standards) includes DM33 (Agricultural Development) which could be loosely considered to apply to the proposed welfare facility.

### 5.2. Natural Heritage Designations

- 5.2.1. The closest Natura 2000 site is Slieve Bloom Mountains SPA approx. 3.7km to the north west. The closest heritage area is Clonreher Bog NHA approx. 2.4km to the north east.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of appeal have been submitted by Brendan McEvoy, Pallas Little, Portlaoise. Mr McEvoy occupies the property adjacent to the east/front of the site. The grounds of appeal can be summarised as follows:

- The drinking water for the appellant's house is from a shallow well at the boundary of his site. The field subject of the application is a very wet field with poor soakage. There is no possible way the field could have passed a percolation test. Assuming that it did pass, the field remains under water for six months every year. If approved there is little doubt the appellant's drinking water will be polluted and unusable.
- The planning authority refused a planning application in this field for 4 no. reasons in 2001. Since 2001 8 no. houses have been built close to the appellant's house, all with septic tanks. This is a rural area with no public sewage services. The road surface is deteriorating and in need of repair. The area already has a high concentration of one-off developments and does not need more at the back of existing structures in a wet field that has no soakage. There has to be some consideration given to the environmental impact of this development.

### **6.2. Applicant's Response**

None received.

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

None received.

## 7.0 Assessment

The main issues are those raised in the grounds of appeal and the Planning Report and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Wastewater Treatment
- Previous Reasons for Refusal
- Appropriate Assessment

### 7.1. Principle of Development

- 7.1.1. The grounds of appeal refer to the extent of development in the vicinity, all on septic tanks, and which has damaged the road surface serving the existing houses.
- 7.1.2. The application is not for a domestic house and therefore rural housing policy is not relevant to the application. The site is in agricultural use and there are a number of horses being kept on site. The existing mobile home on site is currently used as a welfare facility, to be replaced by the proposed structure. Section 15 of the Planning Application Form states the mobile home is used as a changing room for the applicant's children before and after horse riding. On inspection the mobile home was also being used for the storage of tack and there was no evidence that it was being used for habitable purposes.
- 7.1.3. The County Development Plan 2017-2023 recognises horse riding as a countryside recreation activity and the countryside is an important resource in outdoor recreational facilities. The site is in use for horse riding etc. It is reasonable, in the absence of an associated house, that there is a toilet and storage area. The proposed structure has a floor area of 51sqm and the floor plan shows a bathroom, canteen and tack room. I consider this to be a reasonable ancillary facility to the horse-riding use of the site and consistent with the provisions of the County Development Plan 2017-2023. The structure footprint is unobtrusive and it has external finishes typical of a rural area.

- 7.1.4. It appears that the proposed welfare facility is sought because the mobile home, which is currently used as a welfare facility, is an unauthorised structure and subject of enforcement under UD18/78. Condition 1 (b) of the planning authority decision restricts the temporary retention period of the mobile home to two years. I consider that a condition to this effect is reasonable. Condition 9 of the planning authority decision also proscribes commercial activity on site or residential use and these restrictions are also considered to be appropriate.
- 7.1.5. Therefore, I consider that, subject to appropriate conditions, the development is acceptable in principle.

## **7.2. Wastewater Treatment**

- 7.2.1. The development includes provision of a wastewater treatment system to serve the proposed welfare facility structure. The grounds of appeal outlines concern in relation to this aspect of the development.
- 7.2.2. The Site Suitability Assessment was carried out by the local authority on the applicant's behalf. The site is at a locally important aquifer of moderate vulnerability. No groundwater or bedrock was encountered in the 2.2 metres deep trial hole. Soil conditions were primarily clay with some gravel and sand. Table B.2 (Response Matrix for On-Site Treatment Systems) of the EPA Code of Practice indicates that the site falls within the R1 response category where an on-site system is acceptable subject to normal good practice.
- 7.2.3. The T-test result was 35.56 minutes. Though the trial hole and percolation test holes were not open at the time of the site inspection I am satisfied that the results are consistent with the ground conditions observed on site. In this regard the paddock area appears to be heavily utilised by horses and ground conditions immediately north of the site indicate good agricultural land. Table 6.3 (Interpretation of Percolation Test Results) of the Code of Practice indicates that the site is suitable for the development of a septic tank system or a secondary treatment system discharging to groundwater.
- 7.2.4. With regard to Table 6.1 (Minimum Separation Distances in Metres), the required distances are achieved from any surface water soakaway, watercourse/stream, open drain, lake, house, boundary, trees and road. The grounds of appeal make specific reference to a well. The location of this well has not been identified in the planning

application or in the grounds of appeal. There is a well identified within the site boundary in the western area of the site and Section 3.0 (On-Site Assessment) of the Site Suitability Assessment references 4 no. wells within 250 metres of the site (including the on-site well). None of these are identified as potential targets at risk in Section 2.0 (General Details) of the Assessment. With specific regard to wells, Table B.3 (Recommended Minimum Distance Between a Receptor and a Percolation Area or Polishing Filter) sets out minimum separation distances. For a T-value of greater than 30, with a clay subsoil and no gradient, the recommended minimum distance from a receptor to a percolation area is 25 metres. Notwithstanding the fact that the location of the adjacent well has not been identified, the appellant's site boundary is a minimum 27 metres approximately from the proposed percolation area at the closest point.

7.2.5. A septic tank system is proposed which is consistent with the requirements of Table 6.3. The percolation area is sized in accordance with Table 10.1 (Minimum Soil Polishing Filter Areas and Percolation Trench Lengths Required for a Five-Person House).

7.2.6. I do not consider that the development results in an over-concentration of septic tanks/wastewater treatment systems in the area. The Site Suitability Assessment indicates the site is suitable for the disposal of effluent by way of a septic tank. The site itself is relatively large in terms of area with all required separation distances achieved.

7.2.7. In conclusion I consider that a septic tank and percolation area is acceptable at this location and will not have any adverse impact on public health.

### **7.3. Previous Reasons for Refusal**

7.3.1. The grounds of appeal refer to a previous planning application on site, P.A. Reg. Ref. 00/1158, which was refused by the planning authority for 4 no. reasons.

7.3.2. That planning application was for a house, garage and septic tank as opposed to the development subject to the current application. In addition, the current policy environment is very different from that which was in place when the decision was made under P.A. Reg. Ref. 00/1158. The first reason for refusal related to haphazard, backland development with no direct access to the public road. Agricultural-related development is subject to different considerations than residential development and I

consider the current development to be acceptable in principle. The site has access to the public road. The second and fourth reasons for refusals related to the effluent treatment element. This has been addressed in Section 7.2 of this report. With regard to the third reason for refusal, excessive housing density, the current application is not for a house and therefore that reason for refusal is not relevant to the current application.

7.3.3. Having regard to the foregoing I do not consider that the decision made under P.A. Reg. Ref. 00/1158 has any impact on the current application.

#### **7.4. Appropriate Assessment**

7.4.1. Having regard to the nature and scale of the development and to the nature of the receiving environment, with no hydrological pathway to any European site, no appropriate assessment issues arise and it is not considered that the 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**

I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

### **9.0 Reasons and Considerations**

Having regard to the provisions of the Laois County Development Plan 2017-2023 and the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the development would be acceptable in terms of public health and would not injure the amenities of the area or of property in the vicinity. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. (a) The permission for the temporary retention of the existing mobile home, which is currently in use as a welfare facility, is for a period of two years only.  
(b) Within this two-year period the existing mobile home shall be removed from the site.  
(c) Within two weeks of the removal of the existing mobile home a written statement and photographs shall be forwarded to the planning authority stating that Condition 2(b) has been complied with.

**Reason:** In the interest of clarity, visual amenity and the proper planning and sustainable development of the area.

3. (a) The development hereby permitted shall be used solely in connection with the established agricultural use of the site and shall not be used, sold, let or leased for other purposes. No business, trade or commercial activity of any kind whatsoever shall take place on the site.  
(b) The proposed welfare unit shall be used only as a tack room, canteen and wash/bathroom facilities ancillary to the agricultural use on site. The welfare unit shall not be used for habitable purposes.

**Reason:** In the interests of clarity and the amenity of property in the vicinity and the proper planning and sustainable development of the area.

4. Details of the materials, colours and textures of all the external finishes to the proposed welfare facility shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled 'Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)' – Environmental Protection Agency, 2009.

Reason: In the interest of public health.

6. Water supply and 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.

7. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

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Anthony Kelly  
Planning Inspector  
24.04.2020