



An  
Bord  
Pleanála

## Inspector's Report PL14.247334

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<b>Development</b>	Construction of an indoor horse riding area with attached stables and all ancillary works
<b>Location</b>	Leitrim, Newtownforbes, County Longford
<b>Planning Authority</b>	Longford County Council
<b>Planning Authority Reg. Ref.</b>	16/117
<b>Applicant(s)</b>	Colm McGrath
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Linda & Jason Figgs
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	20 December 2016
<b>Inspector</b>	Una Crosse

## 1.0 Site Location and Description

The site has a stated area of 2.6ha and comprises an area of a larger landholding which currently accommodates a stable block located to the north of the proposed development. The site is accessed via an existing internal roadway within the holding which currently provides access to the existing stable block. The site falls from north to south in gradient by c. 5 metres. The site is adjoined to the north by the applicants dwelling, to the northwest by the applicant's brothers dwelling and to the west/northwest by the appellants dwelling.

## 2.0 Proposed Development

The proposal is for a building which has a proposed gross floor area of 2,226 sq.m and within which it is proposed to accommodate an indoor horse riding arena with 20 no. stables within the structure as well as a proposed tack room/storage area.

The building proposed has a ridge height of 10m and is 73.2m in length and 30.5 metres in width. A post and rail timber fence is proposed around the structure. The proposed building would comprise a steel portal frame clad in grey or green coloured cladding. It is noted from the Roads Form submitted with the application that the journeys estimated to be made to the site by each transport mode is 3 car drivers and 3 passengers, 1 horsebox, 2 walking and 2 cycling. Water supply is proposed via the existing public mains, surface water disposal is via soakpits proposed and proposed wastewater is stated as N/A.

In response to further information, the form for agricultural development stated that the acreage of the farm was 15 acres, that the existing stables is 435m<sup>2</sup>, the existing sand area is 400m<sup>2</sup>. It is stated that the existing and proposed amounts of water to be disposed per annum is 30m<sup>2</sup>. No slurry or washings are proposed to be generated. Roof water is proposed to be disposed via soak pits. Not applicable is stated in response to the question regarding the number of horses to be housed in the proposed development. The letter accompanying the response states that it is proposed to use rubber matting as bedding for the horses eliminating the need for slurry tanks to collect effluent. It is stated that no external lighting is proposed on the elevations facing the adjoining dwellings (north eastern and north-western elevations). The external lighting proposed is by way of standing lighting over access

doors. A revised site plan was submitted showing extensive landscaping around the perimeter of both the existing and proposed site and applicant willing to accept a condition requiring that the landscaping is carried out in advance of the commencement of the development.

In response to the appeal the applicant has submitted proposals for revised layouts (Alternative Options 'A' and 'B') for the location of the proposed structure on the site. Alternative Option 'A' shows the building relocated on the site to the rear of the existing stable block with its axis in a north south direction along the eastern boundary. Alternative Option 'B' shows the building remain on the east west axis across the site but moved further east than its original location.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission granted subject to 16 conditions which included:

- C2 – proposed indoor arena and stables not be used for commercial use without a prior grant of permission;
- C3 – planting of rear and lateral boundaries as per revised site layout plan (25<sup>th</sup> August 2016);
- C4 – full surface water and effluent drainage facilities in accordance with Dept. of Agriculture, Food & Marine;
- C8 – effluent spreading;
- C12/13/14/15 – requirements of Duchas – The Heritage Service/Notification of National Monuments Service/Archaeological Monitoring of ground works/ report on monitoring to Duchas.

##### **3.1.1. Planning Reports**

The report of the Planning Officer can be summarised as follows:

The first report outlined the details submitted and information required and recommended further information.

The Further Information was sought in relation to the following:

- Need for the proposal having regard to existing stables with additional application form for agricultural buildings to be included;
- Proposals for floodlighting or other external lighting;
- Extensive planting required as per Condition No. 3 of PL06/1060;

Following the receipt of further information, the addendum report considered that the applicant had adequately addressed the matters raised and that a condition should be included to control the use of the development from potential unauthorised commercial use. The recommendation notes that the proposal will not be visibly intrusive from the adjoining roadway.

### 3.1.2. **Other Technical Reports**

Irish Water – no objection subject to conditions.

### 3.2. **Prescribed Bodies**

None

### 3.3. **Third Party Observations**

As per grounds of appeal.

## 4.0 **Planning History**

- **Ref. PL06/1066** – Permission granted for horse stables, horse walker, sand area, dungstead and ancillary works.
- **Ref. PL01/34** – Permission granted for a two-storey dwelling and garage.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

The current development plan is the Longford County Development Plan 2015-2021. Section 4.4 of the Plan deals with agriculture with the policies and objectives set out in Section 4.4.1. Policy AGR1 states that where an area of lands is outside a

settlement and is not otherwise zoned as part of the Development Plan of the Longford Town Plan, the use of such land shall be deemed to be primarily agricultural which provides for the agricultural use of the lands and any ancillary uses. AGR8 states that sites to be developed for agriculture purposes shall be designed to this highest standard to provide quality environments with adequate provision where necessary for landscaping, car and truck parking and circulation and the appropriate disposal of foul and surface water. Policy AGR 9 relates to the design of agricultural buildings.

## 5.2. **Natural Heritage Designations**

The site is located c.3km from the Lough Forbes Complex SAC (Site Code – 001818) and the Ballykenny-Fisherstown Bog SPA (Site Code – 004101).

## 6.0 **The Appeal**

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

The third party grounds of appeal can be summarised as follows:

- Appellants live adjoining the proposal and the existing horse related operation ongoing on the site which is intensive and beyond an ordinary agricultural user;
- Intensive development carried out on foot of Ref. 06/1060 the conditions of which were not adhered to;
- Formal complaints made but no efforts made to make development compliant with no Warning letter issued with non-compliance a valid reason for refusal;
- No demonstration of need provided as required by the County Development Plan with the proposal clearly a commercial operation rather than agricultural;
- County Development Plan does not provide for intensive commercial developments on lands zoned agricultural;
- The scale of the proposed 20 stables in addition to the 9 existing will generate increased traffic;

- This commercial riding school should be moved to a larger site;
- Condition attached to permission recognising commercial element is incapable of being enforced;
- Already a herd of horses on the land in an unauthorised development;
- An indoor horse riding arena does not come within definition of agriculture;
- Double row of trees required by 2006 permission not included despite FI request;
- Proposal has implications for the National Monument which has almost disappeared;
- Proposed design visually inappropriate;
- Condition No. 3 ignores 2006 decision and FI request;
- Condition No. 8 eliminates virtually all of the useable site area with the condition inoperable;
- While FI submission expressly omits floodlighting the existing development includes floodlighting which has no permission;
- Number of areas included within the applicant's ownership co-owned by others with details not included with sufficient legal interest demonstrated;
- The disposal of effluent from the proposal is questioned;

## 6.2. Applicant Response

The applicant's response to the appeal is summarised as follows:

- Condition regarding provision of hedgerow addressed in current application;
- Question of permission being unauthorised due to non-compliance without substance with condition minor and would not negate permission;
- Issue of enforcement not a matter for the Board;
- No stated policy or objective requiring applicant to demonstrate need in respect of any agricultural development however proposal addresses a specific need of the applicant;

- Applicant, his family and brother's family, who live close by, have acquired between them 30 ponies with vast majority kept out on land over the winter with stabling required;
- Children involved in Irish Pony Club and show jumping with current facilities in Mullingar or Cavan requiring transportation of children and ponies;
- Decided to develop an indoor arena to jump and train ponies on lands adjacent applicant home and stables;
- Passports of 30 ponies, including 2 Connemara pony stallions, attached satisfying need for the proposal with stabling facility warranted and not commercial in nature;
- Indoor arena provides for practice, riding and training of the ponies during inclement weather;
- Traffic will be reduced from the site by locating the arena facility proximate to the stables rather than transporting children and ponies to other show jumping arenas;
- National Monument referred to was no longer in place when applicant bought the land with no visible remains and house and stables constructed within the area identified as original location of the monument;
- Building is for agricultural purposes and not to create a design statement;
- Condition 3 includes a mechanism for enforcement of the condition;
- In relation to condition No. 8, other lands available for this exercise;
- Land shown in application all within family's ownership with sufficient legal interest;
- Stables are dry bedded and regularly mucked out with bedding and effluent stored on a covered concrete slab in line with best practice;
- Possible, if Board were so inclined, to re-site the proposed structure within the red line boundary to be further removed from the appellant's property with 2 alternative layouts attached.

(The applicant submitted hard copies of the drawings to scale of the two proposed alternative locations on 15 November 2016 following a request for same from the Board).

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

The Planning Authority did not respond to the appeal

### **6.4. Response from Appellant to Applicants Response to Appeal**

The appellant's response to the Applicants Response to their Appeal is summarised as follows:

- While enforcement not province of the Board they must take into consideration non-compliance with previous permission;
- Plethora of legal precedents whereby non-compliance with a Condition rendering development unauthorised;
- In addition to non-compliance with PL06/1060, a tall timber fence on boundary with appellant's property;
- Council cannot enforce conditions 3 & 8 as appeal annuls the Council's notification;
- Proposed inappropriate design replaces a National Monument;
- Proposed development is not agricultural with excessive scale of arena where show jumping events are envisaged which is commercial;
- Describing proposal as agricultural negates requirement for Fire safety cert, DAC etc;
- Applicant states that they have 30 horses but only 1 horsebox noted;
- Development Plan curtails proposals where there is limited land ownership with no demonstration of need for proposed arena;
- The site as proposed is what is before the Board with different locations proposed in the alternative locations requiring new applications.

## 7.0 Assessment

I consider that the following are the key issues:

- Principle of the Proposal
- Need for and Scale of the Proposal
- Impact on Residential Amenity
- Other Matters
- Appropriate Assessment

### 7.1. Principle of the Proposal

The Planning and Development Act 2000, as amended defines agriculture as including the training of horses and the rearing of bloodstock. Section 4.4 of the Plan deals with agriculture with the policies and objectives set out in Section 4.4.1. Policy AGR1 states that where an area of land is outside a settlement and is not otherwise zoned that the use of such land shall be deemed to be for primarily agricultural use. Therefore, it is considered that the land in question is agricultural land and as such policies related to agriculture apply. There are no specific policies in the Plan related to the keeping of horses. However, the principle of the proposed development that being for the keeping and training of horses would be acceptable in this rural area. The acceptability of the scale of the development is addressed in the following sections.

### 7.2. Need for and Scale of the Proposal

I intend to address the need for and scale of the proposal in two parts. Firstly, the proposal to stable 30 horses on the site and, then the need for the indoor horse riding arena and the scale of same. In respect of the need for stabling facilities to stable c.30 horses, it is first noted that the site already accommodates a stable block which can accommodate c.9 horses. Furthermore, the site within which it is proposed to develop the proposal has an overall area of 15 acres (as stated in response to Q.8 of supplementary planning application form for agricultural development) which currently accommodates a large dwelling house and stable

block. While other lands are shown within the applicant's ownership or shared ownership they are not directly connected to the site in question.

The applicants present their need for the proposed development of stables in the context of the keeping of 30 horses in the ownership of the applicant and his family and his brother and family. The passports of 30 horses have been appended to the response to the appeal. However, I would note that most of the passports do not include the applicants details. In some cases he is noted as the breeder and in other cases it is stated that the passport has been issued to him. However, it is not clear how many horses are within the applicant's direct ownership.

Therefore, I have a number of concerns about the scale of stabling proposed. I do not consider that it is appropriate to stable horses outside of the applicant's ownership on this site without considering the proposal to be commercial in nature notwithstanding that the horses may be owned by the applicant's brother who it appears lives adjacent to the site. It would appear to me that given the size of the farm, at a modest 15 acres that it would be appropriate that the applicant stable his own horses within the confines of his own site and that horses in the ownership of other persons, family or otherwise can be catered for elsewhere as catering for same within the applicants site renders the proposal more commercial than personal. I do not therefore consider that a need for a stabling facility of this scale is justified. I would suggest to the Board that if they are minded to grant permission for the proposal that revised plans are requested which reduce the stabling to 10 rather than the 20 proposed. While it is arguable that the reduction in the scale of the building would be limited, it is the reduction in the intensification of the use and the ancillary activities that is more significant, in my opinion. Given that the existing stable block can accommodate 9 ponies, it is considered that ten extra would be sufficient for any reasonable non-commercial operation.

In terms of the indoor horse riding arena, the definition of agriculture in the Act provides for the keeping and training of horses. Such a facility I would suggest would come within the training of horses. While it is reasonable to suggest that a facility of this nature could be required for the personal use of the applicant and his family, the concern I would suggest is that the facility would become a location for show jumping events and render the facility a commercial operation. Such events would require significant traffic to and from the development which has not been addressed by the current application. In this regard, I would suggest to the Board that if they are minded to permit the proposal that a condition is required such that the proposed development will not be used for any commercial activity and is only permitted for the private use of the applicant.

### **7.3. Impact on Residential Amenity**

I would note that as noted above, this is an agricultural area. While the residential amenities of existing residential properties are a material consideration, I would suggest to the Board that the location of agricultural activities within an agricultural area is also a material consideration as addressed in Section 7.1 above in relation to the principle of the proposal. Notwithstanding, Policy AGR8 states that sites to be developed for agriculture purposes shall be designed to the highest standard to provide quality environments with adequate provision where necessary for landscaping, car and truck parking and circulation and the appropriate disposal of foul and surface water. In this regard, the absence of landscaping on the site is noticeable and unfortunate that it has not been put in place. I would suggest to the Board that it may be appropriate, if they are minded to permit the proposal to include a condition which requires that the landscaping proposals are put in place prior to the commencement of development.

The applicant in response to the appeal submitted two options for revising the location of the proposed structure on the site. Alternative Option 'A' shows the building relocated on the site to the rear of the existing stable block with its axis in a north south direction along the eastern boundary. Alternative Option 'B' shows the building remain on the east west axis across the site but moved further east than its

original location. I would suggest to the Board that Alternative Option A which provides for the structure to the rear of the existing stables along the eastern boundary is at furthest remove from the appellant and would be visually less intrusive as it would effectively sit behind the existing stables. While I note that the appellant considers that site as proposed is what is before the Board with different locations proposed in the alternative locations requiring new applications, I consider that the Board could consider a revised location within the red line site boundary particularly if it addresses concerns raised by the appellant and those of the Board themselves.

In relation to foul waste, I would suggest that animal waste is a factor of agricultural activity within agricultural areas. The proposals put forward by the applicant for bedding of the animals is acceptable in that regard.

#### **7.4. Other Matters**

In relation to the design of the structure, the appellants raise concerns regarding the design proposed. Policy AGR 9 relates to the design of agricultural buildings. While the building is large and proposed to be finished in cladding, the area in the vicinity of the site accommodates three dwellinghouses (Including applicant and appellant) and the stable block. Furthermore, the site falls from north to south with the area where it is proposed to locate the building considerable lower in gradient than the public road. As I outline above, the applicant submitted revised layout alternatives to the Board in response to the appeal. As I have discussed above, Alternative Option A whereby the proposed development is relocated in a north south direction, would provide that it would be less visible from the public road. I would suggest that a condition is attached which requires that the development is revised to this option.

There is considerable concern expressed by the appellant in respect of the land ownership of the site and other lands outlined in blue. From the documentation submitted I am satisfied that the applicant has sufficient interest to make the

application. If the Board have any concerns, however, they may decide to alert the applicant to Section 34(13) of the Planning and Development Act 2000, as amended.

While it is unfortunate that the applicant has failed to carry out the landscaping proposed and conditioned in the previous application, the Board do not have a role in any such enforcement proceedings. As I outlined above, I would suggest that a condition should be attached, if the Board are minded to grant permission, which requires that the landscaping should be in place prior to the commencement of any development on the site.

In relation to the National Monument, I note the comments of the appellant and applicant in this regard. The proposed site and the location of the proposed alternative options are removed from the location of the former Monument which was located north of the existing stables and south of the applicant's house. I would suggest, however, given the proximity of the archaeological site that archaeological monitoring should be conditioned, if the Board are minded to grant permission, to ensure appropriate monitoring.

#### 7.5. Appropriate Assessment

Having regard to the nature and scale of the proposed development, nature of the receiving environment, the absence of any hydrological link between the site and the most proximate European sites and the likely emissions arising from the proposed development, I am satisfied that 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 is granted for the proposed development subject to the conditions outlined below.

## 9.0 Reasons and Considerations

Having regard to the provisions of the Longford County Development Plan 2015-2021, the location of the site within an area of primarily agricultural uses and the existing equine facility on the site it is considered that subject to compliance with the conditions outlined below that the proposed development would not negatively impact on the residential amenity of adjoining properties and therefore would accord 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 as amended by the further plans and particulars submitted on the 25 day of August 2016 and by the further plans and particulars received by An Bord Pleanála on the 19 day of October, 2016 and 10 day of November 2106, 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. The stables and indoor horse training area shall be used solely for the keeping and training of the applicants own horses/ponies and shall not be used for commercial purposes.

Reason: To protect residential amenity.

3. The proposed development shall be amended as follows:

(a) The proposed development shall be revised such that stabling accommodation for not more than 10 horses/ponies shall be provided. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

4. The landscaping scheme shown on the revised site layout plan submitted to the Planning Authority on the 25<sup>th</sup> August 2016 and shown on Drawing no. 01, as submitted to An Bord Pleanála on the 19 day of October, 2016 and 10 day of November 2106 shall be carried out prior to the commencement of development. All planting shall be adequately protected from damage until established. A mixture of native species shall be used. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

5. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

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.

8. Slurry generated by the proposed development shall be disposed of by spreading on land, or by other means acceptable in writing to the planning authority. 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 Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2014, as amended.

Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of watercourses.

9. 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.

Una Crosse

**Senior Planning Inspector**

Date: January 2017