



An  
Bord  
Pleanála

## Inspector's Report PL07.247936

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| <b>Development</b>                  | Retain and complete agricultural shed consisting of stables, agricultural storage shed/haybarn together with ancillary site works. |
| <b>Location</b>                     | Rinville, Oranmore, Co. Galway   |
| <b>Planning Authority</b>           | Galway County Council  |
| <b>Planning Authority Reg. Ref.</b> | 16/1481  |
| <b>Applicant(s)</b>                 | Jessop Hall Ltd.   |
| <b>Type of Application</b>          | Permission   |
| <b>Planning Authority Decision</b>  | Refuse Permission  |
| <b>Type of Appeal</b>               | First Party  |
| <b>Appellant(s)</b>                 | Jessop Hall Ltd.   |
| <b>Observer(s)</b>                  | None   |
| <b>Date of Site Inspection</b>      | 18 <sup>th</sup> of April 2017   |
| <b>Inspector</b>                    | Angela Brereton  |

## 1.0 Site Location and Description

- 1.1.1. The site is in the rural area, located c.1.5kms southwest of Oranmore village and further from the junction of the R446 with the N18. It is on the south western side of the village of Rinville. The site is accessed to the east via a narrow local road in the townland of Rinville West. Galway Bay Golf Resort is further to the north west.
- 1.1.2. The application site concerns a large field area of 4.639ha, located on the eastern side of the local road. The agricultural shed development proposed for retention and completion is centrally located and is well set back from the road. It is currently used to store agriculturally related machinery. Horses were seen grazing on the (rear) southern part of the site on the day of the site visit. Fences enclose the site to the north and south and stone walls to the east and west. A pond has been created towards the eastern boundary.
- 1.1.3. There is a stone wall along the road frontage of the site, which restricts visibility at the entrance. There is a circuitous surfaced access route via the set back field gated access, through the landholding to the shed. An area to the west of the shed has been hard surfaced. The shed is visible in the landscape at a higher level, from the local access road. There is a berm in place to the north west of the site which provides some screening. The shed is also set back into the site close to the eastern site boundary. Views can be had from the more elevated part of the site towards the Galway Bay complex.
- 1.1.4. There is also a large shed well set back from the road with access opposite the entrance to the subject site. There is ribbon housing to the south of the site with access to this local road. This cul de sac access road is narrow, too narrow for two cars to pass. There is also a narrow junction to the wider more trafficked county road in Rinville West.

## 2.0 Proposed Development

- 2.1. Permission is sought to retain and complete agricultural shed consisting of a 193.7 stables and a 155.46sq.m agricultural storage shed/haybarn together with ancillary site works. The g.f.a of buildings for retention and completion is given on the application form as 349.71sq.m.

- 2.2. A Site Layout Plan, Floor Plans, Sections and Elevations have been submitted. This shows that the building which contains both the stables (shown green) and the agricultural storage shed/haybarn (shown yellow) is located on the south eastern side of the site. Existing and Proposed Plans have been shown. The Site Layout Plan also shows the location of the entrance and access route to the building from the local road. This provides that the front boundary is to be set back in accordance with planning authority requirements.
- 2.3. The method of surface water disposal is given as 'soakpit' and the location of the soakaway close to the boundary to the south of the shed is also shown. It is also proposed to provide a manure pit and effluent tank.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

On the 4<sup>th</sup> of January 2017, Galway County Council refused permission for the retention and completion development for 6no. reasons. These are summarised as follows:

1. The development on an elevated Class 3 rural landscape would interfere with the character of the landscape, would detract from the visual amenities of the area and would establish an undesirable precedent and be contrary to planning policy.
2. The driveway (>193m) to access the proposal to the rear of existing houses would result in haphazard, disorderly development on an elevated exposed site in the Class 3 rural landscape.
3. In the absence of any specific details relating to the function of the proposed retention development, which is outside an established farmstead and to the collection storage and disposal of effluent waste, the development would set an undesirable precedent and be contrary to planning policy.
4. The Galway Bay Complex SAC is located approx. 125m north of the site and it has not been established that the development would not impact adversely on the integrity of this Natura 2000 site. Therefore, the proposal would be

contrary to planning policy and to the proper planning and sustainable development of the area.

5. The development is proximate to historic monuments and it has not been established that it would not adversely impact on these Recorded Monuments which would be contrary to archaeological heritage policies in the GCDP 2015-2021.
6. Satisfactory evidence has not been submitted relative to minimum sight distances being achieved in both directions at the access to the local road. If permitted the development would endanger public safety by reason of traffic hazard or obstruction of road users.

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

#### **3.2.1. Planner's Report**

This has regard to the locational context of the site, planning history and policy and to submissions made. They noted the Landscape Sensitivity Class 3 and proximity to Recorded Monuments and the Galway Bay Complex SAC. They had concerns that in view of the lack of information submitted significant effects could not be ruled out relevant to the Natura 2000 sites. They noted that adequate sightlines are not available on the local road and were concerned that these are not achievable. They also had concerns about the lack of information submitted regarding effluent treatment. They were concerned that the scale and haphazard nature of the proposed retention development outside of an established farmstead on an elevated Class 3 rural landscape would establish as undesirable precedent and be contrary to planning policies and objectives in the GCDP 2015-2021.

### **3.3. Other Technical Reports**

None noted on file.

### 3.4. Prescribed Bodies

#### 3.4.1. An Taisce

They have regard to the planning history of the site and note previous applications were refused for construction of a dwellinghouse and septic tank on this site, and have regard to the reasons for refusal. While they acknowledge that this proposal is not for a dwellinghouse, they note the landscape sensitivity and provide that the Council should have regard to the surrounding landscape and ensure that any development on the site can be successfully assimilated. They also provide that due to the proximity to Natura 2000 sites, screening for AA should be carried out.

### 3.5. Third Party Observations

An Observation has been received from a number of local residents. Their concerns include the following:

- The Planning Authority cannot accept an application for retention permission which would have required EIA or AA.
- Lack of public consultation.
- This is a very large structure that has been constructed on an elevated site on the border of the Galway Bay Complex.
- The development is of a considerable size and overly obtrusive on an elevated site and is not of the character of an agricultural building.
- The site is within an area proximate to an NHA, SAC, within the GTPS and of a High Landscape Sensitivity (Class 3 refers).
- The application makes no provision for the safe disposal of effluent from the building which is proximate to an SAC.
- Significantly smaller developments have been refused on this site. (07/3863 refers).
- It would be contrary to a consistent and fair application of the planning laws and the application of the County Development Plan if the unauthorised development were allowed to remain.

- They are concerned that the nature and size of the building may lend itself to a commercial development and it is unclear what is the intended use of the building.

## 4.0 Planning History

4.1.1. The Planner's Report notes the history of applications within 100m of the subject site and this includes the following relevant to the subject site:

- 05/1950 – Permission refused by the Council to Peter Melville to construct a dwellinghouse and septic tank (g.f.s 670sq.m) in the townland of Rinville West. This was refused for reasons of lack of demonstrated housing need, impact on the character of the sensitive landscape, would lead to a visually obtrusive design.
- 07/333 – Permission refused by the Council to Peter Melville to construct a dwellinghouse, garage and septic tank (g.f.s 670sq.m) in the townland of Rinville West. This was refused for reasons of lack of demonstrated housing need, impact on the character of the sensitive landscape, would lead to a visually obtrusive design, prejudicial to public health having regard to disposal of effluent and the absence of a potable water supply.

Copies of these decisions are included in the History Section of this Report.

## 5.0 Policy Context

### 5.1. Galway County Development Plan 2015-2021

This is the pertinent Plan and relevant policies and objectives include the following:

Strategic Aim 10 – Heritage - *Enhance and protect the built heritage and natural environment, including buildings, archaeology, landscape and biodiversity, within the County.*

Chapter 9 – Section 9.6 refers to Archaeological Heritage. Section 9.7 provides the policies Objective ARC 1 – Protection of Archaeological Sites : *Protect archaeological sites and monuments their settings and visual amenity and*

*archaeological objects and underwater archaeological sites that are listed in the Record of Monuments and Places, in the ownership/guardianship of the State, or that are subject of Preservation Orders or have been registered in the Register of Historic Monuments and seek to protect important archaeological landscapes.*

Objective ARC 2 – refers to Archaeology and Development Management.

Objective ARC 7 –has regard to the necessity of sensitive design and siting in the immediate vicinity of a Recorded Monument.

Section 9.9 seeks to protect Natural Heritage and Biodiversity and provides the relevant policies and objectives. Policies NHB 1 and 4 relate. Policy NHB4 seeks to protect Water Resources. Objectives NHB 1 - 3 also relate.

Section 9.11 relates to Landscape Conservation and Management Policies and Policy LCM 1 refers to Preservation of Landscape Character. Objective LCM 1 refers to Landscape Sensitivity Classification and LCM 2 to Landscape Sensitivity Ratings.

Chapter 11 includes regard to Agricultural Policies – Section 11.5 refers. Policy AFF3 seeks to: *Facilitate the sustainable development of the countryside.*

Objective AFF1 – Sustainable Agriculture: *The Council shall support the sustainable development of agriculture, with an emphasis on a high quality, traceable primary production methods, the promotion of local food supply and agriculture diversification.*

Objective AFF 2 – supports Rural Diversification for those who wish to work in agriculture and who wish to remain on their landholding. This includes special farming practices.

Objective AFF 5 – Compliance with the EU Habitats Directive: *New agricultural projects that may potentially affect Natura 2000 Sites, individually or in combination with other plans and projects shall be subject to Appropriate Assessment to ensure that there are no likely significant effects on the integrity of any Natura 2000 Sites in the County.*

DM Standard 12 relates to support for facilitating sustainable Rural Enterprise.

DM Standard 20 relates to: Sight Distances Required for Access onto National, Regional & Local Roads

DM Standard 33 provides standards for: Agricultural Buildings i.e: In dealing with planning applications for such buildings the Planning Authority will have regard to:

*a) Design and Layout*

*The quality of design and layout of the farm complex. Where possible new buildings, shall be located within or adjoining the existing farmyard complex. Buildings shall be of minimum scale and use of muted coloured materials shall be encouraged.*

*b) Residential Amenity*

*The proximity of any existing dwelling house.*

*c) Public Road Access*

*The safe access to public roads.*

*d) Rural Landscape*

*The assimilation of the buildings into the rural landscape by means of appropriate siting, external colouring, screening and shelter belting.*

DM Standard 34: Agricultural Effluent

*The European Union (Good Agricultural Practice for Protection of Waters) Regulations 2014 set out the requirements for storage of farm effluents and the minimum holding periods for storage of farm wastes.*

*All soiled liquid waste shall be collected before being further treated or spread on land in suitable weather conditions.*

*The following will be a requirement of planning permission:*

- Design calculations;*
- Design calculations supporting the selection of a particular volume of storage and details of the spread area.*

DM Standard 39 refers to Compliance with Landscape Sensitivity Designations.

DM Standard 40 includes reference to Appropriate Assessment.

DM Standard 41 seeks to retain wherever feasible Field Patterns, Stone Walls. Trees and Hedgerows.

DM Standard 45 refers to Archaeological Conservation and Preservation.



## 5.2. Natural Heritage Designations

The site is proximate to the Galway Bay Complex SAC.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. Stephen Dowds Associates has submitted a First Party Appeal on behalf of the Applicants regarding the Council's refusal of the subject development. This includes the following relevant to the reasons for refusal:

- The site is significantly set back from this minor, quiet county road which is a cul-de-sac.
- It comprises an agricultural property with the building located centrally onsite.
- Extensive landscaping has been carried out on the site and the trees are beginning to mature.
- The site is not elevated and is well set back from the road and screened by landscaping.
- Regard is had to the Planning History and note is had of the previous refusals for a one off house on this site. Note is also had relative to adjacent sites.
- They submit that this is a relatively minor agricultural development and well secluded from the road.
- They note that the roadway was built separately well before the shed and contend that this constitutes exempted development.

#### Visual Impact

- The building is very modest by the standards of modern agricultural buildings and is little different from structures that are exempted development and do not require planning permission.
- They have regard to DM Standard 33 and note there is no farmyard on the holding.

- The set back from the road combined with the generous landscaping now established on site and its dark colouring provides that the building has minimal visual impact.
- The building is well separated from adjacent housing.
- It would be bad planning practice to place severe restrictions on agricultural buildings and farming in the rural area and would be contrary to the provisions of the GCDP 2015-2021.
- The building is not visible from the sea unlike the Marine Institute building (Reg.Ref.02/932) permitted by the Council on a headland jutting far out into the bay.
- Regard is had to two other recent previous grants of permission for agricultural structures in rural County Galway. These are also located in sensitive landscapes, more proximate to housing and one is also for a slatted shed. The issue of precedent is discussed.

#### Impact of Driveway

- The driveway and entrance were constructed long before the building and constitute exempt development under the provisions of the Planning and Development Regulations 2001(as amended), 2<sup>nd</sup> Schedule, Part 1, Class 13.
- Previous Council refusals relate to the length of the access roadway rather than a qualitative assessment of actual visual impact.
- The shortening of access roads will result in buildings being sited closer to the road, thereby increasing visual impact.
- The driveway is aligned in a winding manner that avoids a long obtrusive straight. The finish, context and landscaping make it less visible from the road.

#### Effluent Storage and Disposal

- They have included drawings showing the proposal for a manure pit and effluent tank. Part of the building is for storage and the other part is for horses. (Appendix D provides a letter from the applicants detailing the proposed use).

- It is intended that the effluent generated by the development would be disposed of by spreading on the lands (Appendix E provides a Report from Tarpey & Associates).
- There are no other buildings on the landholding, so the issue regarding adjacent to an established farmstead does not arise.

#### Appropriate Assessment

- They attach a copy of an AA Screening Report which concludes that a full AA is not required.
- They note that the Report has not been referred to the DAU and suggest the Board may wish to refer to them for comments on this issue.

#### Archaeological Impacts

- They note that no objections were raised by the Department's Development Applications Unit (DAU) concerning archaeological issues. A referrals sheet is attached in Appendix F.
- They contend that there are no grounds for archaeological concern and provide details relative to this issue.

#### Access

- The entrance is an existing entrance and sightlines are shown on the application drawings at a distance of 70m.
- This is a very minor road with a width of about 3m with very little traffic and is a dead end road.
- They note permission has been granted for houses on adjoining sites where sight distances did not seem to be a problem.

#### Conclusion

- Regard is had to all the issues discussed and they contend that the Council's reasons for refusal have been addressed and that this is a very modest agricultural development in a rural and agricultural area and that retention permission should be granted.

The following Documents have been submitted on behalf of the First Party with this appeal:

- Appendix A – Copy of Council's Reasons for Refusal on the subject site (16/1481).
- Appendices B & C – Copy of Planning Permissions 16/333 and 16/1260 (relevant to agricultural developments permitted on other sites).
- Appendix D - A Letter from Jessop Hill Ltd regarding the proposed use of the shed.
- Appendix E - Nutrient Management Plan by Tarpey & Associates Agricultural Consultants.
- Appendix F – Referrals Sheet.
- An Appropriate Assessment Screening Report by Flynn, Furney Environmental Consultants.

## **6.2. Planning Authority Response**

- 6.2.1. There has been no response from Galway County Council to the grounds of appeal.

## **6.3. Consultations**

- 6.3.1. Subsequent to the submission of the First Party grounds of appeal, An Bord Pleánála subsequently consulted the following Prescribed Bodies: The Heritage Council, An Taisce, Development Applications Unit Department of Arts, Heritage, Regional, Rural & Gaeltacht Affairs, Fáilte Ireland, An Chomhairle Ealaíon. To date there has been no response from these bodies.

## **7.0 Assessment**

### **7.1. Principle of Development and Planning Policy**

- 7.1.1. The issue for consideration in a retention application is whether the development would be sustainable and permission would have been granted in the first instance in accordance with planning policies and taking into account the character and

amenities of the area, if the unauthorised development had not taken place. While the applicant seeks regularisation for retention and completion of the development, it is also necessary, to envisage the site without this unauthorised agricultural structure. While planning policy is generally supportive of agricultural development, regard is also had to the small size of the landholding, the fact that the agricultural shed for retention is a stand-alone and is not part of an established wider farm complex and to the planning history of the site.

- 7.1.2. The First Party submit that the proposed retention development is for a modest agricultural development for use as stables and agricultural storage. They consider that the siting is relatively secluded i.e not on an elevated part of the site and well set back from dwellings etc and located in an agricultural and rural area. They contend that the access and driveway are existing and that the proposal will not impact on the environment or on the amenities of the area. It is noted that significant details have been submitted in the context of the First Party appeal in response to the Council's 6no. reasons for refusal. Regard is had to this additional information including the AA Screening Report in this Assessment below.

## **7.2. Design and Layout**

- 7.2.1. The proposed retention development consists of the retention and completion of a partly constructed agricultural storage structure, which is centrally located on the site proximate to the south eastern site boundary. As shown on the plans submitted it is to consist of two parts i.e the stables area with a floor area of 193.7sq.m and an agricultural storage/haybarn with a floor area of 155.46sq.m. with an overall floor area of overall structure is 349.71sq.m. It is noted that the area adjacent to the storage area is to include the Manure pit and Effluent Tank. As shown on the plans this area appears uncovered but surrounded by a reinforced concrete wall c.3m in height. The shed as currently constructed while roofed is not as yet internally subdivided and is used for storage of a horsebox and some agriculturally related equipment. It is currently open on some of the sides and the roller doors have not been inserted. It is provided that the building is of a typical modern agricultural construction with concrete finish solid walls below and sheet cladding above. The ridge height is 5.13m.

- 7.2.2. It is submitted that the building is relatively modest i.e. just above the size of exempted development for such agricultural buildings i.e 300sq.m as per the Planning and Development Regulations 2001 (as amended) 2<sup>nd</sup> Schedule, Part 3 (*Exempted Development – Rural*). However, it is acknowledged that the building for retention does not constitute exempted development.
- 7.2.3. The building is of dark materials to minimise its visual impact in the landscape. Associated site works include a concrete apron around the building and a concrete surfacing on adjacent grounds. It is provided that the works will include storm water and drainage works. It is noted that the area adjacent to the shed is currently surfaced with hardcore materials and that a berm has been provided to the northwest of the site to provide screening.

### 7.3. **Regard to Proposed Usage**

- 7.3.1. The First Party note that the building is outside an established farmstead. They have regard to DM Standard 33 (Agricultural Buildings) of the GCDP 2017-2021 which includes: *Where possible new buildings, shall be located within or adjoining the existing farmyard complex.* They note that this is impossible in this case as there is no farmyard on the holding. They also are concerned that placing severe restrictions on farming would be contrary to the provisions of the GCDP 2015-2021 which seeks to develop the agricultural industry in the county. In this respect reference is had to Strategic Aim 4 (Balanced Urban and Rural Areas – which includes supporting the rural area in sustaining the rural based economy) and Objectives DS1 (this provides the development strategy for the County) and CS 7 (Core Strategy and the Countryside/Rural Areas). Regard is also had to Objective AFF2 – Rural Diversification where the Council supports: *those who live and work in agricultural and/or related activities in rural areas and who wish to remain on their landholding.* This includes regard to Specialist farming practices such as specialised animal breeding, equine facilities etc.
- 7.3.2. The Plans submitted show the building subdivided into two separate sections i.e agricultural storage shed/stables. The latter includes a manure pit and effluent tank. It is provided that part of the building for storage will not give rise to any effluent and will be used for the storage of hay and agricultural equipment. The part containing the stables will accommodate up to 9 horses in total. A letter from Jessop Hall Ltd. is

included in Appendix D with the First Party Appeal explaining their plans for the proposed use of the shed. This includes that the main aim of the building will be for the housing, breeding and the production of the native horse breeds as well as the Traditional Irish Sport horse (ISH TIH) and details are noted of this including the need to preserve a part of this Irish Heritage. It is provided that the horses will be kept in one of 9 internal stables and will be turned out into paddocks daily and brought in at night.

- 7.3.3. While the agricultural usage is noted, it is noted that this is a stand-alone activity. It is not part of an established farm complex. DM Standard 33 of the CDP has been noted above, as has Objective AFF2. As provided it is not possible in this case to locate the building within a farm complex and it is also noted that no details have been provided of farming operations relative to the subject site in the vicinity. This may be relevant in relation to the application particularly regarding the operation of the stables and security of the horses. It is noted in the History Section above that permission for a house has been refused on this site in the past. It is noted that as per the CDP the site is located Rural Housing Zone1: Rural Area Under Strong Urban Pressure-GTPS (Map RHO1 refers). While the agricultural usage of the site has been explained by the First Party it is at issue as to whether the applicant has established sufficient need for the subject activity on this small landholding.

#### **7.4. Disposal of Effluent**

- 7.4.1. In this respect it is noted that the Planning Authority had concerns that in the absence of satisfactory specific details relating to the function of the proposed development seeking retention and to the satisfactory collection storage and disposal of effluent waste generated by this development, which is outside an established farm holding, that the retention development would be prejudicial to public health and pose an unacceptable risk to surface waters.
- 7.4.2. The First Party Appeal provides that straw will be used for bedding and it is noted that this decomposes quicker than shavings or wood pellets. It is provided that soiled straw will be removed daily from each stable and emptied into the dung heap which will be located (on concrete with correct drainage) behind the shed. The soiled manure contained in the dung heap will de-compose over time and will be spread on the land yearly – usually in spring. Also they contend that this type of organic manure

is a valuable source of nitrogen, phosphorous and potassium and can effectively replace the use of artificial fertilisers on land. The area of the holding is 4.639ha. It is provided that this is enough to take the waste from 8 horses. Proposals for the disposal of effluent are included in the Report of Tarpey & Associates (Appendix E relates). This includes details regarding a Farm Nutrient Management Plan, Proposed Farm Buildings including Manure Pit and a Spreading Map.

- 7.4.3. Regard is had to protection of Water Resources Policy NHB4 of the GCDP 2015-2021 refers. As per DM Standard 34 of this Plan, which refers to Agricultural Effluent the disposal of such should comply with the criteria of The European Union (Good Agricultural Practice for Protection of Waters) Regulations 2014 set out the requirements for storage of farm effluents and the minimum holding periods for storage of farm wastes. It is recommended that if the Board decide to permit, that such appropriate conditions be included.

## 7.5. Access issues

- 7.5.1. The site is served by an existing splayed access off a minor local road. The First Party notes that the roadway to the site was built separately and well before the shed. They note that the length of the driveway has been the subject of many refusals of permission from the Council and consider that this relates more to an assessment of length rather than a qualitative assessment of actual visual impact. In this regard it is noted that the Site Layout Plan relative to the history file Reg.Ref.05/1950 (which was subsequently refused) then showed the access and circuitous route to the proposed house. It is also noted that having regard to the OSI.ie aerial photography for 2000 and 2005, this access or internal access road does not appear to have been established.
- 7.5.2. The First Party contend that the road is exempt development under the provisions of the Planning and Development Regulations 2001 (as amended), 2<sup>nd</sup> Schedule, Part 1, Class 13 i.e: *The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving.* The exemption provides: *The width of any such private footpath or paving shall not exceed 3 metres.* Therefore, it is questionable whether such an exemption would apply to the agricultural access road which is set back c.192m from the public roadway.



- 7.5.3. However, regard is also had to article 9 of the Planning and Development Regulations 2001 (as amended) which provides *Restrictions on Exemption*. This includes where a development would: (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width, (iii) endanger public safety by reason of traffic hazard or obstruction of road users. In this case during the site visit, I took some measurements on site and noted there is a wide splayed access to the site c.7.8m in width, the minor public road adjacent to the site is c.5m in width. The Council's concerns regarding inadequate sightlines are also noted. Therefore, it is not considered that either the access or access route through the site would constitute exempted development.
- 7.5.4. It is noted that the Site Layout Plan submitted shows 70m sightlines on either side of the entrance and this is reiterated in the First Party Appeal. However, on site it was noted that sightlines are restricted by the stone wall along the site frontage and also by the bend to the north west. It is also of note that there is another splayed entrance to a large and well set back shed on the opposite side of the road. Therefore, there is some additional traffic in the immediate vicinity. Also the junction of the minor road is with the county road in Rinville East which is a relatively busy road.

## 7.6. **Archaeological issues**

- 7.6.1. One of the Council's reasons for refusal is concerned about impact on archaeology. It is noted that there are a number of ringforts in the vicinity of the site. This refers in particular to GA095-131 (Ringfort), which stands registered in the Register of Historic Monuments under Section 12 of the National Monuments (Amendment) Act, 1994. The CDP includes a number of policies and objectives relative to the preservation of archaeology. This includes Objective ARC 7 – Recorded Monuments which seeks to: *Ensure that any development in the immediate vicinity of a Recorded Monument is sensitively designed and sited and does not detract from the monument or its visual amenity*. Concern relative to siting and regarding compliance with this Objective is referred to in the Council's reason for refusal.
- 7.6.2. Regard is had to the archaeological mapping and it appears that there are no recorded monuments on the subject site. The Ringfort referred to appears to be outside of and to the south of the site. The First Party contend that there are no

grounds for archaeological concern. They note that GA095-131 (Ringfort) is at a distance of about 100m from the structure. There are no extant features visible above the ground. They provide that it would be regular archaeological practice to have a setback of 20-30m from a site of this type. However, it is noted that an Archaeological Assessment has not been submitted with this application. In this respect Policy ARC 3 seeks to: *Consult with the National Monuments Service of the Department of Arts, Heritage and the Gaeltacht in relation to proposed developments adjoining archaeological sites.* In view of the proximity of the site to a Recorded Monument and the Council's concerns a Section 131 request was sent by ABP to the Department of Arts, Heritage, Regional, Rural & Gaeltacht Affairs. To date no response has been received. However, regard is had to the OSI.ie 6' historic mapping, which shows a number of ringfort type monuments close to the site. In the absence of an Archaeological Assessment, I would consider that it cannot be ruled out that the retention proposal does not impact on the proximate Recorded Monuments. Objectives ARC 2 and ARC 7 refer.

## **7.7. Impact on the Character and Amenities of the Area**

- 7.7.1. The Council's reason no.1 for refusal is concerned about the visual impact of the retention development. The area is within a Class 3 Landscape as designated in the CDP. Section 9.10.2.3 refers to Landscape Sensitivity and Class 3 is noted as 'High Sensitivity' (Maps LCM1 & LCM2 refer). Objective LCM 2 includes: *In areas of high landscape sensitivity, the design and the choice of location of proposed development in the landscape will also be critical considerations.*
- 7.7.2. It is noted that the site is within an undulating agricultural landscape of medium sized fields and pasture. It comprises a single field area. Galway Bay lies about 1km to the west. While there are concerns that the site is elevated, it is clear from the site visit that the building is not located on the more elevated part of the site. The FFL is shown as 15.80 (OD i.e above sea level). It is moderately above the level of the minor road which access is taken but well set back (c.192m) from the road and the site is partially landscaped, which provides some screening. It is provided that the subject building is constructed of dark colour materials and is almost entirely screened from view from the road by hedges, trees and the existing houses. In this respect it is contended that the building is not very visible from the surrounding

roads. Also that the access route follows the contours, has a rough finish without tar macadam or concrete and therefore blends into the landscape.

- 7.7.3. While glimpses of the shed can be had from the local roads and a view towards Galway Bay can be had from the higher parts of the site, it is not considered that the siting is unduly obtrusive. It is close to the south eastern boundary which is not as elevated and regard is had to the landscaping that has been carried out and the set back from the road so that the building is not overly dominant in the landscape. However, the issue is whether in view of the history of the site, and the highly sensitive landscape classification, that such an unauthorised building would have got planning permission on this site, if first principles were applied and the landscaping which provides some screening had not been carried out.

## 7.8. **Regard to Precedent Cases**

- 7.8.1. The First Party refers to two recent previous grants of permission for agricultural structures in rural County Galway. These are Reg.Ref.16/333, in this case permission was granted subject to conditions by the Council to construct (1) a new slatted agricultural shed (2) surface water storage tank (3) concrete yard as well as all associated site works (g.f.s of proposed works: 344sq.m and a height of 7.1m) in the townland of Doohulla, Co. Galway. It is noted that this site is located about 40m from the nearest house and is in a Class 4 (more sensitive) landscape near Ballyconneely in Connemara (Appendix B refers).
- 7.8.2. The second case referred to is Reg. Ref.16/1210, where the Council granted permission for the construction of an agricultural shed to include crush, handling area with underground storage tank and permission for the construction of a new agricultural access road and new agricultural access onto existing road and all associated site works (g.f.s of proposed works 168.32sq.m) in the townland of Gortavaura, Kilskeagh, Athenry Co. Galway. It is noted that this was within approx. 85m of a dwelling and that the building was c.5.2m high. The Site Layout Map shows that the proposed access road was c.168m in length.
- 7.8.3. The First Party provides that these permissions are for buildings which are closer to adjoining houses. In the first case the building is within a more sensitive landscape. In both cases they are for taller structures, considerably so in the first case which is

also a slatted shed and is therefore more problematic in its impact on houses than the current proposal which is for horses.

- 7.8.4. While regard is had to these cases, it remains that this proposal is for a retention development in a different location and that the issues arising must be considered. Therefore, each case must be considered on its merits, including having regard to the impact on the environment and on the amenities of the area.

## 7.9. **Appropriate Assessment issues**

- 7.9.1. One of the reasons for refusal concerned that the Council are not satisfied that based on the information available the that development would not have a significant negative on the integrity and conservation objectives of the Galway Bay Complex SAC. Also that this may contravene materially the CDP Natural Heritage and Biodiversity Policy NHB 1 relative to the integrity of European sites, and Objectives NHB 1 (Protected Habitats and Species) and NHB 2 (Biodiversity and Ecological Networks) and NHB 3 (Water Resources) and DM Standard 40 (Appropriate Assessment). Copies of these are included in the Appendix to this Report.
- 7.9.2. The First Party Appeal includes an Appropriate Assessment Screening Report by Flynn and Furney Environmental Consultants. The report includes a general ecological assessment of the site and the surrounding area, including designated sites. Regard is had to the Relevant Legislation and Overall Screening Methodology. A desktop study and field surveys were carried out as part of the screening process. Regard was had to the Designated Sites within 15kms of the site – Table 2 of the Report refers. It is noted that there are a number of Natura sites within this radius, the closest site is the Galway Bay Complex SAC, which is within 150m of the site. Inner Galway Bay and Creganna Marsh (both SPA's) are within c.0.5km and 1km of the site respectively. These sites were identified in the initial screening process for further screening. The Screening Report provides that no potential pathways for impacts on the other Natura 2000 sites listed within the 15km radius were identified.
- 7.9.3. Galway Bay Complex SAC (site code:000268) is a large site with a great diversity of habitats. The NPWS describes it as being of immense conservation value. These include shallow bays and reefs. Within the site is breeding Common Seal colony and otters – an Annex 11 (Habitats Directive) species. The SAC is also an important

ornithological site. Details of Annex 1 and 11 species are given in Tables 3 and 4 of the Screening Report.

- 7.9.4. Regard is also had to Inner Galway Bay SPA (004031) which is one of the most important ornithological sites of the western region. The site has several important populations of breeding birds, most notably the Sandwich Tern and the Common Tern - Table 5 provides a list of Annex 1 species of the SPA.
- 7.9.5. The Creganna Marsh SPA (004142) is of special conservation interest for the following species: Greenland White-fronted Goose. This site is regularly utilised by a nationally important flock of these birds, a species listed on Annex 1 of the E.U Birds Directive.
- 7.9.6. A detailed description is given of the habitat areas on the application site and Table 7 refers. These are also summarised graphically in Appendix A of the Screening Report. It is noted that the area under study is comprised almost entirely of improved grassland and has been modified by fertilising and grazing. The site is surrounded by other agricultural lands with the exception of houses and gardens toward the south-east of the site. It is bound to the east by the local road. It is provided that none of the habitats occurring within the site are of high sensitivity, all having been modified from their natural state by agricultural activities. There are no Annex 1 species within the area proposed for works. No rare, threatened or protected plant species were found to be growing on the site.
- 7.9.7. No evidence of presence or activity of any protected mammal species was noted within the site. A dedicated bat survey was not carried out, but no suitable bat roosting habitat was found within the site. A dedicated bird survey was not carried out as part of the ecological surveys due to seasonal constraint. The site under study is not known to contain any 'red-listed' or birds of higher conservation concern.
- 7.9.8. The nearby Galway Bay (SPA) and its many habitat types offer many habitats for wintering wildfowl, including some internationally important wildfowl. It is provided that some feeding habitat for these species would occur within the site under study. Curlew and heron were noted within the vicinity of the site.
- 7.9.9. There are no watercourses within the site proposed for works. Freshwater habitat within the area under survey was limited to the constructed pond to the east of the site. Although the pond offers potentially suitable habitat for both frogs and newts,

these were not observed during the survey. No species listed on Annex 11 of the Habitats Directive were found occurring on the site. No evidence of any protected mammal species was found during the survey.

- 7.9.10. Part 3 of the Report provides an Article 6(3) Screening Assessment which focuses on the potential for the proposed works to impact upon the Natura 2000 sites. It is provided that none of the individual elements of the proposed development as planned is likely to give rise to significant Natura 2000 sites, given the very limited scale of the works and the nature and location of the works as planned. Table 7 provides that there are no works proposed within any Natura 2000 site and there will be no land take for the purposes of the project within any of the designated sites. The site is within 150m (at its closest point) from Galway Bay Complex SAC. No water will be abstracted from the site during the construction and operation of the site. Therefore, there will be no impact on the Natura site as a result of resource requirements. No emissions are predicted and no excavations will take place within the SAC. It is expected that the works would be completed within 3 to 6 months and works shall be timed to minimise disturbance to native species. While regard is had to individual treatment systems for dwellings, these are of small scale and it is provided not in the immediate vicinity and that they may be excluded from screening as not being significant. No cumulative or in-combination impacts are therefore predicted.
- 7.9.11. All works will take place outside the boundaries of the Natura 2000 sites and there will be no loss of habitat within these sites as a result of the proposed works. None of the qualifying interests of the Natura 2000 sites was recorded during the survey, or loss upon habitats of such. No significant impacts on key species or habitats have therefore been considered likely as a result of the development.
- 7.9.12. It is provided that the risk of any significant impacts on water quality within these sites during the construction phase can be excluded due to the nature of the works and the absence of any hydrological connectivity. Also that there will be no impacts on any habitat areas outside the site. Table 10 provides that there will be no impacts on water quality. Best practice construction methods will be put in place prior to and for the duration of the works. These will ensure adherence to good site practices.

7.9.13. The Report finds that based on a consideration of the likely impacts arising from the proposed works and a review of their significance in terms of conservation interests and objectives of the Natura 2000 Sites screened, no significant impacts have been identified on the Natura 2000 sites as a result of the proposed development. It is provided that the project is not directly connected with or necessary to the management of the Natura 2000 sites and no cumulative or in-combination impacts are predicted. Therefore, it is concluded that no impacts are likely as a result of the proposed works on the conservation objectives or overall integrity of any Natura 2000 sites.

7.9.14. Having regard to the information submitted it is not considered that the proposed/retention development would significantly impact on the Natura 2000 sites subject to compliance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2014 as noted in the Disposal of Effluent and Drainage section above. Therefore, having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the distance to the nearest Natura 2000 sites, 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. Having regard to the submissions made, the documentation submitted and having viewed the application onsite, I would recommend that permission be refused for the reasons and considerations below.

## **9.0 Reasons and Considerations**

1. Having regard to the locational context and planning history of the subject site, it is not considered that sufficient justification has been given relative to the need for the proposed retention development which comprises a large shed to be used for agricultural storage and stables, as a stand-alone building/facility on a relatively small landholding, separate from any larger farm complex or operations in a rural area of High Landscape Sensitivity (Class 3) Landscape Conservation and Management Policies LCM1 - Objectives LCM1 and LCM 2

refer. As such it's retention would set an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the planning history of the site and to the OSI mapping (2005), it appears that the building proposed for retention is accessed via an unauthorised access from the public road and that the c.192m circuitous access route to the shed is also unauthorised. Also the applicant has not submitted satisfactory evidence that the minimum sight distances for a local road can be achieved in both directions at the proposed access to the site to ensure that no traffic hazard is created as a result of the development. It is therefore, considered that the retention development, if permitted, would be via an unauthorised access and would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise. As such the proposed development would not be in the interests of the proper planning and sustainable development of the area.
3. In view of the proximity of the Recorded Monuments to the site and in the absence of an Archaeological Assessment having been carried out, it is not considered that there is sufficient information provided to rule out that there would not be an adverse impact on the archaeology of the area. Therefore, it cannot be ascertained that the retention development complies with Objectives ARC 1 and ARC 7 (Protection of Archaeological Sites and Recorded Monuments) of the Galway County Development Plan 2015-2021. As such the proposed development would be contrary to the proper planning and sustainable development of the area.

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Angela Brereton  
Planning Inspector

2<sup>nd</sup> of May 2017