



An  
Bord  
Pleanála

## Inspector's Report ABP-300346-17

### Development

Demolition of agricultural shed with replacement stable block consisting of 3 stables, tack room and store room, construction of stable block consisting of 3 stables, tack room, office and shower room, secondary effluent treatment system and all associated site works.

### Location

Castlewarden, Newcastle, Co. Dublin

### Planning Authority

South Dublin County Council

### Planning Authority Reg. Ref.

SD17A/0328

### Applicant(s)

Thomas Corcoran

### Type of Application

Permission

### Planning Authority Decision

Refuse

### Type of Appeal

First Party

### Appellant(s)

Thomas Corcoran

### Observer(s)

Sharon and Gary McNamara  
Martin Brennan

**Date of Site Inspection**

14<sup>th</sup> February 2018

**Inspector**

Ciara Kellett

## 1.0 Site Location and Description

- 1.1. The site is located in Castlewarden, Newcastle, Co. Dublin. It is c.4km west of Rathcoole and c.3.5km south-west of Newcastle. It is c.1km north of the N7 road and just north of the Castlewarden Golf Club.
- 1.2. The site is located in a rural area of Co. Dublin on the border between Dublin and Kildare. It is accessed off the Castlewarden Road which leads to junction 5 of the N7. The laneway serving the site also serves two dwellings.
- 1.3. The site itself is an irregularly shaped field stated as being 9.2Ha surrounded by hedgerows with hedgerows running within the field in an east-west direction. A barn is located within the field to the south and adjacent to two dwellings in separate ownership. A wayleave to the east of the barn provides access to one of the dwellings. The laneway serving the site and the two dwellings is very narrow with insufficient room for two cars to pass and in very poor condition. There are no formal areas where vehicular traffic may pull aside to allow another vehicle pass. The laneway is noted as being a private road bounded by hedgerows on the eastern side and a low stone wall on the west.

## 2.0 Proposed Development

- 2.1. It is proposed to demolish the existing barn of 167sq.m. It is proposed to construct two L-shaped stable blocks each stated as being 90sq.m in area. One of the stables is to be positioned to the north of the barn and the other is located due east of the barn along the southern boundary of the site.
- 2.2. Each of the stables contains three stalls and tack room. Each of the stables has a store room and one has a shower room and office. The stables are 5.685m high and a length of 18m.
- 2.3. Associated effluent holding tanks and dungsteads adjacent to the stables are proposed, as well as a new septic tank and percolation area. A new well is proposed to serve water needs.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to refuse permission for three reasons.

- 1. Having regard to the deficient width, significant length, lack of passing areas and level of traffic use of the access lane, in addition to the lack of demonstration of ability to achieve the required sightlines when exiting onto the Castlewarden Road, the proposed development would endanger public safety by reason of a traffic hazard due to the generation of additional traffic and increase in reversing movements onto the busy, narrow Castlewarden Road. The construction of a stable outside the field entrance, requiring horses to cross the path of the route to the dwelling to the north introduces unnecessary traffic conflicts.*
- 2. The development of a stable with the associated effluent holding tank and dungstead in close proximity to existing dwelling houses and gardens would be detrimental to the residential amenity of those dwellings, due to the impact of noise and odours.*
- 3. The application did not demonstrate adequate provision for: landscaping, screening (including boundary treatments) and access arrangements, surface drainage, protection of the wider landscape in line with the Landscape Character Assessment which informs the Development Plan, water protection (including protection of nearby wells).*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planner's Report is the basis for the Planning Authority decision. It includes:

- The application site is zoned 'RU – To protect and improve rural amenity and to provide for the development of agriculture'.
- Considers proposed use is acceptable in principle.

- Notes that the construction of roofed structures for the housing of horses is exempted development subject to limitations including size and distance from neighbouring houses. The proposal does not fall into this category.
- States that while the style and character is appropriate in general terms it is considered that their height and scale does not take account of the limited capacity of the Saggart and Athgoe Hills Landscape Area to absorb additional development.
- Notes the proposal would be c.5m from the boundary with the garden to the west. Notes that while the barn is in existence, the proposal to build a stable block this close to the neighbouring dwellings would be likely to give rise to noise nuisance, odours and possible impacts on privacy.
- Notes no information has been provided with respect to hard standing or additional boundary treatment. Therefore impacts on landscape character and drainage cannot be assessed.
- Notes site characterisation assessment has been submitted but no information has been submitted with respect to proximity to neighbouring wells or site boundaries.
- Notes previous residential applications were refused partly due to access way being deficient in width, its significant length, lack of passing areas and level of traffic using the lane, in addition to the lack of ability to achieve sightlines when exiting onto Castlewarden Road.
- The site is not served by an adequate access road. Any intensification would increase traffic and result in increased conflict of traffic using the lane, through the need for increased long distance reversing movements including reversing onto Castlewarden Road.
- The proposal to place one stable outside the field entrance would require horses to cross the lane to the house to the north and would be likely to lead to conflicts. No indication is given of upgrading the boundary treatment or measures to secure the horses. Proposal would present a traffic hazard.
- Recommends refusal of permission.

The decision was in accordance with the Planner's recommendation.

### 3.2.2. Other Technical Reports

- **Roads section:** Recommends refusal
- **Pollution Control:** No report
- **Surface Water Drainage:** Additional information requested.
- **Waste section:** No report
- **EHO:** Proposal not acceptable – seeks Further Information.

### 3.3. Prescribed Bodies

- **Department of Defence:** No report received.
- **Inland Fisheries Ireland:** No report received.

### 3.4. Third Party Observations

Two letters of objection were received from adjoining homeowners. One of the objectors states that they are the owner of the lane which provides access to the site. The issues raised include: Laneway unsuitable for further traffic and no possibility of widening it as it is not in the applicant's control; proximity of stable block to neighbouring houses; use of horse box on lane would create a traffic hazard; reversing movements onto Castlewarden Road a traffic hazard.

## 4.0 Planning History

There have been two planning applications on the subject site.

- **Reg. Ref. SD16A/0460:** Permission refused in February 2017 for the development of a detached single storey bungalow, stable block and all associated works. Refused for 5 reasons including inadequate access, backlands development, impact on landscape, non compliance with RPGs and proposal for development on lands outside applicant's control.
- **Reg. Ref. SD16A/0186:** Permission was refused in July 2016 for the development of a bungalow and stables. It was refused for four reasons including

inadequate access, backlands development, impact on landscape and non-compliance with RPGs.

## 5.0 Policy Context

### 5.1. South Dublin County Development Plan 2016 – 2022.

Chapter 9 refers to Heritage, Conservation & Landscape and Chapter 11 refers to Implementation.

- 5.1.1. Figure 9.1 indicates that the site is located in the Athgoe and Saggart Hills Landscape Character area. **HCL7 Objective 1** states:

*To protect and enhance the landscape character of the County by ensuring that development retains, protects and, where necessary, enhances the appearance and character of the landscape, taking full cognisance of the Landscape Character Assessment of South Dublin County (2015).*

- 5.1.2. The land is located on lands zoned 'RU – To protect and improve rural amenity and to provide for the development of agriculture'.

- 5.1.3. Section 11.3.7 of Chapter 11 states with respect to Agriculture & Rural Enterprise

*Proposals for farm diversification that involves the development of sustainable business initiatives that are subsidiary to, and directly linked to the primary use of a property for agriculture will generally be favourably considered up to a floor area of 200 sq.metres (net). Developments in excess of this threshold will be assessed as independent enterprises.*

*The development of new Rural Enterprises will be encouraged on lands designated with Zoning Objective RU where: The scale and nature of the proposed development and associated buildings are appropriate to the rural setting, and are in areas of low environmental sensitivity; It is demonstrated that the proposed enterprise is required to be located in a rural area; The proposal will not adversely affect the character and appearance of the landscape; The local road network and other essential infrastructure can accommodate any extra demand generated by the proposal; Where possible, the proposal involves the re-use of redundant or underused buildings that are*

*of value to the rural area; and, Where safe access to the public road network can be achieved.*

## 5.2. Natural Heritage Designations

The Glenasmole Valley SAC (Site Code 001209) is located 11.5km to the south-east. Red Bog SAC (Site Code 000397) is located c.10km to the south. The Rye Water Valley/Carton SAC (Site Code 001398) is located 12km to the north.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The first party has appealed the decision of the Planning Authority. In summary, it states:

- The Council has not logically assessed the development and has been predisposed to the planning history and appears to be diverting the responsibility to the Board.
- Barn is 17m from the nearest house and 64m from house to the north. Both houses were built after the barn and are well screened with existing vegetation.
- Queries what Planner meant by 'significant' concerns with surface water drainage. All surface water will be collected from the minimised hard surface and used to water the horses.
- Considers stables are normal sized stables and not substantially sized as described in Planner's Report. To address concerns, height has been reduced to 4.7m to attempt to provide some solutions<sup>1</sup>.
- Considers it is not logical to refuse permission for agricultural development most of which is an improved replacement of an established agricultural development. Council has given considerable weight to the objections which is unfair on the applicant. The existing and established use of the barn

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<sup>1</sup> Drawings submitted with the appeal.



coupled with the significant agricultural holding has to be taken into proper consideration.

- The Council has exaggerated the impact on the landscape and has neglected to recognise the existing agricultural unit on the site.
- The first part of the proposal is the demolition of the barn – logic dictates that the reasons for refusal do not apply to this element.
- The visual impact has been exaggerated. Objective HCL7 does not preclude development, it only precludes development that has a visual impact. Replacement stable has a smaller footprint and a lower ridge height.
- Do not accept that the replacement stable will have an impact on the residential amenities of the neighbour. The adjoining house was built after the barn and the replacement is located further north.
- The second stable is just marginally over the exempted development restrictions. The stable is deliberately located in a low-lying area behind a mature hedgerow.
- Landholding is a working equine development with existing agricultural buildings and horses on site. The applicant uses the existing structure and will continue to use it no matter what the outcome is.
- The laneway is shared with two other residential dwellings and another landowner who operates a farm. It is not logical to refuse permission when the applicant already uses the lane.
- Access has been used with generally few problems. Undefined laybys exist that allow vehicles to pass. The applicant has owned the land since 2015 and has never had to reverse out onto the main road.
- A traffic report previously prepared is attached to the appeal<sup>2</sup>. This report shows there is conflict between the Roads Department and an independent consultant in relation to sightlines and traffic volumes.

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<sup>2</sup> No report is on the file.

- Cannot understand logic of horses crossing the lane – the applicant owns both sides and has always been thus. This road is used by the applicant and the dwelling owners.
- The applicant has never had an issue with entrance onto the main road, driving horse boxes, tractors, jeeps and cars.
- Submit that the new development will not represent an intensity of development. Applicant enjoys 167sq.m of a building and wishes to replace this with 2 no. 90sq.m buildings.
- The applicant has no other alternative to access his land. Council should have made a more favourable decision in relation to the development of agriculture in accordance with the zoning.
- Applicant willing to accept a split decision should the Board agree that the existing unit should be replaced with the development of one standalone block. This may be amenable to all parties.

## 6.2. Planning Authority Response

The Planning Authority responded to the appeal. They confirm their decision and note all issues raised in the appeal have been addressed in the Planner's Report.

## 6.3. Observations

Two observations have been made on the appeal, from the adjoining neighbour and the owner of the land to the east of the lane. In summary, they state:

- Access issues remain with the laneway. As this application involves 6 stables this would involve multiple journeys on the lane which cannot facilitate two way traffic at any point on the lane. The lane is 0.6km in length with only 1 layby which is at the half way point. If another car is met beyond this the oncoming car has no choice but to reverse onto the road. There is no way to add laybys as the farmer has stated that the bank on the left and the old stone wall cannot be interfered with.
- The stable is to be located 25 feet from bedroom windows which would pose a significant noise problem.

- Could not afford more maintenance of road with increased users.
- Horses have been kept since the applicant bought the site without any stables. Query why it is needed now and why it cannot be located further into the substantial landholding away from residential dwellings.

In summary, landowner of land to the east of the lane states:

- Council rightly describe the situation at the junction of the laneway as a traffic hazard.
- It is true that both houses were built after the barn but there is a difference between a dwelling and a barn that was originally used to store a few scaffolding planks, and having horses immediately next door.
- Farm runs almost the entire length of the eastern boundary of the laneway and observer is the registered owner of the laneway. Will take whatever measures necessary to prevent further erosion of the laneway inevitably caused by influx of additional traffic.
- A wide range of vehicles have been introduced by the applicant onto the laneway.
- The upholding of the appeal makes a bad situation worse. It would facilitate indoor wintering of horses which would add more traffic – drawing of fodder and bedding and removal of waste.
- Lane is in poor shape and construction traffic will be catastrophic.
- Observer had to reverse onto Castlewarden road on Planning Officer's first visit to allow him exit the lane.
- No attempt to deny the applicant his right over the laneway but did not expect it to be used by the inappropriate array of vehicles.

## 7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal 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 and Exempted Development
- Residential and Visual Amenities
- Traffic
- Appropriate Assessment

## 7.1. Principle of Development and Exempted Development

7.1.1. The land is zoned 'RU – To protect and improve rural amenity and to provide for the development of agriculture'. The applicant states that he has owned the land since 2015 and has had horses in the field since then. It is clearly in use for agricultural purposes. On the day of my site visit there were 3 horses visible in the fields. The applicant states that this is an established use, and therefore cannot understand why the Planning Authority is refusing permission for the replacement stable block and new stable block.

7.1.2. I agree that the use is an established agricultural use and therefore I consider that the principle of development is acceptable in this case.

7.1.3. The applicant states that the second stable block is marginally over the quantitative restrictions on exempted development. I have had regard to the Exempt Development Provisions of the Planning and Development Regulations, 2001 as amended. Class 6 of Part 3 of the Regulations provides that works consisting of the provision of a roofed structure for the housing of (inter alia) horses having a gross floor area not exceeding 200sq.m (whether or not by extension of an existing structure) and any ancillary provision for effluent storage, is exempt subject to a number of conditions and limitations. Those conditions and limitations include '*No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house ....*

Therefore, in the first instance the size of the proposed development is below the threshold for exempted development being 2 no. 90sq.m stables (on the basis that the barn is demolished). However, when assessed with respect to the conditions and limitations, the replacement stable is not exempt because it is less than the mandatory 100m from the nearest dwellings. The replacement stable is c.20m from

the rear wall of the nearest dwelling and 4.7m from the boundary. It is c.60m from the dwelling to the north and therefore exemptions do not apply.

The second or 'new' stable block is c.115m from the side wall of the nearest dwelling and c.105m from the boundary which complies with the distance requirement of Class 6.

It could be argued that the applicant does not require planning permission for the stable furthest from the dwellings as a standalone proposal, if he proceeds with the demolition of the existing barn which is 167sq.m (if not demolished the overall area of the new stable block and existing barn would exceed the threshold of 200sq.m).

7.1.4. However, I draw the Board's attention to Article 9 of the Planning and Development Regulations, 2001 as amended. This lists restrictions on exemptions and states that development shall not be exempted if the carrying out of such development would '*endanger public safety by reason of traffic hazard or obstruction of road users*'<sup>3</sup>. I consider that further development or intensification along this lane would endanger public safety by reason of traffic hazard and consider that exemptions do not apply for any development along this lane. I address this further in Section 7.3 below.

7.1.5. Notwithstanding this, I note that the land is in agricultural use and the applicant states that he will continue to use it for such purposes regardless of the outcome of this planning application. I note that the applicant suggested that a split decision may be amenable to all parties. The applicant suggests that the existing barn be replaced with one standalone stable block. I consider that this proposal could be acceptable, provided the stable block to be developed is the one furthest from the dwellings i.e. the 'new' stable block. I would recommend that if the Board consider granting permission, a split decision is not necessary and that instead, a condition should be appended requiring the applicant to omit the construction of the replacement stable block nearest to the residential dwellings.

7.1.6. In conclusion, I am satisfied that the proposal while acceptable in principle, does not comply with the limits and restrictions on exemptions and therefore does require planning permission, which the applicant has rightly applied for. I am satisfied that the stable block proposed furthest from the dwellings is acceptable as a replacement

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<sup>3</sup> Article 9(1)(a)(iii) of the Planning and Development Regulations

structure for the barn, and consider a condition to omit the stable nearest the dwellings is appropriate in this case.

- 7.1.7. For the avoidance of doubt, I am of the opinion that the proposed 'new' stable block furthest from the dwellings is only acceptable as a replacement for the demolished barn. I do not consider it acceptable as an addition to the existing barn, due to traffic safety issues and intensification which I address below.

## **7.2. Residential and Visual Amenities**

- 7.2.1. The observers express concern with the proximity of the replacement stable block to their dwelling. Having regard to the size of the applicant's landholding, I consider that an alternative location would be more appropriate. I note the effluent holding tank and the dungstead of the replacement stable are proposed close to the boundaries of both residential dwellings which could give rise to odour concerns. Furthermore, I agree with the observers that there could be an increase in noise, by virtue of the overwintering of the horses in the stable block, as a result of the increase in traffic to provide fodder etc.
- 7.2.2. The Planning Authority's reason no.2 for refusal stated that the effluent holding tank and dungstead, in close proximity to the residential dwellings, would be detrimental to the amenities of those dwellings.
- 7.2.3. As stated in section 7.1 above, I am recommending that only the new stable block to the east is permitted along with the demolition of the barn. I consider that if the new stable block is constructed in the proposed location as a standalone development, this will ameliorate any odour concerns.
- 7.2.4. I consider that a condition to improve the landscaping along the boundary should be appended which will assist in reducing noise and privacy concerns, should the Board be of a mind to grant permission.
- 7.2.5. The Planning Authority expressed concerns with protection of the wider landscape, having regard to its location in the Saggart and Athgoe Hills Landscape Area. I note that drawings accompanied the appeal which indicated a roof height of 4.7m which I consider to be modest. Furthermore, the location to the east is proposed adjacent to the hedgerow screening. I am satisfied that with the demolition of the existing red

barn and the construction of only one stable block, there will not be a seriously injurious impact on the landscape character area.

- 7.2.6. In conclusion, with the omission of the proposed stable block adjacent to the dwellings and the demolition of the barn, I consider that there will not be a seriously injurious impact on the residential or visual amenities of the area.

### 7.3. **Traffic**

- 7.3.1. The main concern of the observers is with respect to traffic and the likely increase in traffic along the laneway. I visited the site and can confirm to the Board that the laneway is very narrow and in poor condition. There is only one opportunity for vehicles to pass, which is as a result of erosion and not a formal layby. I can also confirm to the Board that the Castlewarden Road itself is very narrow. Furthermore, the sightlines at the junction with Castlewarden Road are inadequate.
- 7.3.2. While I do acknowledge the traffic safety concerns, I have also had regard to the fact that the landholding is in active agricultural use.
- 7.3.3. The applicant is attempting to improve his agricultural landholding with the subject proposal. This is fully in accordance with the objective of the rural zoning. Having regard to the size of the proposal, and my recommendation to omit the proposed stable block adjacent to the dwellings, I do not consider that there will be a significant intensity in use of the land. I am therefore satisfied that there will not be a significant increase in traffic, over and above the existing use.
- 7.3.4. The Planning Authority expressed concerns with horses crossing from the field over the wayleave serving the nearby dwelling. I have recommended that the replacement stable block is not permitted and therefore, there will be no need for horses to cross over the wayleave as a regular occurrence.
- 7.3.5. In conclusion, I am satisfied that while the road is in poor condition, the use is an established use, and subject to a condition to omit the stable block closest to the residential dwellings, there will not be a significant intensity of use.

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

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, 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**

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 nature and scale of the proposed development, facilitating improvements to an established agricultural use it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity and 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 as amended by the further plans and particulars received by An Bord Pleanála on the 28<sup>th</sup> day of November 2017, 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 proposed development shall be amended as follows:



(a) The proposed stable block adjacent to the dwellings shall be omitted from the proposed development.

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 residential amenity.

3. The existing barn shall be demolished prior to the construction of the new stable block.

**Reason:** In the interest of clarity and of traffic safety.

4. (a) A scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the north and west boundaries adjacent to the barn to be demolished, consisting predominantly of trees, shrubs and hedging of indigenous species. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the commencement of construction works.

(b) 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 order to screen the development, in the interest of visual amenity.

5. (a) All foul effluent generated by the proposed agricultural development shall be conveyed through properly constructed channels to the proposed storage facilities and no effluent or slurry shall be allowed to discharge to any stream, river or watercourse, or to lands.

(b) The slurry effluent and manure shall be disposed of in such a manner and at such intervals and locations as to ensure that it does not cause pollution of any watercourse or source of water supply and is in

accordance with the requirements of the European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2014, as amended.

**Reason:** In the interest of public health and the preservation of both existing and potential sources of public water supply.

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. 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.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with

the Development Contribution Scheme made under section 48 of the Act  
be applied to the permission.

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Ciara Kellett  
Inspectorate

19<sup>th</sup> February 2018