



An  
Bord  
Pleanála

## Inspector's Report 302491-18

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<b>Development</b>	Retain & compete stables and associated works.
<b>Location</b>	Castlelost West, Rochfortbridge, Co. Westmeath
<b>Planning Authority</b>	Westmeath County Council
<b>Planning Authority Reg. Ref.</b>	186202
<b>Applicant(s)</b>	John & Dorothy Hanlon
<b>Type of Application</b>	Appeal
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Jason & Olive Tanner
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	11 <sup>th</sup> January 2019
<b>Inspector</b>	Karla Mc Bride

## 1.0 Site Location and Description

- 1.1. The site is located in a rural area approximately 2.5km to the SW of Rochfortbridge in County Westmeath and the surrounding low-lying area is predominantly in agricultural use. The site is occupied by a 2-storey detached house and there are several similar detached houses in the vicinity including two houses to the E of the appeal site. There is a single storey cottage and farmyard to the immediate S of the site, and the site is bounded to the N, W and NE by agricultural land.
- 1.2. The “L” shaped site comprises the existing house with a linear paddock to the N which extends along the rear garden boundaries of the neighbouring houses to the E. The W end of the paddock is occupied by a partially constructed stable building. The paddock is connected to the existing rear garden by a gate in the vicinity of the stables and the N site boundary of the paddock with the adjoining agricultural field is undefined. The remaining site boundaries are defined by hedges and fencing.
- 1.3. Photographs and maps in Appendix 1 describe the site and surroundings in detail.

## 2.0 Proposed Development

- 2.1. Permission sought to retain & complete a building that would contain a horse stable, tack room and fodder & bedding store along with a waste disposal area (dungstead).
  - The partially completed c.66sq.m building occupies a c.0.80ha site
  - The building is c.11.5m wide, 5.5m deep and 2.4m to 3.2m high.
  - The dungstead would be c.1.5m x c.2m.
  - All associated site works including boundary fencing.

### Accompanying documents:

- Letter of support from an Occupational Therapist in Saplings School.
- Letter of support from HSE consultant/child adolescent psychiatrist.

(Both letters state that the applicant’s child, who is on the Autism Spectrum, would benefit from interaction with animals).

## 3.0 Planning Authority Decision

### 3.1. Decision

Planning permission was granted subject to 6 standard conditions.

- Condition no. 2 required the door openings to be relocated to the W elevation.
- Condition no. 3 required the dungstead to be relocated to the W of the site.
- Condition no. 5 prohibited the commercial use of the building.
- Condition no. 6 dealt with land spreading of animal manure & waste.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The report of the planning officer recommended a grant of planning permission.

#### 3.2.2. Other Technical Reports

Area Engineer: No objection subject to compliance with conditions.

### 3.3. Prescribed Bodies

Irish Water: No objections subject to compliance with conditions.

### 3.4. Third Party Observations

One objection from the owners of the adjoining house to the E who raised concerns in relation to the position on agricultural lands, proximity to their house and adverse impact on residential amenity (noise, loss of privacy, odours & vermin).

## 4.0 Planning History

Reg. Ref. 99-150: Permission granted for a house, garage & septic tank.

Reg. Ref.04-4043: Permission granted for a single-storey extension.

Enf. Reg. 18039: Enforcement file for unauthorised stable block.

## 5.0 Policy Context

### 5.1. Westmeath County Development Plan 2014 to 2020

**Zoning:** The appeal site is located within an un-zoned rural area.

#### **Policies & objectives:**

##### **Agriculture:**

Sections 3.35-3.39 set out the general agricultural policies & objectives for the area.

P-GA 1: support agricultural development.

P-GA 2: protect the viability of farms & best quality land for agric & related uses.

P-GA 3: encourage the development of environmentally sustainable agric practices.

P-GA 4: ensure that all agricultural activities comply with water quality legislation.

Section 3.37-38 sets out rural enterprise & equine policies & objectives for the area.

P-RE 1: promote the growth of rural enterprises.

P-RE 2: promote the diversification of the rural economy.

P-EQ 2: ensure that equine based developments are located on suitable and viable landholdings and are subject to normal planning, siting and design considerations.

##### **Water protection:**

Section 9.5: deals with ground water quality & groundwater protection.

Sections 9.7/8: deal with waste water management & wastewater treatment.

Sections 9.9/12/13: deal with flood risk & surface water management.

##### **Agricultural buildings:**

Sections 11.25 & 11.26 deal with design and siting of agricultural buildings.

P-AB1 seeks to take account of the following in relation to new agricultural buildings:

- Proximity to adjacent dwellings.
- The rural character of the area.
- Utilisation of natural landscape & land cover as screening.
- Waste management in terms of storage and disposal
- Environmental carrying capacity.

##### **Development Management:**

Section 14.6.1 (ii) requires that buildings should generally be located a minimum of 100m from the nearest dwelling other than the applicant's dwelling.

## **Heritage:**

No natural (NHAs) or manmade features (NM, RM or PS) of interest in the vicinity.

### **5.2. Natural Heritage:**

The following European sites are located within a 15km radius of the site:

- Lough Ennell SAC & SPA c. 10km to NW
- Split Hills & Long Hills Esker SAC c.10km to SW
- Raheenmore Bog SAC c.10k to S

### **5.3. Screening for Environmental Impact Assessment:**

Having regard to the nature and scale of the proposed development and the separation distance to any sensitive location, there is no real likelihood of significant effects on the environment arising from the development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Third Party Appeal**

Jason and Olive Tanner who own the neighbouring house to the E raised the following concerns.

#### **Procedural issues:**

- Inaccurate description & no reference to dungstead in public notices.
- Plans do not include the neighbour's house or distinguish between existing & proposed works; unclear as to which is to be retained and completed; inaccurate site dimensions.
- Permission has not been sought for a large hard standing area associated with the stables, the connecting gate or possible future fencing.

- No details provided in relation to the underground storage tank.
- Application should have been invalidated.

**Principle of development:**

- PA considered the siting & small-scale nature of the development to be appropriate for a rural area even though it is not a rural enterprise, does not promote agricultural or the diversification or the equine industry.
- S.14.6.1(ii) states agricultural buildings should generally be located a minimum of 100m from the nearest dwelling (other than the applicants).
- Submitted plans do not contain any measurements and the structure is located within c.40m of house which materially contravenes the Plan.

**Residential amenity:**

- Adverse on residential amenity (noise, disturbance, visual & odours) due to proximity of stables, paddock & dungstead to rear of dwelling.
- Proximity of dungstead to neighbour which should not be within 100m without the owner's consent (for the exemption) & inadequate drainage details.
- Conditions required the relocation of openings away from the neighbouring house which indicates that there could be an impact on amenity, the relocation of the dungstead and requirements for the disposal of animal waste.

**Waste management:**

- Condition no.6 prevents the spreading of manure within 50m of a well or dwelling, this could not be achieved given the site area size & location of wells
- Condition no.6. required that all effluent be discharged to the proposed underground effluent tank, however the public notices so not refer to any such tank & it is not shown on the plans.
- S. A4 of SI 108 (June 2017) states that sites for dungsteads should be carefully chosen with a view to minimising operational & constructional problems, they should generally be located not less than 50m from any waterbody (new farmyards) and not less than 10m (extensions), and the

minimum distance between a storage facility and a public/private water supply source shall be 60m for new farmyards and not less than 30m for existing farmyards....in vulnerable situations the distance shall be increased to 300m.

- Stable constitutes a new structure which should be subject to the 60m separation requirement which cannot be met due to the proximity to the bored well on the applicant's & appellant's sites & no hydrogeology details provided.
- Original & relocated dungstead cannot achieve the required distances.

**Miscellaneous:**

- Excessive scale & height and visually dominant.
- Query need for such a large structure.
- Not against the principle of the stable for the benefit of their child.
- Stable could be provided to the W of their house as an alternative solution.

**6.2. Applicant Response**

**General:**

- Stable is built up to eaves level and is substantially complete, the external area is c.66sq.m. and the internal area is c.58sq.m., the external dungstead and underground soiled water storage tank are ancillary to the stable.
- Stable is for applicant's son who has autism and attends Saplings Special National School in Mullingar, children with autism benefit from interaction with animals and the child has worked with horses for many years.
- Roofed structures for horses not exceeding 200sq.m. are usually exempted, and the c.66sq.m. will house one horse with negligible impacts on amenity.
- Project complies with Development Plan policies and standards.
- Stable is of a similar scale to the existing garage and c.90sq.m. smaller than the appellant's garage, stable is c.24.4m from the nearest point of the Appellant's boundary and c.46m from the nearest corner of their house.
- Condition no.2 will relocate all the doors & dungstead to the W elevation.

**Procedural:**

- PA considered the application to be in valid, the site notice referred to the retention & completion of works and the waste disposal system, and sufficient details were provided in relation to the works and neighbouring site.
- Works accord with Class 10 which relates to the erection of an unroofed fenced area for the exercising or training of horse or ponies, together with a drainage bed or soft surface material to provide an all-weather surface.
- Gates may be built into the boundary of a house provided they do not exceed 2m in height and do not access a public road.
- Willing to comply with relocation conditions and plant a hedge along the E site boundary of the stable (details attached).

**Principle of development:**

- Stable is c.24.4m from the nearest point of the Appellant's boundary & c.46m from their house, however revisions proposed because a 100m separation is generally required under S.14.6.1 (details attached).

**Residential amenity:**

- Intend to fence off a small paddock area to the rear of their own property so as not to disturb the neighbours.

**Waste management:**

- Willing to comply Condition no.6 which prohibits dung spreading within 50m of wells, houses & public water supplies.
- Acknowledge DAFM requirements and will relocate the dungstead & soiled water tank to the W of site which will provide the required 60m separation distance (details attached).

**Miscellaneous:**

- Stable is for a single horse & associated storage and works are small scale.
- Acknowledge the Appellants concerns, will relocate openings to W elevation and dungstead to the W of site and will provide additional screening to the E.



### 6.3. **Third Party response to First Party submission**

- Site notice does not comply with regulations, no delineation of existing & proposed works, no mention of hardstanding in public notices, no details of underground storage tank and no mention of dungstead in public notices.
- Exemptions cannot be availed of where they form part of an unauthorised development, gate & exercise area should have been included in application.
- Non-compliance with S.14.6.1 has not been addressed, there is no evidence that the Planner considered the 100m set back, and stable is well short of this.
- A paddock of this scale would not normally be permitted to the rear of a residential garden, and concerns related to noise, disturbance & odours which have not been addressed by the PA conditions.
- Inadequate details & maps in relation to dung spreading to the N of site, and the 50m separation cannot be achieved.
- Concerned about the scale of development relative to Appellant's house as it will be a dominant & overbearing structure when viewed from the rear garden.
- Applicant has not addressed many of the specific issues raised in the appeal.

### 6.4. **Planning Authority Response**

No response received.

### 6.5. **Observations and Prescribed Bodies**

No submissions received.

## 7.0 Assessment

The main issues arising in this case related to the following:

- Principle of development
- Visual & residential amenity
- Waste management
- Other issues

### 7.1. Principle of development

The development proposed for retention and completion is located within an un-zoned rural area that is covered by the Westmeath County Development Plan 2014 to 2020. The appeal site comprises the lands on which the existing 2-storey house is located and a linear strip to the rear of this house and the neighbouring houses to the E. This unfenced linear strip originally formed part of a much larger agricultural landholding that is currently used for tillage.

Sections 3.35-3.39 of the Development Plan sets out general agricultural policies and objectives for the rural area. Policies P-GA 1 to 3 specifically seek to support agricultural development, protect the viability of farms and best quality land for agricultural and related uses, and to encourage the development of environmentally sustainable agricultural practices. Sections 3.37-38 deal with rural enterprise and the equine industry. Policies P-RE 1 & 2 seeks to promote the growth of rural enterprises and the diversification of the rural economy whilst Policy P-EQ 2 seeks to ensure that equine based developments are located on suitable and viable landholdings.

The development proposed for retention and completion would comprise a c.66sq.m. and c.3.2m high stable building with ancillary storage for one horse, a paddock and dungstead/soiled water storage tank for the stable waste. It is noted that the development would not be directly related to any existing or proposed agricultural, rural enterprise or equine activities. However, the works would comprise a relatively small-scale stable use that would be appropriately located on agricultural land within a rural area.

The applicants state that the stable and paddock will accommodate one horse that will be used by their child who has been diagnosed with autism. Supporting letters from competent professionals confirm that interaction with animals will benefit the child's emotional and sensory development. The presence of other animals on the appeal site was noted during my site inspection, including a large friendly dog and a substantial rabbit hutch. I am therefore satisfied that the applicants have demonstrated a genuine need for the development within this rural area. However, a condition should be attached which restricts the use of the stables and paddock to one horse only and prohibits its use for commercial purposes.

Having regard to the foregoing, the development proposed for retention and completion would be acceptable in principle.

## **7.2. Visual and residential amenity**

The development proposed for retention and completion is located within a rural area where the predominant land use is agriculture and the surrounding fields are used for a mix of tillage and grazing. The stables, paddock and dungstead would be located to the rear of a row of 3 detached houses and there is a farmyard and cottage located on the opposite side of the road. The three detached houses occupy large sites and the rear garden depths vary between 12m and 30m, and the site boundaries with the adjoining site are mainly defined by fencing and hedges.

The c.25m deep and c.165m long paddock area would extend from W to E along the rear garden boundaries of the three houses. The c.66sq.m. and c.3.2m high stable building would be located directly to the rear of the applicant's house and garden and it would occupy the W section of the paddock. The originally proposed location of the dungstead and storage tank was to the immediate N of the structure, however this element has been relocated to the far W section of the site.

The single storey stable building would be set back c.13m from the rear elevation of the existing house and there would be a c.42m diagonal separation distance between the structure and the rear NW corner of the Appellants house. Section 14.6.1 of the Development Plan states that agricultural buildings and structures should generally be located a minimum of 100m from the nearest dwelling other than

the applicant's house. The development would clearly not comply with the general 100m setback. However, having regard to the small scale and height of the structure, its occupation by a single horse, and its orientation to the NW of the appellant's house, the stable building would not be visually obtrusive and it would not overlook or overshadow the existing and neighbouring houses to any significant extent.

The stable building would contain 3 x door openings in the E facing elevation which would overlook the main part of the paddock and concerns were raised that this could affect the residential amenities of the appellant's neighbouring house. The openings were relocated to the W elevation by way of Condition no.2 of the planning authority's decision to grant permission and this has been reflected in the applicant's response submission (Site layout). This is an acceptable arrangement with respect to the protection of neighbouring amenities and the additional hedge planting proposed under the applicant's response submission would be acceptable in terms of visual and residential amenity.

The stables and paddock would be located on existing agricultural land, the paddock would be located parallel to the rear garden boundaries of the existing and neighbouring houses, and it would be set back c.16m and c.30m from the rear elevations of the neighbouring houses to the E. The paddock would be used by the applicant's child for horse riding practice and the periodic spreading of stable waste from the dungstead and underground soiled water storage tank.

### **7.3. Waste management**

The stable building would accommodate one horse, tack, bedding and fodder and the waste generated would be stored in a dungstead and underground soiled water storage tank which was originally to be located to the immediate N of the structure. This element was relocated to the far W section of the site by way of Condition no.3 of the planning authority's decision to grant permission and this has been reflected in the applicant's response submission (Site layout) which is considered acceptable. The stored waste would be disposed of by land spreading and Condition no. 6 set out the relevant standards in the interest of amenity and environmental protection.

The appellant has raised concerns about the location of the dungstead and soiled water storage tank, including the absence of details in relation to the underground

tank, and the spreading of animal waste on the appeal site lands near their property. They submit that the waste cannot be effectively managed in accordance with Department of Agriculture requirements in relation to the siting of such facilities and the Council's standards for land spreading.

The Appellant states that the development does not comply with the standards contained in SI 108 "Minimum specification for manure pits and dungsteads" which was issued by the Department of Agriculture, Food and the Marine in June 2017, and in particular Section A.4 which deals with the siting of manure pits and dungsteads. In its opening preamble, SI 108 states that "The receiving of this specification does not imply approval of a grant application. However, if written approval is issued, then this specification becomes part of the contract between the applicant and the DAFM." Section A1 of SI 108 states that a "DUNGSTEAD is a structure for the storage of slurry produced from non-bedded cattle houses where provision is made for the liquid portion of the slurry to seep out through perforated walls for collection in a leak-proof storage tank."

It is noted that the applicant has not applied for a DAFM grant, the development does not constitute a granted-aided building and it will not be used for storage of slurry produced from non-bedded cattle houses. I am therefore satisfied that the specifications contained SI 108 of 2017 do not apply in this case as the proposed dungstead and storage tank will accommodate the waste from a small-scale stable that will house a single horse. However, the applicant should be required to provide details of the design and capacity of the underground foul water storage tank to the planning authority for written agreement. This could be addressed by way of a planning condition.

Condition no.6 stated that the spreading of animal manure and soiled water should accord with "Code of Good Agricultural Practice to Protect Waters from Pollution by Nitrates" and that manure should not be spread under certain circumstances including within 50m of a well, dwelling house or domestic water supply. Given that the appellant's house and well are located c.16m and c.35m respectively from the site boundary with the paddock, animal manure and soiled water could not be spread in

the paddock to ensure compliance with Condition no.6 and the protection of amenity and ground water quality.

It is noted that the “Code of Good Agricultural Practice to Protect Waters from Pollution by Nitrates” (1996) and the restrictions set out under Condition no.6 seek to manage animal waste and slurry spreading from agricultural farms which husband cattle and other livestock. Having regard to the small scale of the development which will accommodate a single horse, it is unlikely that the environmental impacts will be significant in comparison. However, the standard Board condition should be attached as this allows for a future agreement to be reached with the planning authority in relation to the management of animal waste. Notwithstanding this, the applicant should be required to provide and maintain a no-spread zone to the immediate N of the appellants site, which could be addressed by way of a planning condition.

#### 7.4. **Other issues**

**Appropriate Assessment:** The site is located a substantial distance from any European Sites. Having regard to the small scale of the proposed works and the absence of a direct connection between the works any designated site, I am satisfied that Screening for Appropriate Assessment is not required.

**Environmental services:** The proposed development would be located within a rural area and the proposed drainage and water supply arrangements are considered acceptable, subject to compliance with council requirements.

**Procedural matters:** The concerns raised by the Appellant in relation to this issue are noted as is the decision by the planning authority to validate the planning application. I am satisfied that there is adequate information in the application and appeal documentation to assess the development proposed for retention and completion, and that the public received sufficient information by way of the public notices to participate in the process. Any outstanding issues related to the rear gate and paddock enclosure, which are normally considered to be exempted development, could be addressed at a later stage by the planning authority, if the need arises.

## 8.0 Recommendation

Arising from my assessment of this appeal case I recommend that planning permission should be granted for the development proposed for retention and completion for the reasons and considerations set down below and subject to the following conditions.

## 9.0 Reasons and Considerations

Having regard to the provisions of the Westmeath County Development Plan 2014 to 2020, and to the nature, and scale of the development proposed for retention and completion, it is considered that subject to compliance with the following conditions, the development proposed for retention and completion would not seriously injure the amenities of the area or of property in the vicinity or give rise to a traffic hazard. The development proposed for retention and completion would, therefore, be in accordance with the proper planning and sustainable development of the area.

### 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 amended plans that were received by the Board on the 4<sup>th</sup> day of September 2018, 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. For the avoidance of doubt:
  - a. The development shall house a single horse, it shall only be used in association with the existing dwelling house, and it shall not be used for any commercial purposes.
  - b. The openings shall be located on the western elevation of the building and no openings shall be permitted on the eastern elevation.
  - c. The dungstead shall be located on the western side of the development.
  - d. Additional native species hedging shall be planted along the site boundary to the east of the stable building.

**Reason:** In the interest of clarity and to protect the residential amenities of neighbouring houses.

3. The external finishes and materials shall be similar to the external finishes and materials on the existing house and garage.

**Reason:** In the interest of visual amenity.

4. All existing trees and hedgerows shall be preserved on the site.

**Reason:** In the interest of visual amenity and biodiversity.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.

**Reason:** In the interest of public health and to ensure a proper standard of development.

6. The developer shall submit details in relation to the design, specifications and capacity of the underground soiled water storage tank and a minimum of 18 weeks storage shall be provided in this tank. Prior to commencement of development, details showing how it is intended to comply with these requirements shall be submitted to and agreed in writing with the planning authority.

**Reason:** In the interest of environmental protection and public health.



7. Animal waste 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 Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2018.

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

8. The area to the immediate north of the neighbouring residential site to the east shall be maintained as a no-spread zone for the entire width of the neighbouring site and the entire depth of the paddock, and it shall be permanently kept free from animal manure from the dungstead and wastewater from the underground storage tank.

**Reason:** In the interest of residential amenity, public health and to prevent pollution of groundwater wells.

9. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

**Reason:** To protect the residential amenities of property in the vicinity.

10. The site works and building works required to complete the development shall only be carried out between 7.00 hours and 18.00 hours, Monday to Friday and between 08.00 hours and 14.00 hours on Saturdays and not at all on Sundays or Bank Holidays.

**Reason:** To safeguard the residential amenities of adjacent dwellings. applied to the permission.

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Karla Mc Bride  
Planning Inspector  
16<sup>th</sup> January 2019