



An
Bord
Pleanála

Inspector's Report ABP-303186-18

Development	Permission for Development at the former Kill Equestrian Centre
Location	Newtown, Kill, Naas County Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	18/1150
Applicant	Newtownsland (Kill) Limited.
Type of Application	Permission.
Planning Authority Decision	Refusal.
Type of Appeal	First Party V. Refusal. Third Party V. Refusal.
Appellants	1. Newtownsland (Kill) Limited. 2. David O'Brien.
Observer	None.
Date of Site Inspection	8 th March 2019.
Inspector	Susan McHugh

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Newtown, c. 600m to the south of Kill, Co. Kildare. It is located c. 700m to the east of Junction 8 on the Nass Dual Carriageway N7, and c. 5km north of Naas town centre. Kill is c. 18km from the M50 and is served by bus no.s 40, 126 and 140 to Dublin City centre.
- 1.2. The appeal site which is serviced adjoins a residential development known as 'The Stables' to the north, agricultural lands are to the east and west and the Hartwell River is located to the south.
- 1.3. Access to the site is via a road off the L6032 which also serves 'The Stables'. The vehicular entrance includes security controlled gates, on which there is a 'To Let' sign. The internal access road slopes down to the Equestrian Centre, and it is finished in gravel and is in poor condition.
- 1.4. Kill International Equestrian Centre (KIEC) is significant in scale and comprises three indoor arenas, a large American barn, a walker and two smaller sheds with an overall area in excess of 10,000sqm. It also comprises an outdoor arena and unmarked gravel car parking area to the east of the Centre.
- 1.5. KIEC was used as the venue for the equestrian element of the Special Olympics held in Ireland in 2003, although the centre is not currently in use. I was accompanied on site by the caretaker, and noted the poor condition of some of the roofing which is in need of repair.
- 1.6. The site which has a stated area of 4ha. forms part of a larger landholding of c. 13.75ha.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition and removal of all existing buildings, detailed in Table 1 below, with a stated floor area of 10,912sqm. which comprises;

Table 1.

Structures to be Demolished	Ground Floor Area sq.m.	First Floor Area sq.m.	Total Floor Area sq.m.
Equestrian Arena 1	4,195.9	794.5	4,990.4
Equestrian Arena 2	1,905.2	247.7	2152.9
Equestrian Arena 3	939.1		939.1
American Barn	1,939.7	91.7	2031.4
Shed 1	332.1		332.1
Shed 2	334.9		334.9
Equestrian Walker	130.9		130.9
Total	9,777.8	1,133.9	10,911.7

- 2.1.1. Permission is also sought for all associated site works including car parking areas and external works above and below ground.
- 2.1.2. The application was accompanied by a Planning Report which summarises the planning and commercial history of the centre.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to **refuse** permission for the following reason.

‘The proposed development is located in an area where the stated zoning objective in the Kildare County Development Plan (Volume 2, Kill Small Town Plan) 2017-2023, is “Equine – To develop Kill Equestrian Centre”. The proposed development to demolish and remove of all existing buildings, including 3 equestrian arenas, 1 American barn, 2 ancillary sheds, equestrian walker (total floor area 10,192sqm), all associated site works including car parking areas, and external works above and below ground without any proposals for the replacement or for the continued use of the subject site as an equestrian centre. Accordingly, it is considered that, the

proposed development would be contrary to the provisions of the Kildare County Development Plan, 2017-2023 and the proper planning and sustainable development of the area.'

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 12/11/2018)

The Planner's Report is the basis for the Planning Authority decision. In summary it states;

- The purpose of the 'Equine' zoning objective is to facilitate the further development of Kill International Equestrian Centre.
- The primary use within this zone is equestrian related activities such as stabling, indoor and outdoor performance arenas, haybarns, veterinary centre and associated offices and car parking. A limited self-catering accommodation associated with the equestrian centre may be acceptable in this land use zoning. Therefore, the proposed development would contravene the zoning objective.
- Serious concerns regarding the demolition of the structures on site and the resultant waste generated in addition to the loss of viable structures.
- The applicant has not sufficiently demonstrated the rationale for the demolition and clearance of the site and has failed to provide sufficient information regarding its viability (business plan or facilities audit) or details of the level of public funding that has been provided to the centre over the years.
- It is considered that every effort should be made to find an alternative use for the site.
- The applicant has failed to demonstrate how the demolition and removal of waste would be carried out and no information has been provided on the potential for reusing material on site.

3.3. Other Technical Reports

Area Engineer: No objection subject to conditions.

Water Services: No objection.

Environment: No objection subject to conditions.

EHO: No objection subject to requirements.

Heritage Officer: No objection.

CFO: No objection subject to requirements.

3.4. **Prescribed Bodies**

Inland Fisheries: No objections.

3.5. **Third Party Observations**

One third party submission was lodged by David O'Brien, the third-party appellant in the current appeal. Issues raised are similar to those raised in the third-party appeal and are summarised in Section 6 below.

4.0 **Planning History**

Parent Permission

P.A. Reg. Ref. 98/365 Permission **granted** 30/10/1998 for (a) construction of 46 stables (b) construction of arena comprising seating, judge box, video room and store (c) construction of pump station and rising main and all ancillary works at Kill International Equestrian Centre. This application related to a larger site with a stated area of 23.33ha. and an overall floor area of 2,865sqm. This development relied on a connection to a public water mains supply and an existing public sewer.

5.0 **Policy and Context**

5.1. **Kildare County Development Plan 2017-2023 - Volume 1**

5.1.1. **Chapter 2** refers to the Core Strategy and Kill which is located in the Hinterland Area is identified in the Settlement Hierarchy as a Small Town. (see attached).

5.1.2. **Chapter 5** refers to Economic Development Enterprise and Tourism.

Section 5.11 states with respect to Equine:

'It is estimated that 5,000 people are directly employed in the equine industry within the county, with a further c. 10,000 people in associated industries and services. There are 104 stud farms in the county. Race courses at Punchestown, Naas and The Curragh, the State owned National Stud Farm, Kill International Equestrian Centre, and Goff's Equine Auction Centre are important economic contributors to the county. There are considerable opportunities to optimise these existing resources in order to increase employment and to further develop equine tourism and promote Kildare as a location for national and international equine events. There is also scope to further diversify the sports related horse industry which, given the proximity to Dublin, could be integrated with show jumping, eventing and general equine related leisure activities.'

ECD 12 Facilitate the development of agriculture, bloodstock, horticultural and rural related enterprises in the county.

Policies: Equine It is the policy of the Council to:

ECD 24 Actively promote and support the equine industry as an economic driver for Kildare.

ECD 25 Support the redevelopment and upgrading of the Curragh, Punchestown and Naas racecourses and their associated facilities.

Section 5.23 refers to Sport and Recreation

ECD 44 Promote the development of international and Olympic class sporting facilities in County Kildare.

5.1.3. **Chapter 10** refers to Rural Development.

Section 10.4.2 states with respect to Equine:

'The equine industry is hugely important to the economy of the county, generating significant foreign direct investment and attracting large numbers of tourists to the county each year. The Irish Field Directory records 104 stud farms in the county. It is estimated that Kildare has the highest concentration of licensed trainers at 13.5% and also has the highest concentration of registered breeders at 13.7% of the island total 2. The industry directly employs approximately 5,000 people in the county, with a further c.10,000 people working in associated industries and services. Three premier race courses are located in the county (i.e. The Curragh, Punchestown and

Naas) together with training and educational facilities for the equine industry. In addition, there has been significant growth in the sport horse industry. At present, in County Kildare there are 14 Association of Irish Riding Establishments (AIRE) approved equestrian centres, some of which are known internationally. An increasing number of establishments in the county are concentrating specifically on breeding, training and competing sport horses. In recognising the importance of the bloodstock industry, both in land-use and in terms of direct and indirect employment generated by it, the Council will continue to support and encourage the development of a vibrant bloodstock industry, which plays a major role in the rural economy.'

Section 10.5.4 refers to policies with respect to the Equine Industry

EQ 1 Encourage the expansion of the bloodstock industry by protecting the environment and amenity value of rural areas from encroachment by urban sprawl and incompatible development.

EQ 2 Support equine related activities e.g. farriers, bloodstock sales, etc. of an appropriate size and at suitable locations.

EQ 3 Ensure that equine based developments are located on suitable and viable landholdings and are subject to normal planning, siting and design considerations.

EQ 5 Recognise and support the development of the Irish sport horse industry in the county, including breeding, competing and training.

EQ 6 Support the relevant equine bodies /organisations in the county in the pursuit of their objective to maintain the position of the equine industry in the world's international markets.

EQ 9 Promote and encourage the development of activities that relate to the equine industry in the county such as riding schools, pony trekking and the development of bridle paths.

Section 10.5.6 refers to Rural Enterprise

RLE 1 Encourage expansion and employment in local enterprises and industries such as agriculture, horticulture, forestry, peatlands, food, crafts, tourism and energy.

RLE 2 Encourage the sustainable and suitable re-use of farm buildings in the county and to ensure that such works, where relevant, have regard to Re-Using Farm Buildings – A Kildare Perspective produced by Kildare County Council in 2006.

5.2. Kildare County Development Plan 2017-2023 - Volume 2

Section 1.5 refers to the Kill Small Town Plan

Table 1.8.1 refers to Small Towns Land Use Zoning Objectives

The zoning objective for the site is '**V – Equestrian** 'To develop Kill Equestrian Centre'. It states that '*The purpose of this zoning is to facilitate the further development of Kill International Equestrian Centre. The primary use within this zone is equestrian related activities such as stabling, indoor and outdoor performance arenas, hay barns, veterinary centre and associated offices and car parking. A limited amount of self-catering accommodation associated with the equestrian centre may be acceptable in this land use zoning.*'

Table 1.8.3 sets out the acceptability of various landuses within this zoning Objective.

5.3. National Policy

- National Development Plan 2018-2027
- National Sports Policy 2018-2027

5.4. Natural Heritage Designations

There are no European sites located in the vicinity.

5.5. EIA Screening

- 5.5.1. Having regard to the nature the proposed development, the nature of the receiving environment, and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed 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 Appeal No. 1

The First Party appeal was submitted by McGill Planning on behalf of Newtownsland (Kill) Limited and their agent DDA Architects. The appeal was accompanied by the following;

- Construction Management Plan
- Revised Site Layout Plan
- Landscape Design Plan
- Financial Report

The grounds of appeal can be summarised as follows:

- Preventing the applicant and landowner from removing the empty, vacant and disintegrating complex of buildings on this site, originally built for a specific but long redundant 'international equestrian centre' use and which has no prospect of reinstatement is both unreasonable and itself contrary to the proper planning and sustainable development of the area.
- The 'Kill International Equestrian Centre' (KIEC) as a business entity no longer exists, and the 'international equestrian centre' use has ceased.
- In 2003 the Equestrian Centre was used as the venue for the Equestrian element of the Special Olympics.
- Subsequently the number and scale of events decreased significantly, the majority of the facility has been inactive for several years with only small-scale horse riding classes being carried out.
- A receiver was appointed in May 2016 and then sold at the end of 2016.
- Unable to attract events as the facility is oversized and because of its location.
- The cost of maintaining the existing and redundant buildings is significant.
- Equine uses such as horse riding classes and horse breeding/training can and will continue on site.

- Revised Site Layout Plan and Landscape Design Plan outline the intended use of the site for horse riding activities with a number of paddocks proposed where the arena buildings are to be removed. The existing external riding arena, car parking and internal road system is to be retained along with two of the existing sheds and pens which will be used to house horses.
- While the 'international equestrian centre' complex of buildings is proposed to be removed, 'equestrian related activities' will be continued on the site in general accordance with the zoning objective.

6.2. Grounds of Appeal No. 2

The Third-Party appeal was submitted by David O'Brien, and can be summarised as follows;

- Welcome the decision to refuse permission, but believes the wording could be interpreted to mean that the P.A. would consider another application to demolish the premises if proposals for the replacement or for the continued use of the subject site as an equestrian centre were provided.
- Contend that the P.A. have not given adequate consideration to its own policies for the development of the equine sector in the Kildare County Development Plan 2017-2023. (Refers to Section 5.11 Equine, Policies ECD 12, ECD 24, Section 5.12 Rural Enterprise, Policies ECD 27, ECD 40, ECD 41, Section 5.23 Sport and Recreation, Policies ECD 42 and ECD 44. Refers to Section 10.4.2 Equine, and relevant Policies EQ 1, 2, 3, 5, 6, and 9.)
- Kill Equestrian Centre (KEC) is an Olympic class arena having hosted the Special Olympics in 2003 and closed in 2017.
- Asserts that the P.A. have not considered the impact of the demolition on the equestrian centre on the area zoned to develop Kill Equestrian Centre.
- The entire area zoned 'V' represents 13.75 hectares and was sold in 2017. The area referenced in the planning application has an area of 4.4 hectares.
- The land on which the KEC stands is in proximity to residential land in the settlement of Kill. It appears from the Property Register Authority/Land Registry that

the property is being sub divided which could facilitate piecemeal planning applications.

- In considering the current application the zoning on the remaining lands would be negated, as there is no longer a relevant equestrian centre. The current zoning relies on the existence of the EC, and if it is demolished the requirement for the remaining lands would clearly be open to rezoning. Likewise, if a future application for a rezoning or alternative use was received in relation to the lands surrounding the equestrian centre in isolation to the equestrian centre, it would limit the potential to maximise the amenity use of the facility.
- The P.A. should have given consideration to the principles established in the *O’Grianna & others v. An Bord Pleanála* with respect to project splitting, and *Arklow Holidays Limited v. An Bord Pleanála* with respect to cumulative impacts.
- Contends that the P.A. has not given due regard to its obligations under the *National Planning Framework (NPF)* and the *National Development Plan (NDP) 2018-2027* with regard to recreational areas and sports facilities.
- *National Sports Policy* - Asserts that the P.A. has not given due consideration to the *National Sports Policy 2018-2027* prepared by the Department of Transport Tourism and Sport. Estimate that the cost of replacing this facility would be in the region of €4.5million. It has received state funding from Failte Ireland and it seems contrary to National Policy that the demolition of this facility should be contemplated without significant interdepartmental consultation and input from the governing body for the sport horse industry, Horse Sport Ireland.
- The P.A. has not considered the shortage of adequate facilities as identified more recently by Horse Sport Ireland, the Government appointed body to develop the sport horse industry. Refers to extracts and objectives from a report *Reaching New Heights* produced for Horse Sport Ireland and consider that the facility at Kill meets many of the objectives contained therein.
- *Economic Viability* - The P.A. has not considered the economic viability of the facility, as it is not within their remit. When the current owners purchased the site in 2017 it was evident that some of the arenas needed to be repaired, but they chose not to refurbish the facilities and have allowed the facility to fall into disrepair. There

is a case to suggest that the P.A. should place the property on the register of derelict sites as part of the refusal.

- There is a moral hazard that by allowing the facility to deteriorate it is worth more if rezoned for residential building.

6.3. Planning Authority Response

The Planning Authority responded to the First Party appeal which can be summarised as follows:

- The description of the proposed development refers to the demolition of all existing buildings.
- In the letter accompanying the planning application it states the 'the proposal to return the land provisionally to vacant/agricultural use is not considered contrary to the current zoning objective.'
- Revised proposal before the Board would appear to be materially different to that submitted to the P.A.
- The P.A. reiterates its decision to refuse permission for the development proposed for the stated reason.

6.4. Further Responses

The First Party appellant responded to the Third-Party appeal which can be summarised as follows;

- The existing horse riding school (which is the only viable activity on the site) is to be maintained within a revised development layout comprising a number of retained sheds, paddocks, outdoor arena and parking area.
- This maintains a commercial equine use on the site and one which complies with the zoning objective and other equine related objectives of the County Development Plan, in particular policies EQ,2, EQ3, EQ5 and EQ9.
- This is a more reasonable and sustainable proposal than the forced retention of empty and redundant former equestrian centre buildings for a use that has ceased.

- Request that the Board dismiss the argument presented in relation to the zoning of the site. The adjoining lands outside of the application site which are also zoned EQ Equestrian are in long term agricultural use. The current use and legal title of these lands is completely irrelevant to the consideration of this application and appeal before the Board.
- The claim that the zoning of the other lands would be '*negated*' is completely incorrect and misleading, as is the claim that the Council should have '*imposed further conditions on any future proposal to develop the site to include the whole areas as zoned*'. There is no provision in Irish planning legislation for same.
- References to planning case law are equally misrepresentative, they refer to the interrelationship between 'projects' and are irrelevant to the appellants arguments regarding the zoning of the adjoining lands, which remains unchanged.
- Notwithstanding the termination of the international Equestrian Centre business it remains the case that equestrian related uses will remain on site, and subject to future planning permission, can be further developed on the adjoining lands currently in agricultural use, in the future.
- Derelict Sites Act – The third party appellant is being pernicious in suggesting that the provisions of the Derelict Sites Act should be considered by the PA.

6.5. Observations

None.

7.0 Assessment

7.1. There are two no. appeals, a First Party and Third-Party appeal, and I consider it appropriate to consider them jointly. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings;

- Compliance with Development Plan Policy

- Other Matters
- Appropriate Assessment

7.2. Compliance with Development Plan Policy

- 7.2.1. The appeal site is located in an area where the stated zoning objective in the Kildare County Development Plan (Volume 2, Kill Small Town Plan) 2017-2023, is “Equine – To develop Kill Equestrian Centre”. Under this zoning objective it is further stated that ‘The purpose of this zoning is to facilitate the further development of Kill International Equestrian Centre.’
- 7.2.2. The applicant has provided a justification for the proposed demolition of the equestrian centre. They cite the former use in 2003 as the equestrian element of the Special Olympics held in Ireland in 2003. The applicant states in their application that the number and scale of such events decreased in the intervening years due to lack of demand. It is stated that the vast majority of the facility has not been in active use for several years, and up until recently only small-scale horse riding classes were being carried out.
- 7.2.3. The planning authority refused planning permission for the demolition of the existing buildings on site. It was considered in the absence of proposals for the replacement or for the continued use of the subject site the proposed development would be contrary to the provisions of the Kildare County Development Plan.
- 7.2.4. The third party has serious concerns in relation to the loss of the facility and to the future use of the site.
- 7.2.5. The first party has submitted revised proposals on appeal which involves the retention of two smaller ancillary sheds (total area 667sqm) and the creation of outdoor arenas and paddocks thus ensuring that the equine use would continue on site. Details are illustrated on a revised site layout plan and landscape design plan. The Financial Report submitted sets out the accounts for the property prior to July 2017 and the current maintenance costs of the facility.
- 7.2.6. In respect to the revised proposals submitted on appeal by the applicant I tend to concur with the planning authority that they present a materially different proposal to that lodged. If the Board were minded to grant permission for the development as

indicated on the revised plans, the applicant may need to submit revised public notices as the application as lodged referred to the demolition of all existing buildings.

- 7.2.7. The overall scale of the facility which is privately owned, is significant with stated floor area of 10,192sqm. I can confirm from my site visit that the centre is not currently in use and would appear given the condition of the internal access road, buildings and overall site, not to have been in active use for some time. That said I can confirm that the site is not listed on the vacant site register updated 1st January 2019. I also note the location of the site on the southern edge of the development boundary of Kill and very limited public transport options available to serve the site.
- 7.2.8. I have considered the principle of the proposed development. I do not consider that the proposed development is incompatible with the overall policies and objectives for this zone. I see no undesirable effects, but rather an opportunity to remove vacant structures which are in need of significant repair, which would pave the way for a more sustainable future use of the site. I have considered the merits of the revised proposals, to retain elements of the existing development, and on balance I am satisfied with this proposal, as it also clarifies the nature of the use which is in accordance with the zoning.
- 7.2.9. In this regard, while the planning authority and the third party have concerns in relation to the future use, concerns in relation to future rezoning of the site are noted but this is not a matter for the Board to adjudicate on. I am satisfied that the zoning objective which remains unchanged is the overriding consideration in the assessment of any future application for development of the site.
- 7.2.10. In conclusion, I am satisfied that the proposed development does not militate against the future use of the site as equine, and therefore, is not contrary to the equine zoning objective for the site, or policies and objectives for the Equine industry in the Kildare County Development Plan 2017-2023.

7.3. Other Matters

- 7.3.1. *Demolition Waste Disposal* - The applicant submitted a Construction Management Plan for the removal of the units as part of the appeal which it is stated was erroneously excluded from the application as lodged. This is considered acceptable, and can be dealt with by way of condition.
- 7.3.2. *Landscaping Plan* – The applicant submitted a revised landscaping plan as part of the appeal, this is also considered acceptable, and can be dealt with by way of condition.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the development proposed for retention, 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

- 8.1. I recommend that permission is granted subject to the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the location of the site on equine zoned lands and to the policies and objectives for the Equine industry in the Kildare County Development Plan 2017-2023, it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and by the further plans and particulars received by An Bord Pleanála on the 10th December 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. Permission is granted for the demolition of all existing buildings as indicated on revised plans submitted 10th December 2018 with the exception of sheds 1 and 2 which shall be retained.

Reason: In the interest of clarity.

3. The landscaping scheme shown on drg no. 00 as submitted to An Bord Pleanála on 10th December 2018 shall be carried out within 6 months of the date of commencement of development within the first planting season following substantial completion of external construction works.

Reason: In the interest of residential and visual amenity.

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

Reason: In the interest of public health.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise

management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

Susan McHugh
Planning Inspectorate

15th March 2019