



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306090-19

<b>Development</b>	Proposed two storey stable block . Permission is also sought to retain existing storage shed and existing driveway.
<b>Location</b>	Blackwood Equestrian Centre, , Derrymahon, , Timahoe East, Coill Dubh, , Co.Kildare, W91 T2T3.
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	191031
<b>Applicant</b>	Blackwood Equestrian Centre
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party v Refusal
<b>Appellant</b>	Blackwood Equestrian Centre
<b>Date of Site Inspection</b>	17 <sup>th</sup> , June 2020 & 3 <sup>rd</sup> , July 2020
<b>Inspector</b>	Paddy Keogh

## 1.0 Site Location and Description

- 1.1. The site of the proposed development which has a stated area of 5.76 hectares is located in the townland of Derrymahon (east of Timahoe and north of Allenwood). The topography of the site and surrounding lands is relatively flat. The north-eastern boundary of the site is defined by the edge of a forest. The southern boundary of the site is bounded by the local road (linking Timahoe with Carbury) from which the site is accessed. Other boundaries of the site are defined by mature hedgerows separating the site from the adjoining lands. The site comprises a number of fields principally used for keeping and grazing of horses. There is a small shed located towards the northern end of the site beside which a paddock has been created. The northern end of the site also contains a concreted area. This is the base of an agricultural building/horse arena which was previously substantially erected (without the benefit of planning permission) before construction stalled and the structure was removed (following enforcement action by the planning authority). The site is served by a splayed and gated vehicular entrance from the public road. A loose surfaced internal roadway (driveway) through the site connects the site entrance with the shed and paddock at the northern end of the site. The field boundaries to the internal roadway are defined by wooden fencing. The driveway and fencing appear to be of relatively recent construction.
- 1.2. There is a dwelling on the adjoining site to the west and a dwelling on the adjoining site to the east. There is a light scattering of rural dwellings in the general vicinity of the site.

## 2.0 Proposed Development

- 2.1. The proposed development involves:
- Construction of a 2 storey stable block with a total floor area of 494.6 sq. m.) containing 6 no. horse stables; 7 no. pony stables; a wheelchair accessible toilet; and 2 no. stairwells all at ground floor level together with tack room; kitchen/dining/lounge area for refreshment purposes (for staff and patrons of the centre only), male and female changing rooms; toilets and an office all at first floor level.

- A horse walker (305.8 sq. m.)
- A horse lunge (305.8 sq. m.)
- A dung heap/effluent tank (18.5 sq. m.)
- Demolition and removal off site (to an authorised waste facility) of existing concrete slab
- Installation of an exercise area (1732 sq.m.)
- 6 no. floodlights
- Fencing.
- Installation of a septic tank and percolation area
- 8 no. car parking spaces,
- Gravel pathway to forest
- Signage at existing gate.
- RETENTION of existing storage shed (24 sq. m.) and existing driveway.

[8 no. car parking spaces stated on public notices, 16 no. car parking spaces shown on the submitted drawings].

2.1.1. The submitted documentation includes a copy of a report prepared by Vincent Farry & Co. Ltd. and lodged with the application to the planning authority. This report includes commentary on:

- Suitability of the proposed development to the area.
- Economic Activity in the countryside.
- Details of existing land use on the application site and surrounding area.
- Outline of the importance of equine activity in Co. Kildare.
- Analysis of issues relating to economic viability & relevance as a planning consideration.
- Details of precedent Board decision (Appeal No. 09.239443).

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Notification of a decision to refuse planning permission for the proposed development was issued by the planning authority per Order dated 7<sup>th</sup>, November 2019. The single reason for refusal was as follows:

*The site of the proposed development is located in a rural area where it is the policy of the Planning Department to encourage development which is sustainable in economic, social and environmental terms and which supports the rural economy and rural communities, Having regard to the inadequate documentation submitted demonstrating a viable enterprise for the landholding, it is considered that the development would be contrary to the policies of sustainable rural development as set out in the Kildare County Development Plan 2017-2023, in particular Policy EQ3 which seeks to ensure equine based developments are located on suitable and viable landholdings, and as such would be contrary to the proper planning and sustainable development of the area.*

### 3.2. Planning Authority Reports

- 3.2.1. Planning Reports

- 3.2.2. A report from the planning authority Senior Planner dated 6<sup>th</sup>, November 2019 includes:

- Recital of planning history of refusal of planning permission by the planning authority on the site (see Section 4 below).
- A copy of a Planning Analysis Report prepared by Vincent Farry & Co. Ltd that accompanied the application lodged with the planning authority. This report argues that it is not appropriate to assess the viability of a proposed development for the purposes of planning assessment. This report cites Appeal No. 09.239443 (Planning Authority Reg. Ref. 11/12) as a precedent where the Board in granting planning permission overturned a decision by the planning authority to refuse planning permission for a development consisting of a

dormer dwelling and three no. stable blocks (the Planning Inspector concluded that in refusing planning permission based on based on viability the planning authority had provided no logical basis other than the size of the landholding)

- The planners report highlights that in granting planning permission under Appeal No. 239443 the Board took into consideration the circumstances of the applicant (permanently employed in the Curragh Camp) and the availability of the existing gallops and other facilities within the equine industry based at this location together with letter of support for the proposed development from farriers, veterinary surgeons, neighbouring horse breeders and horse trainers etc.
- There are also Board precedents (09.232326 & 09.241375) where the Board refused planning permission for a proposed stable block, tack room, storage room and dungsted in Ballymore Eustace where the Board cited concerns in relation to the viability of the proposed development in their reason for refusal. The Board also expressed concerns in relation to nature of the proposed development in the absence of a residential component (considered that this type of operation requires on site supervision).
- Contents of the report from the Environmental Section of the planning authority requiring further information in respect of the capacity of the proposed effluent tank noted.
- It is considered that the applicant has not provided any additional information in the current application to justify overturning the previous refusal of planning permission.

### 3.2.3. Other Technical Reports

3.2.4. **Water Services Department** – Report dated 24<sup>th</sup>, September 2019 indicates no objection to the proposed development subject to conditions.

3.2.5. **Environment Section** – Report dated 9<sup>th</sup>, October 2019 recommends that further information be sought from the applicant, as follows:

*The Teagasc Report on the sizing of the dungsted and effluent tank is noted. The calculation of the volume of the effluent tank should be clarified. In particular the seepage calculation appears to use a storage period of 1 week rather than the required 16 weeks.*

*Please show on a Site Layout Plan (1:500 scale) the effluent tank(s) and dungsted sized and located in accordance with the specifications outlined in their report.*

*It should be stated whether the dungsted is to be roofed or not.*

3.2.6. **Transportation Department** – Report dated 18<sup>th</sup>, October 2019 indicates no objection to the proposed development subject to conditions.

### 3.3. **Prescribed Bodies**

3.3.1. **Irish Water** – Report dated 26<sup>th</sup>, September 2019 indicates no objection to the proposed development subject to standard conditions.

## 4.0 **Planning History**

### ***Appeal Site:***

**Reg. Ref. 18/933** – Planning permission for a development consisting of:

- Construction of a 2 storey stable block with a total floor area of 494.6 sq. m.) containing 6 no. horse stables; 7 no. pony stables; a wheelchair accessible toilet; and 2 no. stairwells all at ground floor level together with tack room; kitchen/dining/lounge area, male and female changing rooms; toilets and an office all at first floor level.
- A horse walker (305.8 sq. m.)
- A horse lunge (305.8 sq. m.)
- A dung heap/effluent tank (18.5 sq. m.)
- Demolition and removal off site (to an authorised waste facility) of existing concrete slab
- Installation of an exercise area (1732 sq.m.)
- 6 no. floodlights
- Fencing.
- Installation of a septic tank and percolation area

- 16 no. car parking spaces,
- Gravel pathway to forest
- Signage at existing gate.
- RETENTION of existing storage shed (24 sq. m.) and existing driveway.

was refused by the planning authority per Order dated 10<sup>th</sup>, April 2019. The single reason for refusal was as follows:

*Table 10.3 of the Kildare County Development Plan 2017 – 2023 sets out the criteria for assessment of one-off enterprises in rural areas. Having regard to the inconsistent, vague and very limited information supplied within the planning application, particularly in relation to the Business Plan which does not include precise information including turnover in order to assess the viability of the proposed development in the short, medium and long term, it is considered the Applicant has not sufficiently demonstrated by way of appropriate documentation that the proposed development complied with the criteria set out in Table 10.3. The proposed development would therefore conflict with the provisions of Section 10.4.10 and Table 10. 3 of the Kildare County Development Plan 2007-2023 and would set an undesirable precedent for similar ad hoc development in the rural area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

[The current application/appeal is essentially a repeat of this application]

**Reg. Ref. 18/584** – Planning application lodged with the planning authority for a development at Blackwood Equestrian Centre of a similar nature to that proposed under Reg. Ref. 18/933. The application was INVALIDATED by the planning authority.

**Reg. Ref. 18/651** - Planning application lodged with the planning authority for a development at Blackwood Equestrian Centre of a similar nature to that proposed under Reg. Ref. 18/933. The application was INVALIDATED by the planning authority.

**Reg. Ref 11/829** – Planning application lodged by Hazelbrook Equestrian Centre to construct an Equestrian Centre and training school (indoor horse arena,

second floor viewing area, 10 stables, tack room etc.). Application subsequently WITHDRAWN.

**UD5695** – Enforcement action (issuing of a Warning Letter dated May 2010) taken by the planning authority (issued to a different landowner to the current application) in relation to alleged unauthorised development concerning the development of an Equestrian Centre, placing of a mobile home etc. The planning authority file on this matter was subsequently closed after the alleged unauthorised development ceased.

***Other Relevant Sites (cited in appeal submissions):***

**Appeal No. 09.239443 (Reg. Ref. 11/12)** – Planning permission refused by the planning authority but granted by the Board per Order dated June 2012 for a development consisting of a dormer dwelling, three no. stable blocks, sand arena, covered walker, dungstead, on-site effluent treatment system and percolation area at Ballysax, The Curragh, Co. Kildare.

**Appeal No. 09.232326 (Reg. Ref. 08/1763)** – The Board upheld the decision of the planning authority to refuse planning permission for a development consisting of the construction of a stable block consisting of four number stables, two number foaling stables, once number tack room and one number storage room, dungstead and all associated site works, at Coughlanstown West, Ballymore Eustace, County Kildare. The single reason for refusal stated by the Board per order dated June 2009 was as follows:

*The site of the proposed development is located in a rural area where it is the policy of the planning authority to encourage development which is sustainable in economic, social and environmental terms and which supports the rural economy and rural communities. This policy is considered reasonable. Having regard to the limited size of the agricultural holding and to the nature and scale of the proposed development, it is considered that the proposal would be contrary to the policies on sustainable rural development set out in the current development plan and would, therefore, be contrary to the proper planning and sustainable development of the area.*

**Appeal No. 09.241375 (Reg. Ref. 12/118)** – The Board upheld a decision by the planning authority to refuse planning permission for a development consisting of the construction of a stable block (four stables), two foaling stables, tack room and office, dungstead, entrance and access road and all associated site works at Coughlanstown



West, Ballymore Eustace, County Kildare. The single reason for refusal stated by the Board per Order dated April 2013 was as follows:

*The site of the proposed development is located in a rural area where it is the policy of the planning authority to encourage development which is sustainable in economic, social and environmental terms, and which supports the rural economy and rural communities as outlined in policy EQ3 of the current development plan for the area "To ensure that equine based developments are located on suitable and viable landholding". This policy is considered reasonable. Having regard to the limited size of the agricultural holding, to the nature and scale of the proposed development, and notwithstanding the proposal to lease additional lands nearby, it is considered that the proposed development would be contrary to the policies on sustainable rural development set out in the development plan and would, therefore, be contrary to the proper planning and sustainable development of the area.*

[Appeal Nos. 09.232326 & 09.241375 related to the same site in Ballymore Eustace]

## 5.0 Policy Context

### 5.1. Kildare County Development Plan 2017 – 2023 ('the Development Plan')

#### 5.1.1. Policies in support of the equine industry contained in the Development Plan include:

- **Policy EQ 2** – Support equine related activities e.g. farriers, bloodstock sales etc. of an appropriate site an suitable locations.
- **Policy EQ 3** – Ensure that equine based developments are located on suitable and viable landholdings and are subject to normal planning, siting and design considerations.
- **Policy EQ 5** – Recognise and support the development of the Irish sport horse industry in the county, including breeding, competing and training.
- **Policy 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.

#### 5.1.2. Chapter 10 of the Development Plan is entitled 'Rural Development'. Paragraph 10.4.10 states:

'One-off enterprises in the rural area maybe located in the open countryside only where the Council is satisfied that the enterprise is suitable for that

location in the first place and that it will comply with the criteria outlined in Table 10.3'

5.1.3. Table 10.3 of the Development Plan states:

Proposals for the development of one-off new small-scale enterprises in rural areas outside of designated employment centres will be assessed against the following criteria:

- *As a general guide, development proposals shall be limited to small-scale business development with a floor area at circa 200 sq. m. and shall be appropriate in scale to its' location;*
- *The development will enhance the strength of the local rural economy;*
- *The proposed development shall be located on the site of a redundant farm building/yard or similar agricultural brownfield site;*
- *There is a social and economic benefit to being located in a rural area;*
- *The proposal will not adversely affect the character and appearance of the landscape;*
- *The development will not be detrimental to the amenity of nearby properties, and in particular the amenities of nearby residents;*
- *The existing or planned local road network and other essential infrastructure can accommodate extra demand generated by the proposal;*
- *The proposal should be accompanied by a mobility plan catering for employees' home to work transportation;*
- *Adequate proposals to cater for any waste arising at the facility;*
- *All advertising should be kept to a minimum and be suitable in design and scale to serve the business;*
- *Proper planning and sustainable development;*
- *The proposals should conform to other objectives of the County Development Plan.*

5.1.4. Section 10.5.2 of the Development Plan sets out policies in relation to agriculture including:

- **Policy AG 5** - Support local employment and training opportunities, particularly where existing farm income is in decline and requires alternative skills and enterprises.

## 5.2. Natural Heritage Designations

- The Long Derries Special Area of Conservation (SAC) (Site Code 00925) is located c. 8 km to the south west of the appeal site.
- Ballynafagh Lake SAC (Site Code 01387) is located c. 4.2 km south-east of the appeal site.
- Ballynafagh Bog SAC (Site Code 000391) is located c. 5.5 km to the south-east of the appeal site.
- Moulds Bog SAC (Site Code 02331) is located c. 13 km south of the site.
- Carbury Bog National Heritage Area (NHA) (Site Code 001388) is located c. 6.6 km north-west of the appeal site.
- Hodgestown Bog NHA (Site Code 001391) is located c. 4.2 km south-east of the appeal site.

## 5.3. EIA Screening

- 5.3.1. Under the Planning and Development Regulations 2001 (as amended), current government and EU guidance, the Planning Authority must screen the proposed development for Environmental Impact Assessment (EIA) and decide if the planning application for the proposed development does or does not require the preparation of an Environmental Impact Assessment Report (EIAR).
- 5.3.2. The current requirements for EIA are outlined in Part X of the Planning and Development Act, 2000, as amended and Part 10 of the Planning and Development Regulation 2001, as amended. The prescribed classes of development and thresholds that trigger a mandatory EIS are set out in Schedule 5 of the Planning and Development Regulations 2001, as amended.
- 5.3.3. The proposed development does not fall into a class of development contained in Schedule 5, Parts 1 or 2 and therefore the requirements for an EIA can be screened out.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

#### 6.1.1. The submitted grounds of appeal include:

- The site is in a rural area and is currently being used to graze horses.
- The site previously contained stables and a small sand arena and was used as a facility for the training of horses.
- A large shed was previously erected on the site but subsequently taken down.
- The site was purchased by the applicant c. 2 to 4 years ago.
- The applicant and his three daughters have experience of working with horses at different locations. They now wish to establish an equestrian centre on the appeal site. The family have been involved with horses from an early age. This is a bona fide application to fulfil the family's long-time dream to establish a business relating to horses.
- The proposed development consists of the initial phase of the proposed phased development (in accordance with a Business Plan that has been prepared for the overall development). The development will not progress from one phase of the development to the next phase of the Business Plan without the benefit of planning and financial commitment. A financial consultant has advised that the proposed equestrian centre could provide 2 family members with full-time employment.
- The site which is c. 5.76 hectares in area forms part of a larger c. 11.27 hectare site. The site has existing access from the public road and adjoins a forest which will be highly suitable for trekking.
- There were no objections to the proposed development from the planning authority based on Engineering, Design, Health & Safety, Amenity, Visual, Ecological or Heritage grounds.
- Development Plan policies do not indicate what is considered to be a suitable site size to facilitate a viable site for horse training.

- Chapter 10 of the current Kildare County Council Development Plan states that the plan aims to support and sustain the livelihood of rural communities and promote the development of a wider rural economy.
- Section 19.4.2 of the County Development Plan states that it is very important for the economy of the county to generate significant direct investment and to attract a large number of tourists. This would involve supporting the development of a vibrant blood stock industry which plays a major role in the rural economy.
- Policy EQ3 of the County Development Plan sets out a number of objectives including a commitment to the operation of small scale full-time business from a persons home.
- The planning authority are in breach of their own policies as set out in the County Development Plan in refusing planning permission for the proposed development
- The Board have previously overturned a decision of the planning authority to refuse planning permission for development for reasons relating to viability of the proposed enterprise (Appeal No. 09.239443).
- No third party objections to the proposed development have been lodged.
- During pre-planning discussions held with the planning authority the Area Planner talked about the need for a suitable and viable landholding. However, no details were provided in relation to what counts as a suitable and viable landholding.

6.1.2. The grounds of appeal are accompanied by a copy of a Business Plan for the proposed enterprise at Blackwood Equestrian Centre. This includes:

- Details of the proposed development – offering livery, stabling, horse care and riding/training facilities.
- The 2 existing stables (sheds) on site will be retained and used for feed and bedding storage; the proposed barn with internal stables (6 horse and 7 pony) will be constructed on the existing (10m. X 22m.) concrete foundation. The proposed barn will include tack room, offices, lounge area etc.

- A second barn with stables for a further 18 horses and 7 ponies will be constructed within 2 years of the opening of the initial facility (Phase 2). Thus, the facility will ultimately have a 38 stable capacity. (No drawings or further details have been provided in relation to these Phase 2 structures).
- A sand and fibre, covered indoor arena (measuring 60 m. X 40 m. [also stated to be 60 M. X 30m.]) will be added within the first two years of operation (Phase 2). No drawings or other details in respect of this arena have been provided.
- It is proposed that a 10m X 60 m. two storey structure (with will also be provided beside the proposed arena area). This area will incorporate a reception area with bathroom and cafe/lounge on ground floor and a viewing gallery at first floor level. (No drawings or further details in relation to this facility have been provided).
- Details of proposed hours of operation (to include bank holidays) provided.
- Brief details in relation to the proposed management of horse waste.
- Details in relation to the facilities offered at competing equine yards in the region. Statement in relation to the high standard (five star) of facilities and management to be provided in the proposed development.
- Brief details in relation to events planned to be catered for at the centre (Pony Club events and rallies, Annual Mounted Games Association of Ireland winter league competitions and other (unspecified) competitions.
- The potential for generation of 'spin-off' revenues from the proposed (Phase 2) café and from the proposed tack shop.
- Details of intended marketing and marketing media for the proposed enterprise.
- Job specifications for staff proposed to be employed in the enterprise.
- A short 'Business Risk' Assessment.
- An estimate of costs and turnover (revenue) for the first 5 years of operation with turnover marginally exceeding costs in Year 3.

## 6.2. Planning Authority Response

6.2.1. A submission from the planning authority per letter dated 6<sup>th</sup>, December 2019, in response to the submitted grounds of appeal, includes:

- The planning authority considers that the applicant has not demonstrated a viable enterprise for the landholding.
- The planning authority considers that supervision and monitoring is essential for such an enterprise. In the absence of this, the planning authority considers that the development would represent an unsustainable form of development.
- The planning authority notes that the Board did consider viability and site monitoring in previous decisions 09.232326 & 09.241375.
- The planning authority remains of the opinion that the proposed development would be contrary to the policies on sustainable rural development as set out in the Kildare County Development Plan 2017-2023, in particular Policy EQ3 which seeks to ensure that equine based developments are located on suitable and viable landholdings and thus would be contrary to the proper planning and sustainable development of the area.

## 7.0 Assessment

7.1.1. This appeal relates to a planning application which was refused planning permission by the planning authority for a single reason. The application appears to be for the same development previously refused planning permission by the planning authority (for a similar single reason) under Reg. Ref. 18/933. The latter decision was not appealed by the applicant. It would appear that the current application was lodged in order that the planning authority decision be appealed.

7.1.2. 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:

- (1) Effluent Disposal
- (2) Viability
- (3) Other Matters
- (4) Appropriate Assessment Screening

(1) Effluent Disposal

- 7.1.3. A report from the planning authority Environment Section dated 9<sup>th</sup>, October 2019 notes the content of the Teagasc Report on the sizing of the dungstead and the effluent tank. The report states that the calculation of the volume of the effluent tank should be clarified. It is requested that the applicant provide a site layout plan detailing the effluent tank(s) and dungstead sized and located in accordance with the specifications outlined in the Teagasc Report.
- 7.1.4. The submitted grounds of appeal do not address this matter. However, having regard to the relatively large size of the appellants landholding, I am satisfied that the site is capable of accommodating a dungstead and effluent tank designed and sized in accordance with recognised minimum standards. Furthermore, I am satisfied that, in the event that the Board were minded to grant planning permission for the proposed development, these requirements can be met by way of the attachment of an appropriately worded condition to a grant of planning permission. Accordingly, I consider that a refusal of planning permission for reasons relating to the submission of inadequate information in respect of this matter would be unwarranted.
- 7.1.5. The submitted planning application includes a proposal for the installation of a septic tank and percolation to serve the proposed toilet facilities within the Equestrian Centre. A 'Site Characterisation' report that accompanied the application lodged with the planning authority indicates that the site is suitable to provide for the disposal of foul effluent by means of septic tank. Furthermore, I note that (following receipt of further information and clarification of further information) the planning authority Environment Section and Senior Environmental Health Officer had no objection to a similar proposal for a septic tank and percolation area to serve the development proposed in the



previous planning application for the site (Reg. Ref. 18/933). In these circumstances, and having regard to the overall size of the applicant's landholding, I am satisfied that the proposed septic tank and percolation area can be satisfactorily accommodated on the site.

- 7.1.6. Nonetheless and notwithstanding the above comments I have concerns in relation to the lack of detail provided in relation to effluent disposal arrangements (by way of septic tank and percolation area or other) to cater for the proposed second phase of development (i.e. patrons of the proposed café, event arena, viewing stand etc.) generally and on planned event days.

(2) Viability

- 7.1.7. The stated reason for refusal given by the planning authority in their notification of decision to refuse planning permission for the proposed development centres on the fact that the planning authority considers that the proposed development does not comply with Council policy in relation encouraging development which is sustainable in economic, social and environmental terms. In coming to this conclusion the planning authority was not satisfied that the applicant that the applicant had demonstrated that the proposed development constitutes a viable enterprise for the landholding.
- 7.1.8. The submitted grounds of appeal argue that considerations in relation to the economic viability of an enterprise are not appropriate matters for determination in the context of planning and development legislation. The Board should more properly confine itself to consideration of matters of planning and environmental concern.
- 7.1.9. In my opinion, there is some merit to the appellant's argument that consideration of the likely economic success or otherwise of a project in respect of which planning permission has been sought is not strictly a matter for determination under the planning code. The proposed development can reasonable be regarded as a 'start up enterprise'. Many 'start up enterprises' fail in their initial years of operation. I consider that it is beyond the scope of planning to look behind planning and environmental considerations relating to a proposed development in order to select the projects considered most likely to succeed – to pick 'winners' and 'losers' in terms of the likely economic viability of a project. Nonetheless, I believe that there is an overlap between the economic viability of a project and planning and environmental concerns. A failed

enterprise may result in disused or abandoned structures which are of concern in terms of planning and environmental considerations.

7.1.10. The current proposal is accompanied by a Business Plan which includes information in relation to the anticipated operation of the proposed Equestrian Centre in its first five years of operation. The planning authority have expressed concerns in relation to the lack of detail contained within this Business Plan. They expressed similar concerns in relation to the previous proposal (for essentially the same development) considered by the planning authority under Reg. Ref. 18/933 (failure to demonstrate satisfactory compliance with criteria for enterprises in rural areas set out in Table 10.3 of the Development Plan). I would share these concerns. The Business Plan includes information in relation to projected construction costs and future costs of operation and projected turnover together with other details of future marketing of the enterprise and likely competition. The Business Plan is centred around two separate phases of development. The development proposed in the current application relates to Phase 1 only. Phase 2 of the overall project will form part of a separate future planning application. Based on the documentation submitted by the applicant the proposed development will only become economically viable during Phase 2. In my opinion, this is a fundamental problem in relation to the proposed.

7.1.11. Kildare is a centre of the bloodstock and equestrian industry in Ireland. In this context, I see no objection in principle to the proposed development. As has been pointed out in the submitted grounds of appeal, the site is of a reasonable size and internal planning authority technical reports raised no serious issues or objections to the proposed development. Phase 1 is a relatively modest proposal (provision of stables for 6 horses and 7 ponies on an existing concrete base, horse walker, lunge ring, fencing, signage, upgraded entrance etc.) Arguably, therefore, the proposed development (Phase 1 of a two-phase enterprise) may be acceptable in technical terms on this rural site. In the event, that the Equestrian Centre fails during Phase 1 an alternative suitable (and sustainable) use for the proposed limited number of structures (essentially agricultural buildings can be found). However, this course of action ignores the fact that (as already stated) based on the documentation submitted by the applicant Phase 1 of the proposed Equestrian Centre is not a feasible enterprise (only becoming marginally viable in Year 3 – after Phase 2 has been developed). It is clear from the documentation on file that the current proposal is not intended as a

standalone development but is inextricably linked with planned further development. In my opinion, from a planning and environmental standpoint details in relation to the entire enterprise should be considered before planning permission can be granted for any phase (a grant of planning permission for the current proposal could reasonable be regarded as signalling a 'green light' for the overall development of which the current proposal forms a component part). The submitted documentation refers to the fact that substantial elements of the overall Equestrian Centre will be delivered as 'Phase 2' (Arena, café, tack room & sales, stables for as further 18 horses and 7 ponies etc.). I consider that details in relation to projected increases in traffic, car parking requirements (especially on 'event' days), effluent disposal, provision for 24 hour supervision of valuable livestock etc. In the absence of an assessment of these matters I consider that granting planning permission for Phase 1 would constitute piecemeal development. In this context, I would share the conclusion of the planning authority that the applicant has not demonstrated that the proposed development (Phase 1) constitutes an economically viable project. In fact, the submitted documentation demonstrates that Phase 1 on its own would be commercially unviable. In my opinion, a grant of planning permission for a commercially unviable development raises valid planning and environmental concerns in relation to the sustainability of the overall development.

***Monitoring:***

- 7.1.12. The planning authority response to the submitted grounds of appeal raises concerns in relation to supervision and monitoring of the proposed enterprise. It states that the proposed development would be unsustainable in the absence of such supervision and monitoring. The planning authority cite Board precedents (Appeal No. 09.232326 & 09.241375) where planning permission for stables was refused on grounds relating to the unviability and unsustainability of such development in the absence of residential accommodation on these sites.
- 7.1.13. I note that concerns in relation to supervision were not expressed in the planning authority initial reason for refusal. To this extend this matter might reasonably be regarded as a new issue in the context of the current appeal.
- 7.1.14. The proposed development provides stables for a maximum of 6 horses and 7 ponies. While it may be preferably to have on-site supervision (living accommodation) for the

24 hour supervision of valuable horses and other livestock it is not uncommon to utilise camera and other technologies to facilitate the remote supervision of valuable livestock. Thus, I consider that the lack of on-site living accommodation would not be fatal to the granting of planning permission for the limited sale of development being proposed in the current application. However, the current proposal is intended as step 1 (Phase 1) of a two-phase project. The overall project will provide stables for 38 valuable animals (horses and ponies). In my opinion, the need for on-site living accommodation and supervision is a legitimate consideration in respect of a project of this scale. I consider that such concerns in relation to overall planned Equestrian Centre underscore the need for a more comprehensive assessment of the proposed development rather than consideration on a piecemeal basis.

***Precedents:***

- 7.1.15. The planning authority have cited two precedent decisions of the Board where planning permission was refused for reasons that referred to the fact that a proposed development including stables, dungstead, tack room etc, was deemed to be an unviable and unsustainable form of development. Both these cases (Appeal No. 09.232326 & Appeal No. 241375) relate to the same site in Ballymore Eustace Co. Kildare. Both decisions highlight the Board's concerns in relation to the development being proposed being unviable due to inadequate site for the scale of development being proposed. In this regard, I consider that the issue of viability being determined was not directly comparable with the viability issue in the current instance. (The applicant in the current instance would appear to have adequate lands available to support the proposed Equestrian Centre).
- 7.1.16. The appellant has cited a precedent decision of the Board where planning permission for the construction of a dormer dwelling, three number stable blocks, sand arena, covered horse walker, dungstead, on-site effluent treatment system etc. at Ballysax Little, The Curragh, County Kildare was granted by the Board (Appeal No. 09.239443). In granting planning permission for this development, the Board overturned a planning authority decision to refuse planning permission based on viability of the enterprise. However, I consider that the facts pertaining to this decision (site area below the Development Plan recommended minimum area for 'favourable' consideration of a development of the nature being proposed) can be distinguished from the facts in the current instance.

### (3) Other Matters

- 7.1.17. The submitted grounds of appeal highlight the fact that there were no objections to the proposed development from the planning authority based on Engineering, Design, Health & Safety, Amenity, Visual, Ecological or Heritage grounds.
- 7.1.18. Based on the documentation on file, the applicant's statement in this matter is correct with the exception of the concerns expressed in the report from the Environment Section in respect of the design of the proposed dungstead and effluent tank already addressed at paragraph 7.1.3 above.
- 7.1.19. I note that the planning authority in their consideration of the (same) development as proposed under Reg. Ref. 18/933 sought further information and clarification of further information in relation to a number of other matters including design details for the proposed site entrance, car parking provision in accordance with Development Plan standards etc. (the Conservation Officer also requested that an Architectural History of the adjacent Drumachon House be provided), All of the matters raised in the planning authority requests for further information and clarification of further information were addressed to the satisfaction of the planning authority in the context of the latter planning application. These matters have not been raised by the parties in the context of the current appeal. Accordingly, I do not propose to revisit them in the context of this assessment.

### (4) Appropriate Assessment Screening

- 7.1.20. The planning authority conducted Screening for Appropriate Assessment (report dated 5<sup>th</sup>, November 2019). The planning authority screening concluded that '*having regard to the nature of the development and the distance to the nearest Natura 2000 site...the development will not have a significant effect on any European site.*'
- 7.1.21. No Screening for Appropriate Assessment exercise was conducted by the applicant.
- 7.1.22. The proposed Equestrian Centre is not located within any designated Natura 2000 sites. However, there are four European Sites (Special Areas of Conservation) within 15 km of the site. These are:
- **The Long Derries SAC** (Site Code 00925).
- 7.1.23. The site is located c. 8 km to the south west of the appeal site. The conservation objective is *to maintain or restore the favorable conservation condition of the Annex I*

*Habitat(s) and / or Annex II Species for which the SAC has been selected.* The 'Qualifying Interest' for the site is semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco Brometalia) (a priority habitat). The 'Site Synopsis' for the site states that it supports good quality dry, calcareous esker grassland in which occurs a substantial population of the rare and protected *Orchis morio*. Gravel quarries on the site support other rare plant species: *Acinos arvensis* (a protected species) and *Erigeron acer*, as well as the uncommon, introduced *Minuartia hybrida*. The site is an important ornithological site; the most notable species, *Caprimulgus europaeus* (Nightjar) of which only about thirty pairs are known to breed in Ireland, breeds on the site.

- **Ballynafagh Lake SAC** (Site Code 01387).

The site is located c. 4.2 km south-east of the appeal site. The conservation objective is *to maintain or restore the favorable conservation condition of the Annex I Habitat(s) and / or Annex II Species for which the SAC has been selected.* The 'Qualifying Interests' for the site are Alkaline fens (a priority habitat) and *Vertigo moulinsiana* (Desmoulin's Whorl Snail) [1016] and *Euphydryas aurinia* (Marsh Fritillary) [1065]. The 'Site Synopsis' states that the fen is well-developed and of good quality and represents one of the best examples in eastern Ireland. The site also contains a relict population of *Vertigo moulinsiana*. Confirmed record for 1997 and noted to be a large population. All recently surveyed sites with confirmed populations of this species are considered important. The site supports a population of *Euphydryas aurinia* and contains a number of other rare invertebrate species. The site is also of some local importance for wintering waterfowl.

- **Ballynafagh Bog SAC** (Site Code 000391).

The site is located c. 5.5 km to the south-east of the appeal site. The conservation objective is *to maintain or restore the favorable conservation condition of the Annex I Habitat(s) and / or Annex II Species for which the SAC has been selected.* The 'Qualifying Interests' for the site are Active raised bogs, Degraded raised bogs still capable of natural regeneration and Depressions on peat substrates of the Rhynchosporion. The 'Site Synopsis' states Ballynafagh Bog is a small raised bog site which contains examples of the Annex 1 habitats active raised bog, degraded raised bog and Rhynchosporion vegetation. The bog is one of the most easterly examples of

a relatively intact raised bog in Ireland and, together with Mouds Bog, is one of only two such systems in Co. Kildare. A central depression on the high bog dome supports a substantial area of active raised bog with a locally high Sphagnum cover. The site is also of ornithological interest being within the breeding territory of a pair of *Falco columbarius* and providing habitat for breeding *Gallinago gallinago* and *Numenius arquata*.

- **Moulds Bog SAC** (Site Code 02331).

The site is located c. 13 km south of the appeal site. The conservation objective is to *maintain or restore the favorable conservation condition of the Annex I Habitat(s) and / or Annex II Species for which the SAC has been selected*. The 'Qualifying Interests' for the site are Active raised bogs, Degraded raised bogs still capable of natural regeneration and Depressions on peat substrates of the Rhynchosporion. The 'Site Synopsis' states that this site is an example of a Midland Raised Bog at the eastern extremity of its current range. It supports typical species including Heather (*Calluna vulgaris*), along with Bog-rosemary (*Andromeda polifolia*) and Cranberry (*Vaccinium oxycoccos*). The central high bog supports wet flat quaking areas on both sides of the mineral ridge with frequent small pools supporting bog mosses (*Sphagnum cuspidatum*, *S. magellanicum* and *S. capillifolium*) and Great Sundew (*Drosera anglica*). Abundant Heather dominates the drier central ridge. The three flush areas along the southern perimeter of the east and west dome support a hummock/hollow system with Heather, Bog-myrtle (*Myrica gale*) and in places Crowberry (*Empetrum nigrum*). The wet hollows support a variety of bog mosses, including *S. tenellum*. A wet quaking soak to the south supports abundant bog moss (*S. cuspidatum*) and tall Common Cottongrass (*Eriophorum angustifolium*). Cutover areas to the north-east support Purple Moor-grass (*Molinia caerulea*), Soft Rush (*Juncus effusus*) and there is encroaching Downy Birch and Gorse (*Ulex europaeus*) in places. Red Grouse, a Red Listed species and one that is becoming increasingly rare in Ireland, has been recorded on this site. Other birds noted on the site include Skylark, Meadow Pipit, Curlew and Kestrel.

7.1.24. As stated previously all of the proposed works take place outside the SACs and, therefore, there are no direct effects on the integrity of any of these European Sites.

- 7.1.25. Potential sources of indirect effects include impacts arising from sediment generated during the construction phase entering local water courses and being transported to the designated sites. The nature of the local topography (predominantly flat) together with the predominant character of the land in the immediately surrounding area (bog), lack of watercourses to act as a conduit between the site of the proposed development and the separation distance between the appear site and the nearest designated site (4.2 km) mean that there is little, if any, likelihood that the proposed development will have any indirect impact on the integrity of any of these European sites.
- 7.1.26. In an attempt to gauge the potential for in-combination and cumulative impacts of the proposed development in conjunction with other plans and projects in the area I consulted the Kildare County Council on-line planning register. The only other project of any significance in respect of which planning permission has been granted in the area in the last five years is planning permission granted by the Board (Appeal No. 305953) for a Solar Farm near (c. 0.6 km.) to the site of the proposed development. Having regard to the nature of a the latter development, consider that the proposed development together with the permitted Solar Farm do not have the potential to contribute to cumulative impacts of any significant. Accordingly, I consider that the proposed development does not have the potential to contribute to any cumulative impacts when considered in-combination with other plans and projects.
- 7.1.27. In conclusion, therefore, having regard to the nature and scale of development proposed and to the nature of the receiving environment and location relative to the nearest designated European sites, no appropriate assessment issues arise and it is considered that the proposed development would be unlikely to have a significant effect individually or in combination with other plans or projects on any European site, in view of the site's Conservation Objectives.

## 8.0 Recommendation

- 8.1. I recommend that planning permission be granted for the proposed development for the reasons and considerations and subject to the conditions as set out below.



## 9.0 Reasons and Considerations

The site of the proposed development is located in a rural area where it is the policy of the planning authority to encourage development which is sustainable in economic, social and environmental terms and which supports the rural economy and rural communities. On the basis of the documentation accompanying the application and appeal it is considered that the proposed development as part of an Equestrian Centre would not be economically viable independently of the overall Equestrian Centre planned for the site. On the basis of the submitted documentation, and in the absence of sufficient detail in relation to the development proposed in the later stage of the overall development of the Equestrian Centre, it is considered that the proposed development (as a standalone development) would constitute piecemeal, unviable and unsustainable development. It is considered, therefore, that the development would be contrary to the policies of sustainable rural development as set out in the Kildare County Development Plan 2017-2023, in particular Policy EQ3 which seeks to ensure equine based developments are located on suitable and viable landholdings, and as such would be contrary to the proper planning and sustainable development of the area.

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Paddy Keogh  
Planning Inspector

13<sup>th</sup>, August 2020