



An
Bord
Pleanála

Inspector's Report ABP 309719-21.

Development	Retention of an existing agricultural building and screen wall.
Location	Derry, Ballyhuskard, The Ballagh, Enniscourty, Co. Wexford
Planning Authority	Wexford Co. Council
Planning Authority Reg. Ref.	20201576
Applicant	George Blackburn
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellants	(1) Peter J Wickham and others (2) John Paul Wickham
Observers	None
Date of Site Inspection	27/8/2021
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The site is located in the rural townland of Ballyhuskard, The Ballagh, circa 2.5km to the south-east of the village of Monagear. Enniscorthy is situated 6.5km to the west. The Regional Road the R744 which links Enniscorthy and Blackwater is located circa 2.5km to the south.
- 1.2. The site has a stated area of 0.15 hectares. The site is access off the local road from a private laneway which runs for circa 64m. The subject site contains a two-storey farmhouse located immediately to the north-west of the agricultural building.
- 1.3. The subject agricultural building features steel portal frame it is partially open to the front. It is served by a concrete yard to the front which has an area of circa 500sq m. The concrete screen wall to the north of the yard has a height of 4.9m and extends of circa 52m.
- 1.4. The neighbouring dwelling to the east lies approximately 52m from the subject agricultural building. The neighbouring dwelling to the west is located 60m from the agricultural building.

2.0 Proposed Development

- 2.1. Permission is sought for the retention of an existing agricultural building and screen wall. The subject agricultural building has a floor area of 222sq m.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 8 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The report of the Planning Officer noted that the subject agricultural shed would have been exempt except for the proximity of the dungstead to neighbouring dwellings. The dungstead with a 30 cubic metre capacity is

proposed to cater for three horse stalls within the shed. It is stated in the report that sufficient land for spreading has been indicated and that there is sufficient distance between the proposed dungstead and effluent tank and the neighbouring well.

3.2.2. Other Technical Reports

Environment Section – No objection subject to conditions.

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

3.4.1. Three third party submissions/observations were submitted to the Planning Authority in relation to the application. The issues raised in two of the submissions/observations are similar to the issues raised in the appeal. The submission from James Browne T.D. supported the application.

4.0 Planning History

- None

5.0 Policy Context

5.1. Wexford County Development Plan 2013-2019 (Extended)

5.1.1. Chapter 6: Employment, Economy and Enterprise

5.1.2. Section 6.4.6 Agriculture

- Objective ED20: To facilitate and support the development of sustainable agriculture practices and facilities within the County subject to complying with normal planning and environmental criteria and the development management standards in Chapter 18.

5.1.3. Chapter 14: Heritage:

5.1.4. Section 14.4: Landscape:

- Section 14.4.2: Landscape Character Assessment: (2) Lowlands:

The Lowland area generally comprises gently undulating lands and relates to extensive areas of the county. This landscape has characteristics which provide it with a higher capacity to absorb development without causing significant visual intrusion. The landscape is characterised by higher population levels and more intensive agriculture. It is punctuated by many of the county's hills and ridges, the more sensitive of which have been defined as Landscapes of Greater Sensitivity.

N.B. The proposed development site is located within the 'Lowlands' landscape unit as identified on Map No: 13: 'Landscape Units and Features' of the Development Plan ('Landscape Character Assessment').

5.1.5. Chapter 18: Development Management Standards:

- Section 18.23: Agricultural Buildings:

The Council will encourage and facilitate agricultural development subject to the following criteria:

- The impact on the character and amenity of the immediate and surrounding area.
- There are no suitable redundant buildings on the farm holding to accommodate the development.
- The proposal will not impact negatively on the traffic and environment of the area.
- The Council recognises the need for agricultural buildings and acknowledges that there is often a requirement for these structures to be significant in scale. Notwithstanding this, these buildings will be required to be sympathetic to their surroundings in terms of scale, materials and finishes. The building should be sited as unobtrusively as possible and the finishes and colours used must ensure the building will blend into its surrounding and landscape. The use of appropriate roof colours of dark green and grey will be required. /Where cladding is proposed, it shall be dark in colour also.

5.2. Natural Heritage Designations

5.2.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The Slaney River Valley Special Area of Conservation (Site Code: 000781), is located approximately 5km to west of the site.
- Screen Hills Special Area of Conservation (Site Code: 000708), is located approximately 11km to the south-east of the site.
- The Raven Special Protection Area (Site Code: 004019), is located approximately 11.9km to the south-east of the site.
- Kilmuckridge–Tinnaberna Sandhills Special Area of Conservation (Site Code 001741), is approximately 12.m to the east of the site.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, and the separation distance from 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

Third party appeals have been submitted from (1) Peter J Wickham and others and (2) John Paul Wickham.

(1) Peter J Wickham and others

- It is stated that the Site Layout Plan does not refer to the existing dungstead, which the appellant understands is in place. It is noted that in the report of the Planning Officer, it states, “the shed would have been exempt only for the proximity of the dungstead to neighbouring dwellings.” The report further states, “the ground water flow direction could be assumed as being from southwest to northeast with contours and therefore is sufficient distance from the well”. The well is located 77m from the proposed dungstead. The appellant considers that the matter was not fully addressed in the report of the Planning Officer, specifically in relation to the potential impact of the location of the proposed dungstead and the location of the appellant’s well.
- Regarding the area of land proposed for the spreading of manure, the appellant states that a letter of consent from the landowner was not provided with the application.
- The screen wall for which retention is sought is considered to have a negative impact in terms of its visual impact due to its size and scale and proximity to the appellant’s dwelling. They consider that there is an lack of appropriate screen planting to mitigate the impact of the wall.

(2) John Paul Wickham

- The appellant raised concern the lands to be used to spread dung and effluent are not in the ownership of the applicant Mr. Blackburn. It is stated that the applicant has not provided a letter of permission from the landowner to carry out the spreading.
- Condition no. 7 of the permission granted by the Planning Authority states that no effluent/soiled water shall be discharged to adjoining property or water course. The appellant states that the applicant did not show any soak holes and did not provide calculations for soak holes.
- The appellant is concerned that the subject agricultural building will be used to house more than three horses.

- The appellant considers that the application should have been deemed invalid as the description did not include the proposed dung stead and effluent tank.
- The appellant queries the calculations provided in respect of the amount of effluent and the amount of dung which would be produced.
- The appellant requests that permission be refused on the basis the details raised in the appeal have not been satisfactorily addressed.

6.2. Applicant Response

A response to the third party appeals was submitted by the applicant George Blackburn. The planning issues raised are as follows;

- Mr. Blackburn, the applicant states that he is a resident of Derry, Ballyhuskard all his life and that he inherited the farm from his grandparents in 2015. He states that he is employed as head Agronomist and Sales Manager at Cooney Furlong Grain Company, he confirms that he also farms commercially under his company Atlas Agri Ltd. and that he keeps a small number of racehorses as a hobby.
- A fire at the farm destroyed sheds and also tragically killed horses. The sheds were not salvageable and posed a risk to health and safety. Mr. Blackburn stated that he constructed a replacement shed comprising a steel framed building to house three horses and to store hay, straw and agricultural equipment and supplies. The applicant states that given that the shed which replaced the fire destroyed shed was small and the fact that there were pre-existing agricultural buildings on site that he thought that the new agricultural building did not require planning permission.
- In response to enforcement proceedings the applicant retained the services of Ennis Martin Architecture to prepare and submit an application for the retention of agricultural building and screen wall.
- Reference is made in the appeal to the dungstead which is stated as being in place. The applicant states that the dungstead is not in place and this was

confirmed by Mr. Philip Ennis when he surveyed the site during the course of his employment by Mr. Blackburn to submit the planning application.

- It is stated in the report of the Planning Officer that the shed would be exempted development, the applicant agrees with this assessment.
- In relation to the distance from the proposed dungstead to the existing wells, the Planning Officer was of the opinion that the separation distance of 77m was sufficient based on the assumption that the groundwater flow is south-west to north-east. The applicant agrees with this assumption. It is noted that the proposal to install a sealed tank for any accidental seepage will ensure that it will be collected and stored safely. It is further noted that the farmyard always existed at this location prior to later applications for planning permission.
- The details submitted with the application include a map indicating lands, excluding buffer zones for protection of existing groundwater sources and which are suitable for the spreading of manure generated in the stables. The land where the spreading is proposed is under the control of the applicant as it is leased and farmed by the applicant's company Atlas Agri Ltd. A map produced by the Department of Agriculture, Food and the Marine indicating this has been included with the appeal response.
- In relation to the proposed screen wall, it replaces an old shed wall which was in a similar position. The wall is constructed with reinforced concrete and was built for screening and shelter and also as a health and safety measure for users of yard when handling racehorses. The height of the wall is the same as that of the pre-existing shed. The field side of the wall has been planted with native species which will act as a biodiversity corridor.
- A response from Philip Ennis of Ennis Martin Architecture on behalf of the applicant states that it is proposed to spread the dung generated by the horses stabled in the shed. The details submitted with the application include a map showing the lands where spreading is proposed, excluding buffer zones for the protection of existing ground water sources. The land is in the control of the applicant as it is leased and farmed by a company Atlas Agri Ltd. which is owned by him.

- Regarding the dung and effluent storage, it is stated that comprehensive details describing the proposed dung stead and effluent storage tank were submitted with the application. In relation to condition no. 6 which requires the installation of the effluent tank and dung storage within three months of the grant of permission, it is noted that the appeal has prevented this work from being carried out.
- In relation to the number of horse that the applicant intends to stable in the agricultural building, as detailed in the submitted drawings the building contains three stalls which will accommodate one horse. Therefore, the applicant intends to stable three horses in the building.
- Regarding condition no. 7 of the permission, the appellant refers to soak holes and the discharge of effluent to soak holes which would allow contaminated water to reach ground water. This is not what is proposed. Effluent and soiled water generated by the development will be collected and piped to the effluent storage tank which will be completely sealed. The effluent storage tank would pose no risk to the environment.
- Regarding the type of animal to be housed in the agricultural building, the applicant's type of Herd Number and Equine Premises Number allows him to produce cereals and have horses, it does not include ovines and bovines.
- Regarding the amount of dung generated by the development, the calculations submitted with the application are in compliance with the relevant regulations.
- A response from Geoff Barry Agricultural Consultant on behalf of the applicant states that in relation to the matter of a herd on the landholding, Mr Barry confirms that on the landholding it is only active for equines and cereal production presently and that it is dormant for ovines and bovines. Should Mr Blackburn wish to bring sheep or cattle onto the landholding he would be required to submit a completed herd number application to the Department of Agriculture for approval. The landholding would then be visited by a department official who would decide if the landholding would be suitable for a change of enterprise. It is confirmed that Mr Blackburn does not intend to change any of the farm enterprises on his holding.

- In relation to the stocking rate on the holding, it is stated that it is permitted to farm at a stocking rate of 170kgs/n/ha under the Nitrate Directive. A mature horse produces 50kgs of N per annum. This equates to 3.4 mature horses per hectare of lands farmed. Mr Blackburn's farm has a total area of 101.93ha of which 3.43ha are in grass. It is stated that stocking rate is not an issue on the landholding.
- Mr Barry states that he considers that the storage calculations as detailed in the application are accurate and comply with the storage requirements under the nitrate directive.
- The first party appeal response includes a letter from Michael Goff which confirms that he is a friend of the applicant Mr George Blackburn and that he uses Mr. Blackburn's landholding to graze a number of his horses over the summer months. Mr Goff states that Mr Blackburn presently owns two horses which would not be capable of grazing the amount of grass available on the landholding.

6.3. Planning Authority Response

- None

6.4. Observations

- None

7.0 Assessment

The main issues in this appeal are those raised in the grounds of the appeals and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Visual impact
- Environmental impact
- Appropriate Assessment

7.1. Visual impact

- 7.1.1. The grounds of appeal raised the matter of the visual impact of the proposed concrete screen wall. The screen wall is located to the north of the yard area. The wall has a height of 4.9m and extends of circa 52m.
- 7.1.2. Section 18.23 of the Wexford County Development Plan 2013-2019 (as extended) refers to agricultural buildings it advises that the Council will, encourage and facilitate agricultural development subject to a number of criteria including that it does not unduly impact on the character and amenity of the immediate and surrounding area. It is set out under this policy of the plan that the Council recognises the need for agricultural buildings and acknowledges that there is often a requirement for these structures to be significant in scale. As per Section 18.23 agricultural buildings will be required to be sympathetic to their surroundings in terms of scale, materials and finishes and should be sited as unobtrusively as possible and the finishes and colours used must ensure the building will blend into its surrounding and landscape.
- 7.1.3. The site at Derry, Ballyhuskard is located within an area described as Lowlands in Section 14.4.2 of the Development Plan which refers to Landscape Character Assessment. The lowlands area is described in the plan as generally comprises gently undulating lands and relates to extensive areas of the county. I note that as set out in the development plan the lowlands landscape which is characterised by higher population levels and more intensive agriculture has characteristics including many of the county's hills and ridges which provide it with a higher capacity to absorb development without causing significant visual intrusion.
- 7.1.4. The first party response to the matter of the potential visual impact of the proposed screen wall stated that it replaces a previous shed wall which was in a similar location and that the height of the wall is same as that of the old shed. It is detailed in the response to the appeals that the subject wall was built to provide screening and shelter and also as a health and safety measure for users of yard when handling racehorses. The first party highlighted that the planting of native species along the field side of the wall has been carried out which provides screening.
- 7.1.5. I note that the subject concrete screen wall is setback circa 50m from the public road to the north-east. Having regard to the screen planting provided along the field side

of the wall and the existing mature field boundary planting I am satisfied that the concrete screen wall can be successfully integrated into the landscape.

- 7.1.6. In relation to the subject agricultural building, I note that it has been built on the footprint of the previous agricultural sheds and that that the overall design and layout of the proposed development for retention is typical of similar agricultural structures common to rural areas. The maximum ridge height of the subject agricultural building is 4.99m which is below that of the existing two-storey farm house located immediately to the north-west. Accordingly, having regard to the foregoing, and in light of the site context, including the screening offered by the surrounding landscape and other features, I am satisfied that the proposal will not unduly impact on the visual amenity of this rural area.

7.2. **Environmental impact**

- 7.2.1. Section 10.6.6 of the Development Plan refers to agricultural waste it states that waste generated by agricultural activities including animal slurry, spent mushroom compost and straw must be disposed of in a safe manner to prevent pollution of ground waters and surface waters and to protect public health. It is highlighted in this section of the plan that the Nitrates Directive and the European Communities (Good Agricultural Practice for the Protection of Waters) Regulations 2009 and 2010 are key statutory regulators in the disposal of agricultural waste. Objective WM11 of the Plan requires that the disposal of agricultural waste is carried out in a safe manner and in compliance with the Nitrates Directive, European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2009 (S.I. No. 101 of 2009), the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2010 (S.I. No. 610 of 2010), the Habitats Directive and any other relevant statutory provisions.
- 7.2.2. The grounds of appeal raised concern regarding the proximity of the proposed dungstead to the neighbouring well which is 77m from its location. The appeals also raised the matter of whether the applicant has consent from the landowner to spread the effluent generated by the horses to be housed in the subject agricultural building. The grounds of appeal also queried the number of horses to be accommodated within the agricultural building.

- 7.2.3. In response to these matters the applicant has provided a detailed response. Regarding the use of the subject agricultural shed the applicant has confirmed that as detailed on the submitted drawings the building contains three stalls which each accommodate one horse. Therefore, the applicant confirms that he intends to stable three horses in the building. On inspection of the site, I noted the three stalls located to the north-western side of the building. The main area of the building was used to store hay bales with small items of equipment stored to the front of the building.
- 7.2.4. Regarding the issue of whether the applicant has the consent of the landowner to carry out the spreading of effluent generated by the horses to be housed in the agricultural building as detailed in the first party response, the applicant has confirmed that the land where the spreading is proposed is under his control as it is leased and farmed by his company Atlas Agri Ltd. I note that a map produced by the Department of Agriculture, Food and the Marine indicating this has been included with the appeal response.
- 7.2.5. To clarify matters regarding the current usage of the lands which constitute the farm holding the response from applicant and his consultants has confirmed that the area of lands which the applicant farms is 101.93 hectares and of these lands 3.43 hectares are under grass. The applicant confirms that landholding is presently only active for equines and cereal production and that no herd of ovines or bovines are being raised on the farm holding. The response from the applicant also highlighted that in order to change the nature of farming on the lands from arable to livestock would involve the submission of a completed herd number application to the Department of Agriculture for approval. The landholding would then be visited by a department official who would decide if the landholding would be suitable for a change of enterprise. The applicant has confirmed in the appeal response that he does not intend to change any of the farm enterprises on his holding.
- 7.2.6. As confirmed in the appeal response by the applicant's Agricultural Consultant, a mature horse produces 50kgs of N per annum and under the Nitrate Directive it is permitted to farm at a stocking rate of 170kgs/n/ha. This equates to 3.4 mature horses per hectare of lands farmed. The applicant's farm holding has a total area of 101.93ha of which 3.43ha are in grass, therefore there is sufficient capacity in the lands available to accommodate the waste to be spread in accordance with the provisions of the Nitrate Directive.

- 7.2.7. The proposed dungstead is to be located within the north-eastern corner of the yard to the front of the agricultural building. The grounds of appeal noted that the dungstead was not specifically referenced in the description of the proposed development. I note that as detailed on the Site Layout, Drawing No: PP200001 the location of the proposed dungstead is indicated. Accordingly, I am satisfied that the proposed scheme includes the dungstead to serve the stables stalls within the subject agricultural building. The location of the proposed effluent storage tank is also indicated on the Site Layout to the north-eastern side of the yard. The proposed dungstead and effluent storage tank are also indicated on the Ground Floor Plan as detailed on Drawing No: PP 19001. The proposed dungstead has an area of 20sq m and with a capacity of 30m cubed. The proposed effluent storage tank has a capacity of 3,000 litres. Effluent and soiled water generated by the development will be collected and piped to the effluent storage tank. The subject effluent storage tank is proposed to be completely sealed and therefore will not pose a risk to the environment. I am satisfied that the storage tank is of a sufficient capacity to accommodate the effluent and soiled water which would be generated by the housing of three horses within the subject agricultural building.
- 7.2.8. Regarding the location of the proposed dungstead and effluent storage tank relative to existing wells. I note that the closest potable well which serves the neighbouring dwelling to the south-east is situated 77m away and uphill of the location of the proposed dungstead. Accordingly, I am satisfied that there is no potential for contamination of private water supplies in the vicinity of the site. Furthermore, I note that the report of the Environmental Department dated 12/1/2021 recommended a grant of permission subject to a number of conditions in relation to the use of the stables and design and specification of the dungstead and manure pit.
- 7.2.9. I would consider that subject to adequate conditions regarding surface water and good agricultural practice, that the proposal would pose no significant risk of contamination of surface water or groundwater sources.
- 7.2.10. Accordingly, subject to the operations on the farm being carried out as per these details and having regard to the recommendation of the Council's Environment Department, I am satisfied that the proposal would not result in any undue environmental impact.

7.3. Appropriate Assessment

- 7.3.1. The appeal site is remote from any European site. The nearest Natura 2000 sites are Slaney River Valley SAC circa 5km to west of the site and Screen Hills SAC circa 11km to the south-east of the site, the Raven SPA located approximately 11.9km to the south-east of the site and Kilmuckridge–Tinnaberna Sandhills SAC located approximately 12.m to the east of the site. There is no hydrological connection to the Slaney River Valley SAC and having regard to the inland location of the appeal site it has no known connectivity with the very distant coastal European sites and it has no known habitat to support any of the Special Conservation Interests of these European sites.
- 7.3.2. Having regard to the nature, scale, and location of the proposed development, the nature of the receiving environment, and the separation distance to the nearest European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on any European site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

9.0 Reasons and Considerations

Having regard to the existing pattern of development in the area, and to the nature, use and extent of the subject development, it is considered that, subject to compliance with the conditions set out below, the development for which retention is sought would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, 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 and the development shall be retained, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All stable manure and foul waters generated by the proposed development and in the farmyard shall be conveyed through properly constructed channels to storage facilities for subsequent land spreading and no effluent or slurry shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road.

Reason: In the interest of public health

3. All uncontaminated roof water from the buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains, streams or adequate soakpits and shall not discharge or be allowed to discharge to the foul effluent drains, foul effluent and slurry storage tanks or to the public road.

Reason: In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.

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

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Siobhan Carroll
Planning Inspector

2nd of September 2021