



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311278-21

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<b>Development</b>	Construction of 2 stable blocks and associated facilities. Construction of 8-bay horse walker, 2 horse lunge rings, and manure storage area/dungstead. Permission is also sought for a cross country gallop.
<b>Location</b>	Ballynaclin , Ballinea , Mullingar, Co. Westmeath
<b>Planning Authority</b>	Westmeath County Council
<b>Planning Authority Reg. Ref.</b>	21161
<b>Applicant(s)</b>	Aguiar Bloodstock Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	1. Michael Lynn 2. Pat Lynn.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> of January 2022
<b>Inspector</b>	Caryn Coogan

## 1.0 Site Location and Description

- 1.1 The 11.6 ha appeal site lies c. 4km to the west of Mullingar Town, c.1.6km north of the Grand Canal and c.3.5km south of Lough Owel in the townland Ballynaclin, Mullingar, Co. Westmeath. The site is situated to the north of the Regional Road, R392 and is accessed directly from the R392. The site is also accessible from a local road to the west of the landholding, which provides access to an old church along the northern landholding boundary.
- 1.2. The appeal site lies in a gently undulating rural landscape of agricultural fields, mostly pasture, separated by hedgerows. The site itself comprises a number of agricultural fields to the north and west of the existing dwellinghouse and sheds/ stables. The site boundaries exclude the farmhouse and existing stables, horse lunger and horse walker located alongside the R392.
- 1.3 A protected structure, Walshestown RC Chapel (RPS: 018-007) lies adjacent to the north-west boundary of the landholding.

## 2.0 Proposed Development

- 2.1. Planning permission to construct two stable blocks consisting of 32No. horse stables in each block (total 64No. stables). The blocks will include a tack room and feed store. One stable block will include a wash down area (95.6sq.m.)
- 2.2. The proposal also includes an 8-bay horse walker (196sq.), 2No. horse lunge rings and a manure storage/ dungstead.
- 2.3. The permission also includes a cross country gallop.
- 2.4. The further information submission dated 16<sup>th</sup> of July 2021 outlines the gallop track. A noise report was carried out which demonstrated there will be no negative affects on the existing ambient levels at the nearest noise sources. It will operate during normal daytime hours.

## 3.0 Planning Authority Decision

### 3.1. Decision

Westmeath Co. Co. decided to grant planning permission for the proposed development subject to 6No. standard planning conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. *Planning Reports*

Dark finishes required.

Ground level with ridge height

Sufficient distance from neighbouring protected structure.

Following receipt of the further information and recommendation to grant planning permission was made.

#### 3.2.2. *Other Technical Reports*

*Engineer's Report:-* No objections

- The water supply is private well.
- The required sightline is available in both directions along the R392.
- Conditions recommended.

*Fire Department:* no objections

*Environment Section:*

- There is sufficient storage area for manure proposed.
- Soiled surface water requires a tank
- The site is not susceptible to flooding
- The risks to the environment can be dealt with by condition.

*Area Engineer*

The recent flooding issue referred to in a third-party submission, was caused by a blockage.

### 3.3. **Prescribed Bodies**

The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media  
Hedgerow conditions

### 3.4. **Third Party Observations**

Two third party objections had the following concerns:

- There are errors in the application
- Quarry on the site
- Dead sheep have been dumped on the site
- Containment of effluent from animals
- Flooding occurred on the road
- Insufficient lands for animals
- Mains through the land
- Removal of large trees
- Structural changes to the dwelling not included in the application.

## 4.0 **Planning History**

There is no relevant planning history.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

Westmeath County Development Plan 2021-2027

#### **9.13 Equine Industry**

The equine industry is important economically and culturally in Westmeath. Bloodstock generates employment directly across many spectrums but also indirectly through other associated enterprises and sectors such as tourism. Kilbeggan Racecourse is the only all National Hunt Racecourse within

Ireland and contributes significantly to the local economy.

The plains of Westmeath are covered in calcium-rich marl, which is conducive to horse-breeding. 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.

### **Equine Policy Objectives**

It is a policy objective of Westmeath County Council to:

**CPO 9.47** Support equine related activities (e.g. farriers, bloodstock sales etc.) of an appropriate size and at suitable locations.

**CPO 9.48** Ensure that equine based developments are located on suitable and viable landholdings and are subject to normal planning, siting and design considerations and related establishments.

**CPO 9.49** Protect the equine industry from inappropriate development which would adversely affect its continued operation.

**CPO 9.50** Protect the Kilbeggan Racecourse from any development that would interfere with its amenity value and environmental quality whilst, at the same time, promoting the enhancement of facilities for racegoers.

9.11 Agriculture

9.11.2 Agricultural Waste

10.12 Water Quality and Groundwater

## **5.2. Natural Heritage Designations**

3.5km southwest from Lough Owel SAC and Lough Owel SPA

4.7km to the northwest of Lough Ennell SPA and Lough Ennell SAC

There are drains on the site that are likely hydrologically connected to Lough Ennell SPA and SAC.

### 5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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

There are two third party appeals which are summarised separately below:

#### 6.1.1 *Pat Lynn*

- He lives in the cul de sac leading to Ballyote Church. The water supply that serves the area has been cut off and disrupted. There has been low water pressure and contaminated water and cut off since the development came into operation. The water supply serves the development, four other dwellings and the church.
- The applicant dug new drains in November 2020 and he dug through a right of way belonged to other land owners. This action broke the pipe, and stretched and broke connections causing considerable damage to the water mains. The water mains runs from the back of the applicant's dwelling house through the landholding to the back of Ballyote Chapel, and is not shown on any submission drawings. The planning application is invalid as this important piece of information relating to the physical infrastructure.
- The gallops have been constructed right beside the church grounds. Father Meades grave is there, and it is a place of reflection, and visited by many people. The relentless and constant galloping of horses not 10metres from the grave will seriously impinge upon the peaceful enjoyment of the local amenity.
- The size and intensity of the commercial development should not be allowed so close to Ballyote church and grounds which is a protected structure.

- There was dumping and quarrying carried out on the site previously. There were 100s of sheep carcasses buried, and sheep dip containers which contained chemicals. The sheep dipping tub was removed without planning permission.
- The size of the landholding is insufficient for this large development, considering the intensity at which this commercial enterprise will be ran at. It dominates the landscape and it does not take into account section 9.11.2 of Westmeath Development Plan on Agricultural Waste.

### 6.1.2 **Michael Lynn**

- The site is prone to flooding during bad weather events. The local authority claims the flooding was caused by a block culvert and unblocking same remedied the problem. The area has flooded sporadically over the years. The land is low lying and the water is high. The adjoining Brosna River is a tributary of the R. Shannon. The site will have to deal with additional surface water loads from 3000sq.m. of hard surface, and inadequate measures are in place to assure the surges can be accommodated and the R. Brosna protected.
- There are over 100 animals dumped on the lands, and this could have a detrimental impact over time. The applicants have denied this.
- The applicant also states there was no quarrying on the site, and yet many locals availed of the stone from the site. Again the applicant should provide information regarding the former quarry on the lands.
- The water supply to his family homes comes via the applicant's lands. The applicants damaged the water mains pipe in November 2020. The pipe was subsequently repaired. Irish Water has no registered wayleave onto the lands to repair the pipe. There is a considerable drop in water pressure in the area, and if the development proceeds the water supply will be permanently diminished.
- The containment of run off from the dung heaps has been dealt with in the further information. The concerns regarding the accommodation of over 60

No. animals on site has not been addressed. The proposed site is incapable of accommodating this number of animals.

- In terms of the visual amenity of the area, the development will have a negative impact. The height of the building is substantial given the ground floor levels and elevations. The trees were removed from the site without planning permission.
- There will be noise generated from the site along the gallops.
- The adjoining church is a local asset . The church and the grave of Fr. Meade should be protected from undue noise pollution.
- Some of the works carried out on site are outside of the planning regime such as land improvement works. There have been substantial works carried out on site that required planning permission and do not have the benefit of planning permission. In particular, substantial works to the gallops.
- There are bats on the site and frequently seen leaving from beneath the galvanised and asbestos sheeting on the structure.
- It would appear Westmeath Co. Co. have no problem with the abuse of planning law.
- There are ongoing unauthorised works at the site during the planning application stage, and the planning authority has decided to turn a blind eye giving the applicant an opportunity to do as he pleases.

## 6.2. Applicant Response

The land was purchased in good faith by a small company involved in the resale of thoroughbred horses. They did not realise there was a dispute between the previous owners and in-laws resulting in the sale of the land. It is understood the land was Mr. Lynn's own family home, and was sold by his sister-in-law. Mr Lynn has a grievance and his appeal is vindictive and aggressive. The applicant's own the land and the house now, and wish to develop a breeding station, with employment of up to twelve persons and carry on the industry they have been involved with for past twenty years.



The owners are two brothers, and have been operating at various studs throughout Ireland with over 140No. horses. The issues raised in the appeal are addressed below:

- **Flooding** The land is not subject to flooding based on the flood assessment maps. There is no flood risk associated with the lands as per the OPW maps.
- **Item No. 1** The proposed buildings are at the elevated end of the site and would be well above any localised flooding. The Brosna Ricer is 750metres from the closest site boundary.
- **Items 2 and 3** In relation to the sheep dipping tub been removed form the site, this would not require planning permission. The applicants are unaware of any carcasses dumped on the land and have found none. Mr. Lynn's family were sheep farmers and operated the land for 45years plus. Mr Lynn did own the land at one stage and must have knowledge of burying sheep carcasses. There is no quarrying or dumping to the applicant's knowledge and no evidence has been presented to support these claims. The claims made by the appellant are spurious.
- **Item 4 Water Supply** The water supply goes through the applicant's land to Mr. Lynn's house, this again is most likely an unauthorised water connection and we have no knowledge of same. Mr. Lynn may have built the house behind the family home but nobody has produced any evidence. The issue should be taken up with Irish Water. There was no right of way or easement to a water pipe sold with the land, therefor ethe applicant can comment no further on this issue. The appellant will have to take the issue up with Irish Water.
- **Item 5 Quantity of Animals** All housing and works will be accrued out in line with the Department of Agriculture specifications. There are numerous on site inspections associated with the bloodstock industry. There is adequate space for washdown areas and dung heaps.
- **Item No. 6 Visual Impacts** The nature of the development is rural on agricultural land which is normal throughout Ireland and it will not have a negative impact on the visual amenities of the area. The height of the shed is

standard. There was no planning permission required for cutting down the trees on site.

- **Item No. 7 Noise** There will no material increase in noise levels as a result of the proposed development.
- **Item No. 8 Interference** There was no interference with any lands outside of the site boundaries, and it is incorrect and malicious to state otherwise.
- **Item No. 9** Works carried out on site at present are exempt development.
- **Item No. 10 Bats** There are no bats on the site. The proposed building will be setback from the existing house and sheds, and on a hill 218metres from the church, and if there are bats in the locality, the proposal will not impact on them.

### 6.3. **Planning Authority Response**

There was no further response form the planning authority.

### 6.4. **Further Responses**

Both parties, Michael and Pat Lynn, have made further submission to the Board on this appeal. Most of the content has been stated in their respective appeals. In order to avoid undue repetition, I will summarise the new issues raised only, in both submissions.

6.4.1 A development that is going to radically change the ecosystem and wetlands on over 50 acres of land should have been appropriate assessed under the Habitats Directive.

Digging up and disturbing soil adjacent to the sheep dip was carried out without environmental regulations and restrictions.

The condition of the existing yard is not fit for purpose due to its cracks and disrepair.

The collecting yard for horses and horse boxes has not been indicated.

The content of the report is questionable, to say that a bird song and sheep bleating in a field would drown out the sound of a galloping horse is unbelievable. Clarity is required on the sue of the gallops, will there be visiting horses.

Drainage of soiled waters should have been included on the drawings in addition to nearby watercourses and wells.

Numerous fires have been on the site.

There has been detailed information regarding finding relating to sheep dips, and environmental implications of same.

## 7.0 **Assessment**

7.1. I have considered the planning application, the appeal file and inspected the site, I consider the following issues will be assessed:

- Relevant issues;
- Principle of the Development;
- Visual Impact;
- Environmental Issues:
- Impact on adjoining protected structure

## 7.2 **Relevant Issues**

The two third party appeals raise issues in their appeals that are beyond the remit of the Board:-

- **Water Supply** :- The appellants claim their water supply was disrupted by the development during works on the site. Firstly, the public water supply infrastructure and associated rights of way, are a matter for Irish Water. From the application form I note, the proposed water supply is private water supply. Therefore, the concerns expressed about the public water supply are beyond consideration of the Board and should be taken up by the appellants with the local authority or Irish Water.
- **Quarrying and Burying of carcasses and alleged sheep dip**: The appellants claim a portion of the site was a quarry, and that there were over hundred sheep carcasses buried on the landholding as they have knowledge from when their family owned the land and farmed it. Furthermore, it is claimed there was a toxic sheep dip on the site that was removed without planning

permission. I acknowledge the issues raised, however, these issues are planning enforcement issues, which are matters for the local authority. Furthermore, the allegations are unsubstantiated and bear little weighting to the current proposals on site.

- ***Unauthorised works*** : It is claimed that works have been carried out on site without the benefit of planning permission, including works to the farmhouse. The farmhouse and the existing stable yard are located outside of the relevant site boundaries. The issue of alleged unauthorised works carried out is beyond the remit of the Board and can only be addressed by the local authority.

The constructed and completed gallop extends into the applicant's landholding along the northern site boundary/ ditch. This field does not form part of the planning applications site boundaries. The Board cannot permit a development that is outside of the site boundaries therefore a planning condition will have to be attached to this affect. The gallop included on the submitted drawings is located adjacent to the proposed stable blocks and includes a collecting area where the large pond currently exists (see attached photos from site and aerial photography from Google Earth). These outstanding anomalies were not addressed by the planning authority within the remit of the planning application, and therefore the gallop as constructed cannot form part of this appeal as it is outside of the site boundaries.

Furthermore, the submitted drawings include 2No. lunging arenas and a horse walker to the southeast of the proposed new stable blocks. Yet on my site inspection, I noted a new horse walker and a lunger constructed immediately to the west of the current stable block alongside the Regional Road, outside of the current site boundaries but within the overall landholding. Again, these anomalies were not noted at the planning application stage, whereby the applicant should have been questioned whether these were to replace or in addition to the proposed facilities in the current proposal. It is a planning enforcement matter, however, I do consider it to be prudent to point out my on-site observations, as these facilities are not included or in compliance with the submitted drawings.

The bulk of the appeal content is beyond the remit of the Board.

### 7.3 Principle of the Development

The subject site forms part of a landholding that was a former sheep farm and now is been used to train young thoroughbred horses. The applicants purchase and resell young horses. The owners are two jockeys and brothers who have been operating from a number of establishments throughout Ireland but purchased the landholding recently to run their business out of one establishment.

The original farm sheds and outbuildings have been converted into stables. The proposal is to construct 2No. new stable blocks to accommodate 64No. horses. All works and housing of animals shall be carried out to Department of Agriculture specifications. An establishment involving thoroughbred horses is frequently inspected by the industry and the department.

According to Westmeath County Development Plan 2021 the following policies outlined in section 9.14, apply to the **Equine Industry**:-

*CPO 9.48 Ensure that equine based developments are located on suitable and viable landholdings and are subject to normal planning, siting and design considerations and related establishments.*

*CPO 9.49 Protect the equine industry from inappropriate development which would adversely affect its continued operation.*

The proposed development is in line with these policies which seeks to continue to support and encourage the development of a vibrant bloodstock industry, which plays a major role in the rural economy of Westmeath.

### 7.4 Visual Impact

The third-party appellants are concerned about the visual impact of the proposal. The landholding has a mildly undulating topography. The landscape is not the subject of any protection or designations. Agricultural structures are a normal occurrence in the area and are clearly visible on the local landscape. The subject development will not have a negative impact on the visual amenities of the area.

## 7.5 Environmental Issues

- The washdown areas and dung heaps have been designed with excess capacity in accordance with Department of Agriculture Specifications. The on file Environmental Report dated 05/08/2021 is noted in terms of farmyard manure to be produced, required and provided facilities, soiled water etc. All works are to comply with the infrastructural specifications of the Department of Agriculture, Food and the Marine and S156 Minimum Specifications for Horse Facilities and Fencing.
- The subject site is not located in a flood plain or identified on any OPW Flood Risk Management Maps.
- There is no direct hydrological link to a river in the immediate area. The Brosna River is 750metres to the southwest of a site boundary. Run-off from the farm buildings will be collected and discharged to constructed soak ways.
- The Noise report submitted as part of the further information in July 2021 is noted. There will not material change to the current ambient noise levels associated with the proposed gallops.

## 7.6 Impact on Protected Structure

A protected structure, Walshestown RC Chapel (RPS: 018-007) lies adjacent to the north-west boundary of the landholding. I examined the subject gallops in the context of the church, and there is a significant physical setback from the as-constructed gallop. I do not envisage a material impact to the protect structure as a result of the proposed development.

## 7.7 Appropriate Assessment

The appeal site is remote from any European site. The nearest Natura 2000 site, is situated 3.5km to the southwest of the appeal site. There is no hydrological connection to the Lough Owel SAC and Lough Owel SPA from the subject site. The Brosna River is 750metres from the nearest site boundary.

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. I recommend planning permission be granted for the proposed development.

## 9.0 Reasons and Considerations

Having regard to the long-term agricultural use of the site, the rural location, the policies of the Westmeath County Development Plan, the pattern of the existing development in the area, it is considered subject to the conditions detailed below, the proposed development would not seriously injure the visual or residential amenities of the area and would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 16th day of July 2021 and by the further plans 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The development permitted under this decision shall be strictly confined to works within the designated site boundaries. All works carried out or completed outside of the site boundaries may require a sperate planning application.</p> <p><b>Reason:</b> In the interest of clarity.</p>

3.	<p>Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. In this regard-</p> <p>(a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and</p> <p>(b) all soiled waters shall be directed to a storage tank. Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of environmental protection and public health.</p>
4.	<p>All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains, streams or adequate soak pits 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.</p> <p><b>Reason:</b> In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.</p>
5.	<p>Details of the finishes of the agricultural shed, the location of fencing of paddocks and other areas and the design shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In order to allow the planning authority to assess the impact of these matters on the visual amenity of the area before development commences [and in the interest of orderly development].</p>
6.	<p>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</p>



planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Caryn Coogan  
Planning Inspector

7<sup>th</sup> March 2022