



An
Bord
Pleanála

Inspector's Report ABP-313356-22

Development

Retention for building incorporating milking parlour, dairy, cubicles, loose area and underground effluent tanks. Silage Slab and associated site works. permission to construct new entrance, close existing entrance and associated development works.

Location

Lackensillagh, Aglish, Co. Waterford.

Planning Authority

Waterford City and County Council

Planning Authority Reg. Ref.

2261

Applicant

Patsy Fleming.

Type of Application

Retention Permission & Planning Permission

Planning Authority Decision

Grant Retention Permission & Planning Permission

Type of Appeal

Third Party

Appellants

Michael & Eileen Walsh

Observers

None

Date of Site Inspection

08 March 2024

Inspector

Sinéad O'Connor

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1.0 Site Location and Description

- 1.1. The site of 2.1 ha is located on the east side of the road in the rural townland of Lackensillagh. Aglish village is located circa 2.5 km to the north and Clashmore is circa 4 km to the south.
- 1.2. The site is 'L' shaped and forms part of a larger landholding of 183 ha. The site adjoins on 2-sides a residential property under separate ownership. The site is largely under grass and grazed by livestock and contains a single storey agricultural building and associated silage pit. The site is accessed from an agricultural entrance at the shared boundary with the adjoining property. The topography of the site and surrounding landholding is undulating, and the site slopes up from the road frontage and slopes downwards at the southeast corner of the shed.
- 1.3. Recorded Monument Ref. WA034-011 'Enclosure' is located in proximity to the northern boundary of the site, as per the National Monuments Service Historic Environment Viewer.
- 1.4. At the time of the site visit 08 March 2024 there were Sale Agreed signs at the adjoining property, which is the Appellants' home.

2.0 Proposed Development

- 2.1. The subject development comprises the retention of the agricultural building of 1,225 sq.m., as per Drawing No. 03-102 'Plan and Section'. The building comprises an open sided cubicle shed, a milking parlour and a loose shed. The development includes a silage pit of 627 sq.m. to the north of the building. It is proposed to close the existing gate and to construct a new entrance gate and lane.
- 2.2. I note that the Application Form submitted to the PA refers to an existing floor area of 1,387 sq.m.. This figure appears to refer to the older structures at the site, some of which were fully removed to facilitate construction of the subject development.

3.0 Planning Authority Decision

3.1. Decision

On the 22 March 2022 Waterford City and County Council issued their decision to grant retention permission and planning permission for the development subject to 8 no. conditions, including the following:

3. a) No further groundworks associated with the development subject to this retention permission shall take place within the confines or in the vicinity of the Recorded Monument WA034-011 enclosure.

(b) No Further works shall be carried out within the confines or in the vicinity of the Recorded Monument WA034-011 enclosure without the landowner submitting advance notification of intention to carry out works under Section 12(3) of the National Monuments Act 1994 of the Minister of Housing, Local Government and Heritage ("Minister").
6. (a) All foul effluent generated by the proposed agricultural development shall be conveyed through properly constructed channels to the proposed storage facilities and no effluent or slurry shall be allowed to discharge to any stream, river watercourse or to lands. Under no circumstances shall any of the storage facilities be allowed to overflow.

(b) The slurry effluent and farm yard manure shall be disposed of in such a manner and at such internals and locations as to ensure that it does not cause pollution of any watercourse or source of water supply and is in accordance with the requirements of the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2014.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Waterford City and County Council Planning Report dated 21 March 2022 forms the basis of the Planning Authority's decision. The key points of the report are summarised below:

- The development is acceptable in principle on the basis that it comprises agricultural works on a long-established farm within a rural/agricultural area.
- There is an open planning enforcement case that gave rise to this current application.
- Site is within a Recorded Monument and associated Buffer Zone and is located over a Locally Important Aquifer of High Vulnerability.
- The previous shed and silage bale appear to have been closer to the shared boundary than the subject structures, and the old milking parlour and shed appear to have been located on the shared boundary.
- Sufficient information submitted in respect of livestock numbers, and effluent generation and storage.
- The roadway comprises an established route to previous farm buildings.

3.2.2. Other Technical Reports

Transportation Department: No response.

3.3. Prescribed Bodies

Department of Housing Local Government & Heritage: Report dated 14 March 2022. Key issues raised are summarised as follows:

- The site is within and in the vicinity of Recorded Monument WA 034-001 'Enclosure'.
- A site visit was undertaken 17 September 2021.
- Archaeological Impact Assessment is not required as the submitted plans do not show any proposed groundworks at the Recorded Monument.
- Recommended conditions in respect of further groundworks in the confines or vicinity of the Recorded Monument.

3.4. Third Party Observations

2 no. observations were made in respect of the application. Observations generally reflect the grounds of appeal. The additional matters raised are summarised below:

- The private well serving the adjoining property is downhill from the existing slurry tank, circa 60 to 80 metres away.
- Noise from the machinery is audible from the adjoining bedrooms.
- Noise impacts from lorry turning movements between the house and the subject development.

4.0 Planning History

The planning history of the subject site is summarised below as follows:

- P.A. Ref. 21/1000: On 17 January 2022 an application was withdrawn for the retention of agricultural building and silage slab. On 16 December 2021 the PA requested 2 no. items of FI in respect of the storage capacity of the effluent tanks and the existing entrance. A response was submitted 12 January 2022.

Relevant planning history of the adjoining site can be summarised as follows:

- P.A. Ref. 20888: On 25 March 2021 planning permission was granted to Michael & Eileen Walsh for the removal of the existing extension and porch and the construction of a single storey side and rear extension.
- P.A. Ref. 10/218: On 6 October 2010 planning permission was granted to Michael Walsh and Eilean Brooks for the provision of a single storey shed and ancillary works.

5.0 Policy Context

5.1. Development Plan

The Waterford City & County Development Plan 2022 – 2028 is the relevant Statutory Plan. Policies and objectives of relevance to the proposal include the following:

- The site is not zoned or located within a defined settlement and is, therefore, considered rural.

- The Landscape and Seascape Character Assessment (LSCA) Map for Waterford designates the subject site and surrounding area as a 'Low Sensitive' area, with the potential to absorb a wide range of new developments.
- Section 8.6 'Sightline Requirements' states that for local roads with 80km per hr speed limit, sightlines of 55 metres will be required. Under Section 8.7 'Sightline Provisions' sightlines for commercial developments should be measured from a point 4.5 metres from the road edge.
- Section 8.9 'Hedgerow Protection' where sightlines can only be achieved by removing roadside hedgerow/ditches/stone boundaries, a replacement boundary comprised of native species will be required.
- Section 9.4 requires compliance with EU and national legislation and guidance on water quality. EU Nitrates Directive (91/676/ECC) requires the protection of surface water and groundwater from nitrate contamination from agricultural activities.
- Section 11.17 Archaeology and Policy Objective AH01 recognises the importance of the County's archaeological heritage and the need to protect features on the Record of Monuments and Places (RMP). Policy Objective AH 02 requires that archaeological excavation is undertaken in accordance with best practice, and AH 04 seeks sympathetic design and siting of new development proximate to archaeological features.

Volume 2 of the Plan lists Development Management Standards. The following are of relevance to the subject development.

- Development Management DM 32: In visually sensitive areas, the Planning Authority will require that:
 - Agricultural buildings/ structures be sited as unobtrusively as possible, and
 - The design, scale, siting and layout of agricultural buildings should respect, and where possible, enhance the rural environment.
 - Appropriate materials and colours are used. The use of dark colours, notably, dark green/reds and greys are most suitable for farm buildings.
 - The planting of shelter belts will be required to screen large scale sheds and structures.

- Buildings should generally be located a minimum of 100metres from the nearest dwelling other than the applicants dwelling.
- The Council will generally seek to cluster agricultural buildings and structures together, and siting to assimilate effectively into the landscape.
- Any proposals for farmyard developments must make provision for runoff, and where there is a danger of groundwater or surface water contamination, the Council will require appropriate treatment of runoff. The Council shall have regard to the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2009 (S.I 101 of 2009) in relation to acceptable agricultural practice standards.

I note that the Development Plan does not define Visually Sensitive Areas. Development Management DM 32 is the only development standard directly applicable to agricultural development.

- Development Management DM 56: Indicates that the Council will require the preparation of an Archaeological Assessment for development in the vicinity of all archaeological sites.

5.2. Natural Heritage Designations

The subject site is not within or immediately adjacent to any designated or Natura 2000 sites. At their closest points, the Blackwater River (Cork/Waterford) Special Area of Conservation (SAC) (Site Code 002170) and the Blackwater River And Estuary proposed Natural Heritage Area (pNHA) (Site Code 000072) are circa 2.3 km to the west of the site. The Blackwater Estuary Special Protection Area (SPA) (Site Code 004028) is circa 4.5 km to the southwest and the Dungarvan Harbour SPA (Site Code 004032) is circa 11 km to the east of the site.

5.3. EIA Screening

See completed Form 1 in Appendix 1. The proposed development comprises an agricultural shed for housing cows and an ancillary silage pit. These works do not fall into a class of use under Schedule 5 of the Regulations and, therefore, I do not consider that EIA or Preliminary Examination for EIA is required in this instance.

6.0 The Appeal

6.1. Grounds of Appeal

The First Partys' grounds of appeal are summarised below as follows:

- The Appellants have owned and lived in the property for 12 years, at the time of writing.
- Prior to the subject works, the adjoining farm buildings were in limited use to house and feed animals.
- Current operations constitute an intensification of the previous activities.
- Negative impacts on the Appellants' home in respect of the following: air pollution from vehicles, odour, noise, fire risk, health and safety, loss of privacy, vibration from machinery, dust and debris, contamination of private well, vermin, and visual impacts and overbearing.
- Health impacts from gases released from the slurry tanks, and from stress due to the unauthorised development.
- Devaluation of the Appellants' property has prevented planned works to their home.
- The Applicant removed the old farm buildings and cleared the ground in early 2020 prior to the construction of the subject development.
- There was no necessity for the Applicant to construct the subject development so close to the Appellants' home.
- If the Applicant had applied for planning permission, he would likely have been required to move the development further from the Appellants' home.
- The works substantially exceed relevant thresholds for exempted development.
- Proposed entranceway will require the removal of hedgerow.
- The entrance roadway is unacceptably close to the shared boundary and has negative impacts in respect of dust, noise and loss of privacy.
- Inaccuracies in the livestock numbers submitted, fail to illustrate the scale of activities at the site.

- The retention application does not include the silage bay area and roadway to the north of the Appellants' property, or the existing gate or road to the south of the property.
- Waste figures submitted refer to several locations within the landholding, which does not give an accurate picture of wastes at the subject site.
- Waste storage at the tank has a stated capacity for 620 sq.m. which is insufficient for the 90 no. cows and "replacements" to be housed and the silage effluent arising.
- Moving waste within the landholding would cause the slurry to be agitated during winter months while the livestock are being housed.
- Works undertaken in the vicinity of the Recorded Monument without proper licencing or planning permission.
- Reference made to planning precedent for the refusal of retention permission for agricultural works on the basis of residential amenity.
- Failures of the P.A. in their assessment of the application.
- None of the conditions attached to the P.A. decision relate to the protection of residential amenity of the Appellants' home.
- Failure to comply with Objective DM 1 of the Waterford County Development Plan 2011-2017, as amended and extended.
- Works at the site include commercial timber cutting, vehicle dismantling, and machinery storage.

6.2. Applicant Response

The Applicant submitted a response to the Appeal dated 16 May 2022. The key issues raised can be summarised as follows:

- The farm has been in use for 70 to 100 years and has been developed throughout that time. The farmyard had previously been used to milk cows between 1970 and 1990, and the remains of the milking parlour are at the site.
- The Appellant purchased their property in the middle of the farmyard and should have been aware of the noise and smells that go with it.

- The Appellant's property is not devalued on the basis that it has always been located proximate to a farmyard.
- Original farm buildings were closer to the dwelling than the subject development.
- The Applicant has been working these lands for over 30 years and inherited the farm in 2018/2019. The existing buildings and open slurry pit were removed on safety grounds.
- The existing entrance and lane have been in existence for over 70 years and the entrance was widened to allow access for modern lorries. The proposed entrance seeks to accord with development standards.
- A report prepared by Teagasc states that there is sufficient slurry capacity. These figures state that 5.3m³ is required per cow for 16 weeks. The figures refer to 80 no. cows and dairy wash for 80 cows, which give a total requirement for 553.6 m³ of storage. The slurry storage has a volume of 620 m³, and there is extra slurry storage provided in other locations on the landholding.
- Not all cows are housed in the shed over winter.
- Odours from slurry are not continuous. The slurry tank of 620 m³ takes 2 days to empty using standard lorries, or 5.4 hrs using an umbilical system.
- Slurry agitation takes between 2-5 to 3 hrs and takes place when spreading is permitted.
- The prevailing wind is southwestern, which blows odours away from the Appellants' house.
- Safety standards are adhered to in the operation of the farm.
- Milk collections occur during the daytime only.
- The existing silage base to the north of the Appellants' property is not in use.
- Aerial imagery shows that the former farmyard had not changed in over 22 years.
- Based on historical mapping, it is estimated that the Recorded Monument was removed 200 years ago. There is no remaining evidence of the monument at the site.

- The subject development is essential for the future of the farm and complies with current good farming practices.

7.0 Assessment

Having examined the application details and all other documentation on file, including all submissions received in relation to the appeal, and inspected the site, and having regard to relevant local policies and guidance, I consider that the main issues in this appeal are as follows:

- Effluent Storage
- Rural Development
- Residential Amenity
- Access
- Archaeological Impacts

I note that the Waterford City & County Development Plan 2022-2028 came into effect since the PA's decision.

7.1. Effluent Storage

- 7.1.1. Effluent storage serving the subject shed and the silage pit comprises 2 no. tanks beneath the shed with a combined volume of 620m³. The larger tank (Tank 1) is located at the northern side and has a volume of 359 m³. The smaller tank (Tank 2) is at the southern side and has a volume of 261 m³.
- 7.1.2. There is ambiguity in the submitted documentation in respect of the quantity of livestock at the subject development, which has implications for the effluent storage volumes required. The Agricultural Development form submitted to the P.A. states that the existing and proposed livestock number comprise: 90 Dairy Cows and 199 no. other livestock. The Teagasc 'Summer Full – Fertiliser Plan 2021' submitted to the P.A. states that the full landholding accommodates 80 no. dairy cows and 311 no. other livestock and has 1,538.1 sq.m. of net effluent storage available. The Cover Letter submitted to the P.A. states that the Applicant is milking 95 no. cows on the landholding while the Applicant's response to the appeal refers to milking 80 no.

cows. I note that Drawing No. 03-102 'Plan and Section' submitted to the P.A. states that Tanks 1 and 2 are sized to accommodate effluent from 68 no. cows and 49 no. cows, respectively. Therefore, the stated total capacity is 620 sq.m., which is equivalent to 117 no. animals.

- 7.1.3. Table 2 'Slurry storage capacity required for cattle, sheep and poultry' of Schedule 2 of the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 requires slurry storage of 0.33 m³ per week for dairy cows. On the basis of a 16-week wintering period, as submitted, a minimum of 5.28 m³ storage is required per cow. Applying these requirements to 117 no. cows gives a minimum requirement of 617.76 m³ of storage. As per the Applicant's response to the Appeal, storage demand arising from Dairy Washings are calculated on the basis of 0.027m³ per cow for 60 days, which gives a requirement for 189.54 m³ of additional storage. In total, the storage requirement for 117 no. cows is 807.3 m³. For reference, if the submitted figure of 95 no. cows is used the storage requirement is 655.5 m³, including dairy washings. In both instances, the required storage volume is higher than the 620 m³ storage capacity available in the existing tanks.
- 7.1.4. The documentation submitted by the Applicant does not give an estimate for effluent arising from the silage pit, which also drains to Tank 1. Table 5 'Storage capacity required for effluent produced by ensiled forage' of the aforementioned Regulations states that grass and arable silage require 21 m³ of effluent storage per 100 tonnes. The Agricultural Development Form submitted to the P.A. states that there is a maximum of 1000 tonnes of vegetation ensiled at the farm. Applying the standard in the Regulations gives a requirement for at least 210 m³ of effluent storage for silage at the landholding. Owing to the large size of the subject silage pit, I consider it reasonable to assume that a significant portion of the silage on the landholding is stored at the subject site and drains into the existing storage tank. Given that the 620 sq.m. capacity of the tanks is exceeded without the addition of silage effluent, as discussed in Section 7.1.3 of this report, I consider that the existing storage tanks are undersized to effectively store effluent arising from the shed and the silage pit.
- 7.1.5. The applicant stated in their response to the Appeal that effluent from the development may be stored elsewhere in the landholding. I note that no details are provided in respect of the location or capacity of the other storage areas on the wider landholding. Notwithstanding this lack of information, I do not consider it appropriate

that effluent arising from the subject development be transported outside of the subject site for storage owing to the potential for spillages and contamination.

- 7.1.6. The Appellant raised concerns regarding potential impacts on their potable water supply. I note that it is not clear whether impacts on their water supply have been experienced to date. The application documentation and site plans submitted do not clearly show the location of the Appellants' well however, it is stated in the observations to the P.A. that the well is 60 - 80 metres to the west of the subject structures. Section 5.1 of Department of Agriculture Food and the Marine's 'Minimum Specification for Bovine Livestock Units and Reinforced Tanks' (S.123:October 2022) states that the minimum distance between a storage facility and a public/private water source shall be 60 metres for new farmyards, and shall be no less than 300 metres in vulnerable situations. The Geological Survey Ireland Groundwater Data Viewer shows that the site is within a 'High' vulnerability area. In this way, I consider that the minimum 300-metre separation requirement applies. On the basis that the full extent of the Appellants' property, which includes their water supply, is within 135 metres of the site, I consider that the subject development fails to meet the 300-metre separation standard. On this basis, I cannot be satisfied that the subject development would not be prejudicial to public health.
- 7.1.7. Drawing from the above, I recommend that retention planning permission is refused in the interest of public health and to safeguard the surrounding environment.

7.2. Rural Development

- 7.2.1. The subject development comprises the retention of an agricultural shed of 1,225 sq.m. with underground slurry storage of 620 m³, and a silage pit of 627 sq.m. The shed has a maximum height of 6 metres and an eaves height of 4.53 metres.
- 7.2.2. The subject development is located circa 12 metres to the east of an adjoining property, and 35 metres from the rear façade of the adjoining dwelling (the Appellants' property). From the aerial imagery submitted and EPA mapping, I note that the previous shed at the subject site was located circa 9 metres from the shared boundary and had a floor area in the region of 230 sq.m..
- 7.2.3. The site is in a rural area within a long-established farm. In this regard, the construction of an agricultural shed is generally acceptable in principle.

- 7.2.4. The P.A. in their assessment considered the subject development appropriate on the basis that the works occurred at an established farm. In this regard, I note that the old sheds and milking parlour on the Applicant's lands had historically formed part of a farmyard associated with the adjoining property. On the basis of the information submitted, I note that the residential property was separated from the farmyard in excess of 14 years ago and the old/former sheds fell into disrepair. Prior to the subject works, the First Party stated that the former sheds were falling down and unsafe. On the basis of the information submitted, I do not consider that the subject site constituted an active farmyard prior to the construction of the subject structures. I have, therefore, assessed this development as a new farmyard.
- 7.2.5. The 35-metre separation distance between the subject shed and the adjoining property falls significantly below the 100-metre distance generally sought under DM32. Having reviewed the submitted documentation and undertaken a site visit, I consider that the separation distance provided is insufficient to protect the existing dwelling from nuisance arising from the subject development. With reference to Development Management DM 32 of the Development Plan and the dispersed pattern of development in the area, I consider that the subject development is located too close to the shared boundary to the west.
- 7.2.6. I note that the subject development retains no part of the former shed and, therefore, there is no substantive justification for erecting the subject development at this location. Given the size, topology and road frontage of the subject site and the larger landholding, I do not consider that significant site constraints exist to preclude the provision of a suitable separation distance between the shed and the adjoining dwelling.
- 7.2.7. Drawing from the above, I consider that the subject development has been sited inappropriately with reference to the provisions of the Development Plan and surrounding pattern of rural development. I recommend that retention planning permission is refused on this basis.

7.3. Residential Amenity

- 7.3.1. The Appellants' dwelling is located to the immediate west of the subject site. The rear boundary of the property is circa 12 metres from the subject development, and

the rear façade of the dwelling is within 35 metres of same. From the documentation submitted, I note that this dwelling is over 100 years old and would historically have been the farmhouse for the surrounding farmlands. It is not apparent when the house was separated from the farm however, the Appellant is stated to have resided in the dwelling since circa 2010.

- 7.3.2. At the time of the site visit the odour and noise arising from the shed was typical of a livestock shed of this size. Owing to the minimal separation distance, I consider that this odour and noise would have significant negative impacts on the amenity value of the rear garden and rooms at the rear façade. It is my opinion that general plant noise and activity at the yard, including low frequency noise arising from the milking parlours, would have detrimental impacts on adjoining residential amenity. Drawing from the above, I consider that the subject development has a significant negative impact on the residential amenity of the adjoining dwelling. I note the height of the subject shed is comparable to that of the dwelling, and I consider that the existing buildings and vegetation at the shared boundary mitigate against significant negative impacts in respect of overlooking and overbearing.
- 7.3.3. From the aerial imagery submitted, I note that the existing agricultural entrance has been in place for some time. From these images, it is apparent that the use of the entrance has intensified in recent years as a dirt track has been created adjoining the shared boundary. Owing to the slope and substrate of this track, I consider that dust is likely to be raised by vehicles however, it is my opinion that the existing vegetation at the boundary would protect the dwelling from significant impacts. Owing to the layout of the subject farmyard proximate to the shared boundary, I consider that large vehicles and machinery could have significant negative impacts on adjoining residential amenity in respect of noise and vibration. If the Board is minded to grant permission for the subject development I recommend that a condition be attached to limit pick-ups and deliveries to between 07:00 to 19:00 daily.
- 7.3.4. The Appellants' dwelling is located proximate to an established farm in a rural area and, therefore, a certain level of nuisance from farm activities is expected. Having compared the approximate size of the former shed to the size of the subject shed, I consider that the subject development constitutes a significant intensification of the agricultural works undertaken at this location. Due to the siting of the subject

development, it is my opinion that the resulting residential amenity impacts are outside the scope of what is typical and generally accepted in a rural area.

- 7.3.5. Drawing from the above, I recommend that retention permission is refused for the subject development on the basis of undue negative impacts on residential amenity.

7.4. Access

- 7.4.1. The proposed development comprises the creation of a new agricultural entrance and a roadway to connect the entrance to the existing track adjoining the shared boundary. The proposed entrance is located centrally on the road frontage, circa 25 metres to the south of the existing entrance. These works would require the removal of circa 70 metres of hedgerow.
- 7.4.2. As per submitted Drawing No. 02.r2.102 'Proposed Site Layout', 55-metre sight lines are provided onto the local road, as measured from a point 4.5 metres back from the road edge. With reference to Table 8.1 of the Development Plan, I consider that the design of the proposed agricultural gate is acceptable. It is proposed to replace the existing hedgerow with new hedge or timber fencing. With reference to Section 8.9 and DM 48 of the Development Plan, I consider that the existing hedgerow should be replaced with hedgerow comprised of native species on a suitable embankment. If the Board is minded to grant planning permission for the proposed development, I recommend that a condition be attached requiring the replanting of the hedgerow as per Development Plan requirements.
- 7.4.3. Drawing from the documentation submitted, it is my opinion that the purpose of the proposed entrance and road is to provide access to the existing shed and silage pit. On the basis that I have recommended that retention permission be refused for these structures, see Sections 7.1, 7.2 and 7.3 of this report, I do not consider it appropriate to grant planning permission for the access sought as this would constitute ad-hoc development. In this way, I recommend that planning permission is refused.

7.5. Archaeological Impacts

- 7.5.1. The subject site appears to contain Recorded Monument Ref. WA034-9011 'Enclosure'. This feature is shown on the OSI Six-Inch First Edition and is absent on

the OSI Six-Inch Latest Edition and recent aerial images. No archaeological features were visible at the time of the site visit.

- 7.5.2. The report submitted to the P.A. from the Department of Housing, Local Government and Heritage dated 14 March 2022 notes that a site inspection was carried out by that department on 28 September 2021. On the basis that the submitted drawings do not show any remaining or proposed groundworks in the vicinity of the Recorded Monument, the Department do not consider that an Archaeological Impact Assessment is required in this instance. The report recommends that conditions are attached.
- 7.5.3. Drawing from the Department's report, I consider that care should be taken to safeguard any remaining archaeological material at the site. If the Board is minded to grant retention permission and planning permission for the proposed development, I recommend that a condition be attached to prevent further groundworks in the vicinity of the Recorded Monument and to ensure that sufficient advance notification is given to the Minister for Housing, Local Government and Heritage in respect of future works.

8.0 Appropriate Assessment Screening

- 8.1. The nearest designated site to the subject site is the Blackwater River (Cork/Waterford) SAC (Site Code 002170), which is circa 2.3 km to the west of the site. The site is located circa 4.5 km to the northeast of the Blackwater Estuary SPA (Site Code 004028) and circa 11 km to the west of the Dungarvan Harbour SPA (Site Code 004032).
- 8.2. Owing to the distance of the site from the Dungarvan Harbour SPA and lack of direct hydrological or over-land connections, I consider that this site can be screened out from further assessment. The Qualifying Interests and conservation objectives for the Blackwater River (Cork/Waterford) SAC and Blackwater Estuary SPA are set out below.

Natura 2000	Site Code	Qualifying Interests	Conservation Objectives
Blackwater River (Cork/Waterford) SAC	002170	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p>	To maintain and restore the favourable conservation condition of the QI habitats and species in the Blackwater River (Cork/Waterford) SAC.

		<p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Alosa fallax fallax (Twaite Shad) [1103]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Trichomanes speciosum (Killarney Fern) [1421]</p>	
Blackwater Estuary SPA	004028	<p>Wigeon (Anas penelope) [A050]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Lapwing (Vanellus vanellus) [A142]</p> <p>Dunlin (Calidris alpina) [A149]</p> <p>Black-tailed Godwit (Limosa limosa) [A156]</p> <p>Bar-tailed Godwit (Limosa lapponica) [A157]</p> <p>Curlew (Numenius arquata) [A160]</p> <p>Redshank (Tringa totanus) [A162]</p> <p>Wetland and Waterbirds [A999]</p>	To maintain and restore the favourable conservation condition of QI species at the Blackwater Estuary SPA.

8.3. During the site inspection I did not see any evidence of waterbodies/courses at the subject site and the EPA mapping does not show any waterbodies within or

immediately adjoining the site. EPA mapping shows 2 no. streams to the east and west that are within 400 metres of the site. These waterbodies flow into the Blackwater River. The subject site is separated from the Blackwater River and Estuary by existing rural development, and there are no direct overland hydrological connections between these sites and the subject site. In this way, there are no direct source receptor pathways between the subject site and any designated areas.

- 8.4. The subject development is located within an established farm that is predominantly under grass, therefore, direct habitat loss or ex-situ disturbance of QIs (habitats and species) would not occur at the site. Given the distance from the designated sites, I consider that likely significant ex-situ effects on QIs (habitats and species) will not occur.
- 8.5. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on the Blackwater River (Cork/Waterford) SAC or Blackwater Estuary SPA, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.
- 8.6. This determination is based on the following: distance from the Protected Sites, lack of surface waterbodies in the vicinity of the site, pattern of development in the area, and character of the subject site.
- 8.7. This screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

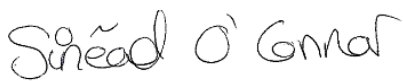
9.0 Recommendation

- 9.1. I recommend that retention planning permission and planning permission be refused for the reasons and considerations as set out below.

10.0 Reasons and Considerations

1. The subject development, by reason of its failure to provide sufficiently large effluent storage tanks and its proximity to a private water supply in a High Vulnerability groundwater area would conflict with the provisions of European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 and the Department of Agriculture Food and the Marine's 'Minimum Specification for Bovine Livestock Units and Reinforced Tanks' (S.123:October 2022). Failure to comply with these standards has resulted in substandard development, is potentially prejudicial to public health and fails to safeguard the surrounding environment. The subject development is, therefore, contrary to the proper planning and sustainable development of the area.
2. Due to the scale and proximity, the development and associated activities would negatively impact on adjoining amenities. The development does not accord with DM 32 of the Volume 2 of the Waterford City and County Development Plan 2022-2029 and is contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.



Sinéad O'Connor
Planning Inspector

08 March 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	313356-22			
Proposed Development Summary	Retention for building incorporating milking parlour, dairy, cubicles, loose area and underground effluent tanks. Silage Slab and associated site works. permission to construct new entrance, close existing entrance and associated development works.			
Development Address	Lackensillagh, Aglish, Co. Waterford.			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		Class.....	EIA Mandatory EIAR required	
No	X		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No	X	N/A		No EIAR or Preliminary Examination required
Yes		Class/Threshold.....		Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector. Sinead O'Ginnar

Date: 08 March 2024