



An  
Bord  
Pleanála

## Inspector's Report ABP-315978-23

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<b>Development</b>	Packaged Wastewater Treatment System, percolation area, existing well and alterations to existing agricultural building.
<b>Location</b>	Sheilstown, Knocknanna, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	22/1301
<b>Applicant(s)</b>	Muireann Brennan.
<b>Type of Application</b>	Retention Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party v Refusal
<b>Appellant(s)</b>	Muireann Brennan.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	14-09-2023
<b>Inspector</b>	Adam Kearney.

## 1.0 Site Location and Description

- 1.1. The circa 0.4 Ha subject site is occupied by an Agricultural Shed (c.360m<sup>2</sup>) and located in the townland of Sheilstown circa 3.5km northeast of Knockanna village. The area can be characterised as a remote upland, served by a narrow substandard local road. There are large forestry plantations in the area and a small no. of one-off dwellings with the nearest circa 180m west of the subject Agricultural Shed.

## 2.0 Proposed Development

- 2.1. Retention permission is sought for a Packaged Wastewater Treatment System, percolation area, existing well and alterations to existing agricultural building.

## 3.0 Planning Authority Decision

### 3.1. Decision

Refuse Permission for the following reasons.

1. Having regard to;

(a) The layout and scale, and types of uses identified within the altered agricultural shed.

(b) The alterations to the external facade of the shed which accommodate multiple window openings.

(c) The agricultural landholding/ operations identified in the submitted documents.

(d) The lack of information on traffic movements, and insufficiency of the road network.

It is considered that the need for the proposed development has not been adequately justified or demonstrated to be necessary for the efficient operation of the agricultural practices on site, the development would be over and above the needs of the existing agricultural use on the landholding and would represent commercial development at this point. The development would therefore represent haphazard development in this rural area, would set a precedent for similar footloose development, would be contrary to the objectives of the County Development Plan

2022-2028 in respect of Economic and Farming development in the rural area, would result in a traffic hazard, and would be contrary to the amenities of this rural area, and to the proper planning and sustainable development of the area.

2. Inadequate evidence is available that the site is suitable for septic tank effluent percolation and if found to be unsuitable then this development would be prejudicial to public health

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- Planner noted the scale of the proposal exceeded what could reasonably be considered appropriate in terms of agricultural use.
- The development is premature due to the poor condition of the road and wider road network in terms of inadequate capacity, width, and alignment.
- The external design changes are minimal and aided by planting/screening

#### **3.2.2. Other Technical Reports**

- EHO Sought FI in relation to the artificial lake and requested cross sections through the wastewater treatment & disposal system

## **4.0 Planning History**

### **4.1. 05/2881**

Permission Granted for the erection of an Agricultural Shed.

## **5.0 Policy and Context**

### **5.1. Development Plan**

Wicklow County Development Plan 2022 – 2028

## Level 10 - Rural Area

### Area of High Amenity Transitional Lands

The Area of High Amenity Transitional Area comprise of lands which act as a natural buffer and provide a clear distinction between the less sensitive landscapes within the County and the landscape areas identified as Areas of Outstanding Natural Beauty. These lands are located at Manor Kilbride, south of Hollywood moving towards Donard and lands extending from the Glen of Imaal towards Aughrim.

**CPO 9.41** To permit the development of new, appropriately located and designed agricultural buildings, which are necessary for the efficient and environmentally sound use of the agricultural practice. New buildings will generally only be permitted in cases where there are no suitable redundant buildings on the farm holding which would accommodate the development and where the Council is satisfied that the proposal is necessary for the efficient operation of the farm. Developments shall be compatible with the protection of rural amenities, and should not create a visual intrusion in the landscape or be the cause of an environmental nuisance.

## 5.2. Natural Heritage Designations

None in the vicinity

## 5.3. EIA Screening

5.4. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- Planning Authority should not have considered scale/internal layout of the barn in its decision.
- The planning Authority was incorrect to conclude that the barn is not justified relative to the size of the landholding it will serve.
- The proposed development is not haphazard development, nor will it endanger traffic safety.
- The Planning Authority should have asked for further information in relation to the suitability of the site to treat foul effluent.

### 6.2. Planning Authority Response

- None

### 6.3. Observations

- None

### 6.4. Further Responses

- None

## 7.0 Assessment

- 7.1. I have visited the site and read the file and consider the salient planning issue is whether the application for retention pertains to development that involves a change of use, a **new issue** of other development (revised boundaries, security gates and CCTV infrastructure) not covered by the application, and finally the degree to whether the WWTP and local road network could support such a proposal.
- 7.2. On the day I visited the site I was unable to gain access or any meaningful visual perspective. There was no activity obvious unless there was internal activity in the shed. The presence of imposing urban style electric gates and CCTV cameras were

noted. Such security infrastructure is inconsistent with the character of the rural area and I consider it an inappropriate intervention.

- 7.3. The Local Authority have come to the view that based on the information to hand that the use of the structure does not qualify or extends beyond the definition of agriculture. For the purpose of clarity, the definition of Agriculture in the Planning and Development Act 2000 Section 2 is as follows:

*“Agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur or for the purpose of its use in the farming of land, the training of horses and the rearing of bloodstock, the use of the land as grazing lands, meadow land, osier land, market gardens and nursery grounds and agricultural shall be constructed accordingly*

- 7.4. The plans submitted with the application clearly illustrate various rooms including canteen, office, meeting room, potting room, utility etc. and while I note in the appeal document that the appellant states that some of the room designations on the floor plan was a result of an error and have now been relabelled.
- 7.5. I would understand the mislabelling of one room but the redesignation of multiple rooms at appeal stage could be construed as an effort to lessen the commercial presentation of the building. But, irrespective of the room designations it is clear that the layout is supportive of some form of enterprise that extends far beyond the scope for which an Agricultural Shed was ever intended.
- 7.6. The details around the ‘Park/Project’ are difficult to decipher and the voluminous text accompanying the appeal has left me more unclear of the true nature of the operation. There is an absence of a clear and concise business plan and method statements for the current use/activities and inadequate information around *inter alia* the purpose of the enterprise, the number of employees, deliveries, number and frequency of visitors, details of college students attending, means of travel to and from the building, waste and byproduct disposal arrangements, turning movements etc.
- 7.7. I note the project title in the application is given as ‘Horticultural Research Centre’. Albeit the subject of the research is stated as ‘Horticulture’ I am not satisfied that a research centre is a use that comes under the definition of ‘Agriculture’ offered in

Section 7.2 and I am satisfied that the stated use of the building as outlined in the application and the appeal can be categorised as a commercial enterprise and as such is an activity that necessitates an application for a material change of use.

- 7.8. It is further noted that the red line area of the development covers the shed and an arbitrary area of 0.43 Hectares surrounding the shed, whereas the original application in 2005 was for a much-reduced area of 0.25 Ha. I further note the extant application does not contain a revision of site boundaries to reflect the larger site area.
- 7.9. The site characterisation report submitted with the application is based on a 4-bedroom dwelling with a PE of 6. Based on the size of the structure and the uncertain no. of people on the site at any given time (appellant stated in a letter to the Planning Authority on the 12/08/2022 that there were multiple teams of contractors on the site). There is also, as mentioned heretofore reference to students visiting to conduct research. I am not therefore satisfied that the WWTP can adequately treat the wastewater generated on the site. In addition, there is an artificial pond introduced 45m northeast of the Agricultural shed that was highlighted by the EHO during the application and this feature and the vulnerability surrounding it is no addressed in the report.
- 7.10. The application and appeal also delve into great detail about the wider project occupying the lands controlled by the applicant and how this underpins the need for the altered Agricultural shed and the wastewater treatment plant yet these components do not form part of the application. I note from aerial imagery and from limited perspectives at the property that there is a significant intervention obvious on the landscape that is outside the red line area and I note that there is a description of crushed stone importation to form an internal road layout. I, therefore, struggle to understand how the larger Park/Project can be decoupled from the activities in the barn for the purposes of an application for retention.

## 8.0 **Appropriate Assessment Screening**

Having regard to the nature and scale of the proposed development, the nature of receiving environment as a rural area remote from any Natura Sites and the absence of a pathway between the application site and any European site it is possible to

screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

## 9.0 Recommendation

9.1. I recommend that Retention Permission be Refused for the following reasons and considerations.

## 10.0 Reasons and Considerations

1.	Having regard to the extent of the alterations made to the Agricultural Shed and its stated use in the application as a 'Horticultural Research Facility' with associated offices, sanitation and catering facilities, it is considered that the application for retention would involve a material change of use to which the current application does not extend. In addition, the application for retention relates to an area materially different to the original site curtilage as submitted under Planning Ref 05/2881 and does not include a revision of site boundaries in the development description. Further, the retention application fails to incorporate additional development that would ordinarily require permission such as electric security gates and CCTV infrastructure. On this basis, to determine an application that does not reflect the actual use of a structure/property would not accord with the proper planning and sustainable development the area.
2.	The Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated or disposed of on site, notwithstanding the installation of a proprietary wastewater treatment system and the carrying out of a site characterisation report. The ongoing use of the plant would, therefore, be prejudicial to public health.



3.	The site is accessed from a minor road which is severely substandard in terms of width and alignment. The traffic, especially HGV traffic generated by any intensification of development would, if permitted, interfere with the safety and free flow of traffic and endanger public safety by reason of traffic hazard and obstruction of road users.
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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.

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Adam Kearney  
Planning Inspector  
25<sup>th</sup> October 2023