



An
Bord
Pleanála

Inspector's Report

ABP-317652-23

Development	Retention of a horse exercise and walking structure.
Location	Seven Springs Stud, Pollardstown, Curragh, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	221449
Applicant(s)	Seattle Slew Limited
Type of Application	Retention Permission
Planning Authority Decision	Grant Permission with Conditions.
Type of Appeal	Third Party
Appellant	Martin Wall
Observer	None
Date of Site Inspection	23 October 2023
Inspector	Sinéad O'Connor

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	3
3.3. Prescribed Bodies	4
3.4. Third Party Observations	4
4.0 Planning History.....	4
5.0 Development Plan	5
5.1. Natural Heritage Designations	8
5.2. EIA Screening	8
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Applicant Response	8
6.3. Planning Authority Response	9
7.0 Assessment.....	9
8.0 Recommendation.....	13
9.0 Reasons and Considerations.....	13
10.0 Conditions	14
Appendix 1 – Form 1: EIA Pre-Screening	

1.0 Site Location and Description

- 1.1. The subject site is irregular in shape and has a stated area of 1.47 hectares. The site is located on the east side of the road and there are trees and vegetation along the road frontage. The subject site immediately adjoins existing residential dwellings to the north and south.
- 1.2. The site is currently in use as a stud farm and accommodates several stable blocks and ancillary buildings, and 3 no. paddocks. The stud farm has capacity for 30 no. horses. The subject horse exercise structure is located at the southwest portion of the site and at its closest point is 5.675 metres from the shared boundary to the south. There is evidence that vegetation at the southern boundary of the site had recently been removed.

2.0 Proposed Development

- 2.1. The subject development comprises a partially covered oval shaped horse exercise structure. The structure is constructed of concrete panels and corrugated sheeting on a steel frame and has a stated maximum height of 4.5 metres. The uncovered area in the centre of the arena is under grass and the covered perimeter track is made of sand.

3.0 Planning Authority Decision

3.1. Decision

On the 20 July 2023 Kildare County Council issued a notification of their decision to grant retention planning permission for the development subject to 9 no. conditions. Condition 3 limited the hours of use to between 0900 to 1600 Monday to Friday, and to 0930 to 1600 on Sundays and Bank Holidays.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Kildare County Council Planning Reports dated 25 January 2023 and 14 July 2023 form the basis of the Planning Authority's decision.

- On the 25 January 2023 Kildare County Council issued a request for 7 no. items of Further Information. Following a request for an extension of the time, the applicant submitted their response to the Planning Authority on 04 July 2023. The Planning Authority was satisfied that the Further Information submitted addressed the issues raised.
- The subject development was found to accord with the provisions of the Kildare County Development Plan 2023-2029.
- Site is serviced by existing infrastructure.

3.2.2. Other Technical Reports

Area Engineer (Kildare Newbridge Municipal District): No objection subject to condition.

Water Services: No objection subject to condition.

Heritage Officer: No objection.

3.3. Prescribed Bodies

Uisce Éireann: No objection subject to conditions.

Department of the Arts, Heritage and the Gaeltacht: No response.

3.4. Third Party Observations

1 no. observation was made in respect of the application. The issues raised are identical to the grounds of appeal, summarised below.

4.0 Planning History

The planning history of the site can be summarised as follows:

- P.A. Ref. 90454: On 07 November 1990 retention planning permission was granted subject to conditions for the retention of 3 no. stable blocks, hayshed, office, flat, manure pit and septic tank. Further information was requested 30 May 1990 and submitted 30 July 1990.

- P.A. Ref. 001793: On 21 November 2001 retention planning permission was granted subject to 7 no. conditions for 3 stable blocks, 2 no. wash down boxes, covered walker, ancillary storage rooms, new effluent treatment system, and a manure pit with underground holding tank.
- The Planning Authority's report refers to Warning Letter UD7795, issued in respect of the alleged construction of a roofed horse arena without the benefit of planning permission.

Relevant planning history of the Appellant's property to the south of the subject site can be summarised as follows:

- P.A. Ref. 031887: On 14 June 2004 retention planning permission and planning permission was refused to Pat Munnely for the retention of conversion of existing garage to habitable unit ancillary to main bungalow and for proposed upgrades to the septic tank.
- P.A. Ref. 05486: On 04 May 2005 retention planning permission was refused to Pat Munnely for the use of the garage has a habitable unit and for upgrade works to the septic tank.
- I note that the Planners Reports for P.A. Refs. 031887 and 05486 refer to the parent permission for the existing dwelling as P.A. Ref. 81111, under which Kevin Munnely was granted planning permission for a bungalow on 31 March 1981.

5.0 Development Plan

The Kildare County Development Plan 2023-2029 is the relevant Statutory Plan. I note that this application was initially assessed by the Planning Authority under the Kildare County Development Plan 2017-2023. The current Development Plan came into effect on 28 January 2023.

Relevant policies and objectives of the current Development Plan include the following:

- The site is not within a designated settlement or subject to any land use zoning objective and is, therefore, considered rural.

- Section 9.5 states that the equine industry is of importance to Kildare’s economy and that the Planning Authority will support and encourage the development of a vibrant bloodstock industry, for the benefit of the rural economy.
- The site is located in the Central Undulating Lands Landscape Character Area (LCA) in close proximity to the Pollardstown Fen LCA. The Central Undulating Lands have a low sensitivity and, therefore, has capacity to accommodate a wide range of uses without significant impacts on the area. Table 13.3 contains a matrix of likely compatibility between land uses and areas of sensitivity. Agriculture is listed as ‘most’ compatible with the Central Undulating Lands LCA and ‘Likely to be very compatible in most circumstances’ with the Natural Grasslands located nearby in Pollardstown Fen.
- The site is not located on a scenic route and is circa 900 metres to the south of Scenic Route no. 33 “Views of Pollardstown Fen along the L7032 from Father Moore's Well to the Pollardstown Fen carpark”.
- Section 15.2.4 seeks the provision of planting and soft landscaping to integrate new buildings into their surroundings and to provide privacy between buildings. It is stated that all planting must take place in the first planting season following occupation of the building or completion of the development, whichever is sooner. Any trees or plants that die or become seriously damaged or diseased within 5 years from the completion of the development shall be replaced in the next planting season. Table 15.1(a) lists appropriate native plant species.
- Section 15.9.8 lists the following requirements for agricultural development:
 - Agricultural buildings should be sited as unobtrusively as possible and located within or adjacent to existing farm buildings.
 - Roof colours should be dark grey, dark reddish brown or very dark green. Dark coloured cladding, preferably dark green, red, or grey, with matt finishes will normally be required.

- The removal of hedges should only be considered as a last resort and supplementary planting of existing hedges may be required. A landscaping plan is required as part of an application for agricultural development and should include screening and shelterbelt planting composed principally of native species.
- Agricultural developments will be assessed in respect of traffic safety, pollution control, and the satisfactory treatment of effluents, smells, noise, surface water run-off, and the extent to which the development can be integrated into the landscape.
- Agricultural developments shall demonstrate that the proposal does not impact significantly upon any Special Areas of Conservation (SACs), Special Protection Areas (SPAs) or proposed Natural Heritage Areas (pNHAs), Areas of High Amenity, Landscape Sensitivity Areas, Key Scenic Views and Prospects and Key Amenity Routes, sites of heritage or cultural value, or areas at risk of flooding.

Relevant development management objectives include the following:

- Policies REP14, RDP3, RD P4 and Objective RE 093 seek to actively promote and support the equine industry in Kildare.
- RD O16 It is an objective of the Council to ensure that equine based developments are located on suitable and viable landholdings and are subject to normal planning, siting and design considerations.
- LR P1 It is the policy of the Council to protect and enhance the county's landscape, by ensuring that development retains, protects and, where necessary, enhances the appearance and character of the existing local landscape.
- LR O1 it is an objective of the Council to ensure that consideration of landscape sensitivity is an important factor in determining development uses. In areas of high landscape sensitivity, the design, type and the choice of location of the proposed development in the landscape will be critical considerations.

5.1. **Natural Heritage Designations**

The subject site is not within or immediately adjacent to any designated or Natura 2000 sites. The site is located approximately 310 metres to the west of the Pollardstown Fen SAC (Site Code 000396) and Pollardstown Fen pNHA (Site Code 000396), and 1 kilometre to the north of the Curragh (Kildare) pNHA (Site Code 000392).

5.2. **EIA Screening**

See completed Form 1 in Appendix 1. The proposed development is not within a Class under Part 1 or 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended. In this way, preliminary assessment is not required in this instance.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

An appeal was lodged by Martin Wall, the resident to the immediate south of the subject site. No appeal statement was submitted however, a copy of the observation made to Kildare County Council was included. The issues raised in this observation have been summarised below:

- Loss of residential amenity due to noise, vibration and sand arising from the existing development.
- Overlooking of his dwelling.

6.2. **Applicant Response**

The First Party submitted a response to the appeal on the 18 August 2023. The key points of this submission have been summarised below:

- The subject development is stated to accord with national, regional, and local planning policy in respect of rural and agricultural economic development.

- It is stated that the site has been in use as a stud farm since the 1980's. Prior to the construction of the subject horse walker in 2021 the area had been in use as an exercise paddock.
- Each of the items of Further Information requested by the Planning Authority were addressed, including the submission of an Acoustic Assessment and Landscaping Plan.
- It is stated that the structure is not visually obtrusive due to its limited height with reference to typical agricultural buildings and the screening provided by existing vegetation on the road frontage. It is stated that the submitted Landscaping Plan will be implemented, which includes screening planting at the southern boundary.
- Overlooking of the adjoining dwelling is mitigated by the existing side panels at the southern end of the structure.
- The development reduces traffic movements at the existing entrance as the horses no longer need to be taken off-site for exercise. No additional car parking spaces are required to serve the structure.
- The existing wastewater services at the stud farm are not impacted by the subject development.
- No significant noise impacts arise as a result of the subject development.

6.3. Planning Authority Response

A response has been received from the Planning Authority dated 23 August 2023. This submission states that the subject development would not seriously injure the amenity of the properties in the vicinity, and requests that An Bord Pleanála upholds their decision.

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:

- Impacts on Residential Amenity
- Appropriate Assessment

7.1. Residential Amenity

- 7.1.1. At its closest point the horse walker is 5.675 metres from the southern boundary of the site and the Appellant's property. There is currently no formal boundary treatment in place between the Appellant's front garden and the subject site. At the time of my site visit it was evident that vegetation had recently been removed from the area between the horse walker and the Appellant's land. The Landscaping Plan submitted in response to Item 7 of the request for Further Information proposes the construction of a 1.2-metre-high stock proof fence and the provision of a native boundary hedge at the southern boundary. I note that the subject structure is clearly visible from the Appellant's private garden and dwelling however, owing to its limited height and simple construction, I do not consider that the structure is overbearing on the adjoining site or visually incongruous in this rural area. The roof and southern side of the structure are finished with dark green cladding that, in my opinion, visually integrates with the existing vegetation in the vicinity. I consider that the provision of a boundary fence, as proposed, would mitigate visual impacts on the Appellant's property. As the proposed planting matures the subject development would be further screened from view. Drawing from the above, I do not consider that the subject development will have a significant negative impact on the visual amenity of the Appellant's property.
- 7.1.2. I note that there is a wall along part of the southern boundary of the site that starts at the side of the Appellant's dwelling and appears to enclose the Appellant's rear private garden. This wall is not shown in the submitted documentation and does not form part of the submitted Landscaping Plan. If the Board is minded to grant planning permission for the proposed development I recommend that a condition is included to require the First Party to submit for agreement with the planning authority a revised and implementable landscaping plan for the subject site.
- 7.1.3. In respect of overlooking, I note that the southern portion of the horse walker has been clad with steel cladding. I consider that the existing cladding prevents

overlooking from the structure into the Appellant's property. In this way, I believe that the development does not negatively impact upon the residential amenity of the adjoining property by way of overlooking.

- 7.1.4. The Appellant raised concerns regarding noise arising from the horse walker. The submitted Acoustic Assessment is based on measurements taken near the boundary with the Appellant's land. This assessment found that the main source of noise in the locality was from road traffic and that the activity in the horse walker was not significant enough to drive a change in the measurement apparatus. The average noise level occurring during the 15-minute measurement duration was 46 dB L_{Aeq} while the walker was not in use and 45 dB L_{Aeq} while the walker was in use. The report concludes in stating that the development does not cause any change in the prevailing noise levels in the vicinity and that the noise arising is unlikely to cause nuisance owing to its timbre (tone) and magnitude. It is further stated that the existing concrete walls and cladding effectively screen noise arising from the horse walker. Drawing from the above, I do not consider that the subject development would have any significant negative noise impacts on the adjoining properties.
- 7.1.5. Condition 3 of the Planning Authority's decision limits the operational times of the subject horse walker. Given that the submitted Acoustic Assessment reported negligible noise impacts arising from the horse walker, I do not consider it necessary to limit the hours of use of the subject development.
- 7.1.6. The submitted Acoustic Assessment does not refer to vibration impacts arising from the development. I note that the subject development does not include any machinery or activities likely to generate significant vibration. The walking track has a sand substrate, which I consider sufficient to dampen any potential vibration from the horses using the arena. In this way, I do not consider that the subject development would have significant negative impacts on adjoining residential amenity due to vibration.
- 7.1.7. The Appellant states that sand is being raised by the subject development. Having visited the site and assessed the submitted drawings, I consider that the existing concrete walls and side panels at the southern boundary would be sufficient to contain sand or dust arising from the arena. In addition, I consider that the proposed woodland and hedgerow planting at the shared boundary will likely capture residual

airborne sand and dust particles. In this way, I do not consider that sand arising from the development would have a significant negative impact on adjoining residential amenity.

7.2. Appropriate Assessment

- 7.2.1. The Pollardstown Fen SAC and pNHA is the nearest designated site to the subject site. Pollardstown Fen is located to the west of the subject site and is separated from the subject development by the existing structures on the stud farm and the adjoining quarry and commercial yard.

Natura 2000	Site Code	Qualifying Interests	Conservation Objectives
Pollardstown Fen Special Area of Conservation (SAC)	000396	<p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p> <p>Alkaline fens [7230]</p> <p><i>Vertigo geyeri</i> (Geyer's Whorl Snail) [1013]</p> <p><i>Vertigo angustior</i> (Narrow-mouthed Whorl Snail) [1014]</p> <p><i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016]</p>	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

- 7.2.2. During the site inspection I did not see any evidence of waterbodies at the subject site and the EPA mapping does not show any waterbodies within or immediately adjoining the site. The existing stud farm is served by an existing on-site treatment system and the subject development would not give rise to additional foul water

loading. In this way, there is no apparent source receptor pathway between the subject development and the Pollardstown Fen SAC.

- 7.2.3. 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 Pollardstown Fen SAC, 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.
- 7.2.4. This determination is based on the following: the lack of hydrological connection between the subject site and the designated areas, the character of the subject development and its location in an established stud farm.
- 7.2.5. This screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

8.0 Recommendation

I recommend that retention planning permission should be granted, subject to conditions.

9.0 Reasons and Considerations

Having regard to the policies and objectives of the Kildare County Development Plan 2023-2029, the rural context, the established use of the subject site and the design of the development, I consider that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity and constitutes an acceptable form of development at this location. The proposed development would, therefore, 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 04 of July 2023, 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>Reason: In the interest of clarity.</p>
2.	<p>All foul effluent and slurry generated in the subject development and stud farm shall be conveyed through properly constructed channels to the existing storage facilities and no effluent or slurry shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road.</p> <p>Reason: In the interest of public health.</p>
3.	<p>All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains 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.</p> <p>Reason: In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.</p>
4.	<p>(a) The First Party shall submit to the Planning Authority for written agreement a revised landscaping plan that includes the existing wall on part of the southern boundary of the site.</p> <p>(b) New planting at the site shall comprise plant species listed in Table 15.1(a) of the Kildare County Development Plan 2023-2029. All planting must take place in the next planting season. Any trees or plants which die</p>

	<p>or become seriously damaged or diseased within the first 5 years shall be replaced in the next planting season.</p> <p>Reason: To protect the amenities of property in the vicinity</p>
5.	<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 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.</p> <p>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.</p>

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.

Sinead O'Connor

Sinead O'Connor
Planning Inspector

26 October 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317652-23		
Proposed Development Summary	Retention of a horse exercise and walking structure.		
Development Address	Seven Springs Stud, Pollardstown, Curragh, Co. Kildare.		
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) or 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)
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		Preliminary Examination required
Yes		Screening Determination required

Inspector: Sinead O'Grada

Date: 23 October 2023