



An
Bord
Pleanála

Inspector's Report ABP-318582-23

Development	<i>Construction of American Barn Horse Stables with fenced outdoor exercise arena and manure pit with associated site works.</i>		
Location	<i>Calluragh West, Ennistymon, Co. Clare.</i>		
Planning Authority Ref.	<i>23/500</i>		
Applicant(s)	<i>Joseph Scales.</i>		
Type of Application	<i>Permission</i>	PA Decision	<i>Grant Permission.</i>
Type of Appeal	<i>Third Party</i>	Appellant	<i>John Joseph Madigan</i>
Observer(s)	<i>None</i>		
Date of Site Inspection	<i>29-03-2024</i>	Inspector	<i>Adam Kearney</i>

Context

1. Site Location/ and Description

The subject site is located in a rural area 1.3km north of Ennistymon in West Clare. The access is from a cul de sac road off the N67 national road that serves a dwelling, a farmyard and other agricultural lands. The landscape is undulating, and the site is somewhat screened from the national route by an elevated (hill) area between the site and the main road. As one approaches the site along the cul de sac there is a bridge over the Ballymacravan river which is c.200m from the proposed development. There is a children's burial ground (national monument CL015-104) circa 120m east of the site.

2. Description of development. The applicant is seeking permission for construction of American Barn Horse Stables (163m²) with fenced outdoor exercise arena (375m²) and manure pit (56m²) attached to an existing slatted unit with associated site works. The applicants cover letters sets out that the works are required to accommodate existing equine stock on the applicants' farm.

3. Planning History

Planning Ref 16/252 (Joseph Scales) Permission granted for development of a livestock slatted unit and all ancillary site works.

4. National/Regional/Local Planning Policy

The Clare County Development Plan 2023 - 2029 is the relevant plan for the area. The subject site is within a rural area of County Clare designated 'Settled Landscape'

14.3.2.1 Settled Landscapes

'Settled Landscapes' comprise the network of farmland, villages and towns that make up the majority of the County. These landscapes are where the majority of the population live and work.

A1.8 Agricultural Developments

The rural countryside is a natural resource with agricultural activity being particularly important. In considering proposals for agricultural development (walls, fences, yards, stables, sheds, slurry pits etc.) the Planning Authority will have

regard to the Department of Agriculture, Food and the Marine document Guidelines and Recommendations on the Control of Pollution from Farmyard Wastes together with the following:

- Siting and design that is keeping with the surrounding area;
- The use of muted colored materials;
- Grouping of buildings will be encouraged;
- Adequate effluent storage facilities; and
- The Planning Authority will require adequate provision for the collection, storage and disposal of effluent produced from agricultural developments. The European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2014 set out the requirements for storage of farm effluents and the minimum holding periods for storage of farm wastes. In Clare the holding period required for the purposes of calculating waste storage facilities is 18 weeks. It is permitted to spread soiled water all year round, thus the minimum holding period is 10 days. For silage the short-term storage period is 3 days. All agricultural developments must be designed and constructed in accordance with the Minimum Specifications as set out by the Department of Agriculture, Food and the Marine. 'The Living Farmland', a guide to farming with nature in Clare (2008), is a useful reference for consideration when planning farm developments.

Policy CDP8.4 Agriculture

It is an objective of Clare County Council:

- a) To facilitate proposals for sustainable and economically efficient agricultural and horticultural development whilst maintaining and protecting the environment, the natural landscape and built heritage;
- b) To encourage the linking of agricultural production with added value enterprise and the diversification of rural enterprises;
- c) To support the development of rural/farmers markets and the development of food-based enterprises and tourism activities; and

d) To support the on-going growth and development of the artisan food sector in the County.

CDP 11.39

It is an objective of Clare County Council To ensure that the disposal of agricultural waste is carried out in a safe, efficient and sustainable manner having regard to the environment and to the health and safety of individuals, and in compliance with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2017, the Litter Pollution Act 1997 (as amended) and the European Communities (Water Policy) Regulations 2014 (S.I. No. 350 of 2014).

CDP 11.27

It is an objective of the Clare County Council:

- a) To support the protection and improvement of the quality of drinking water sources in line with the requirements of the Water Framework Directive;
- b) To ensure that developments that would have an unacceptable impact on water resources, including surface water and groundwater quality and quantity, designated sources protection areas, estuarine, coastal transitional waters, river corridors and associated wetlands will not be permitted;
- c) To ensure the efficient and sustainable use and development of water resources and water services infrastructure in order to manage and conserve water resources in a manner that supports a healthy society, economic development requirements and a cleaner environment;
- d) In areas of potable groundwater resources or over vulnerable aquifer areas, to consider development proposals only if the applicant can clearly demonstrate that the proposed development will not pose a risk to the quality of the underlying groundwater;
- e) To protect groundwater resources, in accordance with statutory requirements and specific measures as set out in the National River Basin Management Plan 2022-2027;

f) To work with and support Uisce Éireann, the Group water Scheme Sector and LAWPRO in identifying public drinking water sources vulnerable to climate change and develop source protection or alternative sources, in order to maintain water quantity and quality levels;

g) To consider proposals for development which infringe on a river boundary, or an associated habitat, including their connection by groundwater, only where it can be clearly demonstrated that:

- The character of the area will be conserved;
- An acceptable physical riparian zone will be maintained;

and,

- There will be no deterioration of water body status;

h) To work with Uisce Éireann to find a sustainable and long-term solution for the production, minimisation and beneficial reuse of water sludge as a by-product in order to minimise risk to human health and the environment.

5. Natural Heritage Designations

- The Inagh River Estuary Special Area of Conservation (SAC) (Site Code 000036) c.0.8km from Site
- Ballyteigue (Clare) SAC c.7.9 km from the site.

Development, Decision and Grounds of Appeal

6. PA Decision

The Planning Authority decided to Grant permission for the development subject to 3 no. conditions, including S108 specifications (Department of Agriculture Food and the Marine) and Minimum Specifications For Manure Pits and Dungsteads) and European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2022.

7. Third Party Appeal

- Questions the future use of the proposed development and contends that it may be used for commercial activity related to the equine industry. If it is used for such a purpose the location is manifestly unsuitable with no parking and will have a significant impact on the residential amenity of the appellant.
- If commercial use resulted in enforcement proceedings it would be difficult to establish due to the inherent commercial nature of farms in the first instance
- Maintains that there is a history of the applicant failing to comply with conditions of previous permissions specifically in regard to the provision of surface water drainage. Development of the Slatted unit under Ref 16/252 caused flooding onto the access road which is also in use by the appellant
- Fears expressed about the impact the proposal in close proximity to the shared road will have in terms of traffic and in terms of endangering the person driving cattle along the road due to the propensity for noise and alarm emanating from the equine activity.
- Fears expressed that this proposal would have an impact on the operation and hence the viability of the appellants farm which was the subject of a large investment.
- The proposed facility slopes down to the road and there is no provision made for collection of dung in the exercise area

8. PA Response

The planning authority responded as follows

- The third party's concerns regarding the use of the development for commercial purposes are noted. It is considered that planning permission would be required to use the facility for commercial purposes. The Planning Authority assumes that this matter could be conditioned by An Bord Pleanála in the event of a grant of permission.
- The concerns regarding the management of surface water are noted. Condition 2 (c) relates to the management of clean surface water.
- The third-party states at Item no. 4 that no facility has been provided for the collection of dung and that a separate tank should have been provided. The

proposed development included a separate manure pit to the northeast of the existing slated tank and conditions 2 and 3 relate to the matter of effluent storage and management of same. The description of the development includes for a manure pit.

Environmental Screening

9. EIA Screening

The proposal is not a project for the purpose of EIA

2.0 Assessment

2.1. I have reviewed the proposal in light of the Clare County Development Plan 2023 – 2029 (CDP), relevant planning history, the appeal grounds, and my own site visit. Accordingly, I consider that this appeal should be assessed under the following headings:

- Principle of Development
- Surface Water/wastewater management & Design Anomalies
- Appropriate Assessment

2.2. Principle of Development

The proposal is for agricultural development in an area designated as ‘Settled lands’ in the CDP 2023 – 2029. The applicant is a farmer and is proposing to utilise part of his holding for an equine facility to cater for equine stock on his farm albeit remote from a traditional farmyard.

The applicant received permission in 2016 for a similar development involving a slated unit for cattle within the same subject field. I consider the principle of the proposed agricultural development acceptable.

2.3. ***Surface Water/wastewater Management & Design Anomalies***

- 2.4. Having reviewed the current application and the previous 2016 application for a slatted unit on the same site I consider the level of detail submitted with the current application and the previous application (16/252) with regard to surface water/wastewater management to be insufficient.

With regard to the fundamentals around siting and location, a new issue arises, the existing Slatted unit constructed under planning reference 16/252 appears to be constructed circa 12m further west of where it was originally proposed and the Site Layout for the current application appears to be based solely on the 2016 'Site layout Plan' and so does not reflect the correct 'as built' position. Consequently, the correct location for the proposed Manure Pit in the application to hand would also appear to be incorrect. While I feel up to 2 – 3m would be an acceptable tolerance at a rural location, 12m or thereabouts is a more significant discrepancy and as a consequence I am satisfied that both the existing slatted unit and proposed manure pit locations are now materially different to the application presented.

In terms of the details submitted with the application there are no detailed specifications or design drawings of effluent drainage or the volumes and type of waste (solid versus liquid) that will be produced in the stables. There is no calculation data submitted about the volume of waste to be generated from the existing and the proposed and as such there is nothing on file to support the area required for the manure pit.

A rudimentary dashed line on a basic site layout plan without detailed levels or contours is an insufficient level of detail for a proposal involving waste/wastewater.

There is no information presented on the means to manage surface water within the property e.g. discharge point to soakaway or means to separate contaminated and uncontaminated water. There is no information on levels within the appellant's landholding and it is not clear therefore how surface water moves.

In summary the application documentation and drawings fail to accurately illustrate the precise location of existing and proposed structures and the overall operation of the proposal from a drainage perspective when taken in combination with the existing agricultural building on site with which it is interdependent for the purpose of waste/wastewater management.

2.5. **Appropriate Assessment**

Screening for the proposal was carried out by the PA as per S177U of the Planning and Development Act 2000 as amended. The subject site is located approximately 800 metres North of the Inagh River Estuary Special Area of Conservation (SAC) (Site Code 000036)

2.6. *The NPWS notes the Inagh River Estuary is an estuarine channel that flows westwards to the sea from Ennistymon, in the south-west of Co. Clare. The site includes the estuaries of both the Inagh and Dealagh Rivers. These channels meander through a wide, flat valley, which is sheltered from the sea by an extensive sand dune system to the west. Low undulating hills surround the valley, giving it a secluded nature. The soils vary from gleys to peats*

2.7. *The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (* = priority; numbers in brackets are Natura 2000 codes):*

1310 and other annuals colonising mud and sand

*1330 Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)*

*1410 Mediterranean salt meadows (*Juncetalia maritimi*)*

2120 Shifting dunes along the shoreline with (white dunes)

2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)

A diverse mosaic of habitats occurs within the site, ranging from coastal dune system, estuarine channel and its associated saltmarsh habitat, to freshwater and terrestrial habitats further inland. The bulk of the site is made up of low-lying wet grasslands. Saltmarsh occurs along the tidal section of the valley. Common species here include a mixture of Plantains (*Plantago maritima*, *P. coronopus*) and Thrift (*Armeria maritima*), with lesser amounts of Sea Milkwort (*Glaux maritima*), Sea Aster (*Aster tripolium*) and glassworts (*Salicornia* spp.). In places the glassworts extend out onto the intertidal sands. Owing to golf course development, only a small area of intact sand dune remains within the site. Some Marram (*Ammophila arenaria*) dunes occur at the tip of the sandy peninsula near O'Brien's Bridge. These support species such as Sand Sedge (*Carex arenaria*), Sand Couch (*Elymus farctus*), Red Fescue (*Festuca rubra*) and Sea Sandwort (*Honkenya peploides*). A small area of fixed

dunes occurs north of the channel. The nutrient-poor soils here support a diverse flora which includes Common Bird's-foot-trefoil (*Lotus corniculatus*), Kidney Vetch (*Anthyllis vulneraria*), Quaking-grass (*Briza media*) and Early Marsh-orchid (*Dactylorhiza incarnata*).

- 2.8. Two small areas of deciduous woodland are found further inland towards Ennistimon town. A wet woodland, dominated by Willows (*Salix* spp.) and Downy Birch (*Betula pubescens*), occurs south of the river adjacent to Ivy Cottage. A narrow band of dry deciduous woodland, known as "The Glen", supports a mixture of Ash (*Fraxinus excelsior*) with occasional Oak (*Quercus* sp.) and Elm (*Ulmus* sp.). A scenic waterfall located at Ennistimon town adds to the interest and diversity of the site. An expanse of wet grassland vegetation dominates much of the valley floor supporting an abundant cover of Rushes (*Juncus* spp.), along with lesser amounts of Sedges (*Carex* spp.), Plantains, Clover (*Trifolium* spp.), Buttercups (*Ranunculus* spp.) and Cuckooflower (*Cardamine pratensis*). These grasslands provide ideal feeding and sheltering grounds for wildfowl, and a range of bird species commonly use this area. A small flock of Greenland White-fronted Goose formerly used the site during the winter months. The main waterfowl species now using the area are Wigeon (754), Teal (115), Mallard (67), Oystercatcher (148), Ringed Plover (53), Lapwing (657) and Curlew (211) (data for winters 1995/96 to 1997/98). Part of the site has been managed as a Wildfowl Sanctuary since 1989. This is a large site with a range of coastal, tidal and terrestrial habitats that are of considerable ecological interest, five of which are listed under Annex I of the E.U. Habitats Directive. The extensive and relatively secluded low-lying wet grasslands provide a natural and legally protected refuge for wildfowl.
- 2.9. Having considered the nature, scale and location of the project, I am not satisfied that the proposal can be eliminated from further assessment because there is a conceivable risk to a European Site and the reason for this conclusion is as follows:
- 2.10. Having visited the site and having reviewed the context including previous permissions for agricultural development that on review were substandard in terms of drawings and detail provided around surface water and wastewater management and the existence of a separate farmyard complex 180m southeast that appears to contain a silage pit and other agricultural buildings.

- 2.11. Having regard to the proximity of the proposal to the Ballymacravan River (c.200m) which is a tributary of the Inagh River and ultimately the Inagh Estuary European Site (800m)
- 2.12. Having regard to the screening determination of the PA and the uncertainty that remains about the potential for Hydrological Pathways I conclude that on the basis of objective information, that the development may have a significant effect on a European Site, either alone or in combination with other plans or projects and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is required.

3.0 Recommendation

- 3.1. *I recommend that Permission for the development be Refused.*

4.0 Reasons & Considerations

- 4.1. Having regard to the proposed development in combination with the existing slatted unit constructed under planning Reference 16/252 and the farmyard southeast of the site and notwithstanding the Appropriate Assessment Screening carried out by the PA, the Board is of the opinion that due to the proximity of the site to the Ballymacravan River which is a tributary of the Inagh River and the Inagh Estuary SAC that the presence of potential hydrological pathways involving surface water/groundwater have not been adequately addressed so as to definitively preclude contamination of the watercourse. Therefore, on the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in-combination with other plans or projects would not be likely to have a significant effect on European Sites No. 000036 and in such circumstances the Board is precluded from granting approval/permission.
- 4.2. Having regard to the absence of information with the application and appeal on the siting, construction specifications and management of surface water run-off, the Board is not satisfied that the development would not be prejudicial to public health or would not seriously injure the residential amenities of properties in the vicinity. It is

considered that the development proposed, would, therefore, be 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.

Adam Kearney

Planning Inspector

Date: 08-07-2024