



An  
Bord  
Pleanála

## Inspector's Report ABP-318741-23

<b>Development</b>	Retention of storage building and a canteen/toilet building with hardstanding yards & boundary treatments for plant & machinery storage, with access road & gates forming entrance to public road. Permission sought to decommission septic tank and provide proprietary sewage treatment system. Permission sought for attenuation tanks with associated site works.		
<b>Location</b>	Derrindaly, Trim, Co. Meath.		
<b>Planning Authority Ref.</b>	2360365.		
<b>Applicant(s)</b>	WBPT Limited.		
<b>Type of Application</b>	Retention permission and permission.	<b>PA Decision</b>	Refuse permission.
<b>Type of Appeal</b>	First Party	<b>Appellant</b>	WBPT Limited.
<b>Observer(s)</b>	None		
<b>Date of Site Inspection</b>		<b>Inspector</b>	Des Johnson

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### Context

#### 1. Site Location/ and Description.

1.1 The site is located approximately 4 miles south west of Trim, with access on to Local road L 4021-0.

1.2 This is a predominantly rural and agricultural area in character. There is evidence of modern housing along the L 4021 in the vicinity of the site. Close to the site entrance there is a modern two storey house adjoining to the north-east, and another two-storey residence adjoining to the south west, which appeared to be unoccupied at the time of inspection. To the rear of this residence there is a large surfaced area suitable for parking, a separate detached single storey building and metal containers. There is a two storey detached dwelling adjoining this site to the west.

1.3 Access to the site is from the L 4021 along a concreted drive. The access is gated set back from the public road. At the southern end of the access road the site broadens out in a roughly triangular shaped compound and is used for the storage of equipment, including pipes, shuttering, crane parts and machinery. There is a substantial storage building sited close to the eastern site boundary, and a smaller canteen/toilet building to the west of the storage building.

1.3 The total site, including access, is concreted.

## **2. Description of development.**

2.1 The proposal is for the retention of storage building and a canteen/toilet building with hardstanding yards & boundary treatments for plant & machinery storage, with access road & gates forming entrance to public road. Permission is also sought to decommission a septic tank and provide proprietary sewage treatment system. Permission is sought for attenuation tanks close to the southern boundary of the compound, with associated site works.

2.2 The stated site area is c. 2.4 acres.

## **3. Planning History.**

3.1 Register Reference 221383 – Permission refused for retention of a storage building, and a canteen/toilet building with hardstanding yards and boundary treatments for plant and machinery storage, with access road and gates forming entrance to public road. Permission sought for decommissioning of existing septic tank and provision of new proprietary sewage treatment system.

There were two reasons for refusal, summarised as follows:

1. Applicant failed to demonstrate a justification or need for a storage unit at this location. Material contravention of Objective SH OBJ 1, and Policies ED POL 16 and RD POL 13 of the Development Plan 2021-2027. Undesirable precedent.
2. Applicant failed to demonstrate adequate unobstructed sightlines along the L 4021 for an 80kph speed limit in compliance with TII Standards. Injurious to public safety by reason of a traffic hazard, and undesirable precedent.

3.2 Reference UD20/288 – Warning Letter and Enforcement Notice relating to the unauthorised widening of an agricultural road and widening of an entrance on to a public road, unauthorised construction of a timber fence, a concrete yard, an office/canteen, and a commercial shed. Unauthorised storage of commercial material and use of agricultural lands for commercial purposes.

3.3 Register Reference TA160722 - Permission refused to WBPT Ltd. For retention of a detached domestic garage, farm office and store to the rear of existing dwelling and all associated site works, and site adjoining to the west of the access road into the current appeal site. There were 2 reasons for refusal, summarised as follows:

1. The existing structure and uses are not as described, and this is, in effect, a detached residential unit separate from the main dwelling on the site. Proposed development is out of character with the pattern of development in the area and would set an undesirable precedent.
2. Applicant has not established a rural generated housing need for an additional dwelling at this location.

#### **4. Planning Policy**

4.1 The Meath County Development Plan 2021-2027 came into effect on 3<sup>rd</sup> November 2021.

The site is in an area zoned Rural Area (RA) with the objective to protect and promote, in a balanced way, the development of agriculture, forestry and

sustainable rural-related enterprise, community facilities, biodiversity, the rural landscape, and the built and cultural heritage.

The site is located in the Central Lowlands Landscape Character Area, with a high value landscape character and a moderate sensitivity for development changes.

Objective SH OBJ 1 – to secure the implementation of the Core Strategy and Settlement Strategy, in so far as practicable, by directing growth towards designated settlements, subject to the availability of infrastructure and services.

Policy ED POL 16 – to support the location of a once-off medium to large scale rural enterprise only in instances where it is demonstrated, to the satisfaction of the Council, that the enterprise can be more readily accommodated in a rural setting than in a designated settlement centre and subject to standard development management considerations being applied.

Policy RD POL 13 – to protect agricultural or agri-business uses from unplanned and/or incompatible urban development.

4.2 The EMRA Regional Spatial and Economic Strategy (RSES) 2019-2031 replaced the Regional Planning Guidelines after 2015. The RSES contains the following provisions:

Section 10.1 The sustainable growth of the Region requires the provision of services and infrastructure in a plan led manner to ensure that there is adequate capacity to support future development. High-quality infrastructure is an important element of a modern society and economy, it provides essential functions and services that support societal, economic and environmental systems at local, regional and national levels.

Objective RPO 10.1: Local authorities shall include proposals in development plans 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.

Objective RPO 10.3: The Regional Assembly and local authorities shall liaise and cooperate with Irish Water to ensure the delivery of Irish Water's Investments and other relevant investment works programme of Irish Water that will provide

infrastructure to increase capacity to service settlements in accordance with the settlement strategy of the RSES and local authority core strategies, and provide for long term solutions for waste water treatment for the Region

Objective RPO 10.8: Encourage the development of a new rural settlement investment approach, coordinating Irish Water, local authority, developer and community led solutions to ensuring that sustainable water services solutions are progressively implemented

Objective RPO 10.11: EMRA supports the delivery of the waste water infrastructure set out in Table 10.2, subject to appropriate environmental assessment and the planning process

**Table 10.2: Waste Water Infrastructure**

The Greater Dublin Drainage Project

The Ringsend Wastewater Treatment Plant Project

The Athlone Main Drainage Project

The Upper Liffey Valley Sewerage Scheme

**5. Natural Heritage Designations**

5.1 The nearest Natura 2000 site is the River Boyne and River Blackwater SAC at a separation distance of c. 700m to the south. The qualifying interests for the SAC are listed as:

- Alkaline fens
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion  
*Alnion incanae*, *Salicion albae*)
- *Lampetra fluviatilis* (River Lamprey)
- *Salmo salar* (Salmon)
- *Lutra lutra* (Otter)

The conservation objectives for the fens and otter are to maintain the favourable conservation condition. The conservation objectives for the alluvial forests, river lamprey and salmon are to restore the favourable condition.

5.2 The River Boyne and River Blackwater SPA overlaps with the SAC. The qualifying interest for the SPA is the Kingfisher. The conservation objective is to maintain the favourable conservation condition of the bird species.

## **Development, Decision and Grounds of Appeal**

### **6. PA Decision.**

6.1 The Planning Authority decided to refuse permission for a single reason. In summary, the reason for refusal states that, based on the information submitted, the applicant has failed to demonstrate a justification or need for a storage unit at this location. Material contravention of Objective SH OBY 1, and Policies ED POL 16 and RD POL 13 of the Development Plan 2021-2027. Undesirable precedent, depreciate the value of property in the vicinity, and contrary to the proper planning and sustainable development of the area.

6.2 The Planner's report states that the site is located in the Central Lowlands Landscape Character Area, with a high value landscape character and a moderate sensitivity for development changes. The site is on lands zoned Rural Area and subserviced lands. The hardstanding storage yard has been in place since 2004. Since 2019, the facility has significantly intensified with the addition of a storage shed, palisade fencing, widening of entrance, provision of concrete access and yard, and provision of canteen/toilet facilities. The business is unauthorised at this location. The applicant states that the location is dictated by the location of staff accommodation in the dwelling to the front of the site where approximately 10 staff reside. There are sufficient zoned lands within then town of Trim 6km to the north-east, and the town of Ballivor 6km to the west with suitable accommodation. The development is not agricultural related or a type of development that requires rural location.

The storage building has a floor area of 1110 sqm and an overall height of 10.1m. The canteen/toilet building has a floor area of 32.5 sqm and overall height of 2.97m. and is finished in metal sheeting to roof and rendered plaster to external walls. There is a 2m high link fence to the southern boundary of the site and along the access track. The access road is over 200m in length, and entrance gates are

1.8m in height. The storage shed is visible from the main road due to loss of tree foliage during the winter months. The shed is inappropriately located.

The Planning Authority concludes that the proposed development in its entirety, by itself or in combination with other plans and developments in the vicinity, would not be likely to have a significant effect on European sites. EIAR is not required.

The Transportation Department has no objection subject to recommended conditions.

## **7. First Party Appeal.**

7.1 This may be summarised as follows:

- The site has been used as a commercial storage yard/compound/depot since 2004. The landholding of 15 acres was purchased in 2004 at the same time as the 9 bedroom house adjoining the entrance was purchased for staff working in the area. The grounds of appeal include a number of aerial photographs of the yard/compound area dating from 2004.
- It was originally established as a temporary compound under Section 4(1)(g) of the Planning and Development Act, and it is believed to be exempted development. The 1<sup>st</sup> party also understood that the compound was exempted development under Class 16 of the Regulations (legal opinion attached).
- The development is used for the storage of pipes, pumps, road repair materials and machinery to support public works projects. The shed is used for the storage of materials which are photo-sensitive, and which degrade if stored outside in sunlight.
- The 1<sup>st</sup> party operate as a Statutory Undertaker carrying out water and wastewater works on behalf of Public Authorities and State sponsored bodies. The site is strategically located to serve the Leinster region.
- The decision of the Planning Authority is unreasonable and does not consider the fact that the storage yard has been used by the 1<sup>st</sup> party (Statutory Undertaker) since 2004, and that utility structures are permitted in rural areas. The history of the site is relevant.
- There is a justification and need for the development. The compound is beside staff accommodation where 10 staff members reside. A site-

specific need for this development has been established for nearly 20 years, with the only change being the provision of the storage shed on the site. The development has provided an essential service to the Local Authority for many years, and now provides an essential service to the Leinster region on behalf of Irish Water. The location next to staff accommodation facilitates a 2-hour emergency response time. There is no other 9 bedroom house with adjoining yard available anywhere in the urban area in Meath.

- Policy ED POL 16 specifically provides for developments that can be more readily accommodated in a rural setting.
- Reference to Policy RD POL 13 fails to recognise the nature of the development. There is no basis for the suggestion that the development would depreciate the value of property in the vicinity.
- Enforcement action cannot be taken against the storage yard which has been used for more than 19 years, so this use can continue unregulated unless planning permission is granted. The greatest need is to regulate the development in a manner that conforms with the proper planning and development of the area.
- The Traffic Department has no issue with the application. The volume of traffic generated is extremely low. Visually the development, including the storage shed, is compatible with the surrounding area. There are other industrial activities and a large number of quarries in the area.
- The site area has not expanded since 2004. The number of deliveries to the site has reduced in recent years as materials are delivered in bulk and stored for longer periods.
- This is a low intensity operation operating as a micro business with 10 staff. The Development Plan supports such developments. There has been no intensification of use, but improvements made for environmental and health and safety reasons (legal opinion submitted).
- The 1<sup>st</sup> party has a strong commitment to community gain in this rural area, and would be happy to accept any condition in respect to the establishment of a Community Gain Fund and a Community Liaison Committee.



7.2 Attached to the grounds of appeal is a Legal Opinion prepared by Mary Moran-Long BL, PhD. This relates to the Planning Authority contention that ‘very significant intensification’ has occurred at Derrinydaly. The Opinion concludes that *“In all the circumstances and given the case law relating to intensification cited in the foregoing, it cannot be considered that intensification has occurred at the site. In fact, from a traffic perspective de-intensification has occurred at the compound. The allegation of very significant intensification is therefore unfounded, and was clearly made without having regard to the facts surrounding the establishment and use of the compound at Derrinydaly from 2004 to present”*.

## **8. PA Response**

8.1 The Planning Authority is satisfied that all the matters raised in the appeal were considered in the course of its assessment of the planning application as detailed in the Planner’s report dated 8<sup>th</sup> December 2023. The Planning Authority requests that the Board uphold the decision to refuse permission.

## **Environmental Screening**

### **9. EIA Screening**

Having regard to the nature and limited scale of development, which is principally for storage purposes, and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **10. AA Screening**

Having regard to the nature and scale of development, the separation and absence of connectivity to the River Boyne and River Blackwater SAC and SPA, and any other European sites, and to the qualifying interests and associated conservation objectives of the River Boyne and River Blackwater SAC and SPA, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 2.0 Assessment

2.1. There are two elements to the proposal, namely:

- (a) The retention of a storage building and a canteen/toilet building, with hardstanding yards and boundary treatment for plant and machinery storage, with access road and gates forming entrance to the public road, and
- (b) Permission for the decommissioning of septic tank and provision of a proprietary sewage treatment system, attenuation tanks and all associated site works.

The site area is stated to be c. 2.4 acres

The storage building is 10.1m high and has a stated floor area of 1110 sqm. The canteen/toilet building is 2.97m high and has a stated floor area of 32.5 sqm. The link fence to the southern boundary is 2m high. The access road is over 200m in length, and entrance gates are 1.8m in height.

- 2.2. The Planning Authority has refused permission for a single reason. The reason for refusal states that, based on the information submitted, the applicant has failed to demonstrate a justification or need for a storage unit at this location. As such, the development would be in material contravention of Objective SH OBJ 1, and Policies ED POL 16 and RD POL 13 of the Development Plan 2021-2027. It would set an undesirable precedent, depreciate the value of property in the vicinity, and be contrary to the proper planning and sustainable development of the area.
- 2.3. The site is in a predominantly rural, agricultural area, with a significant but dispersed settlement pattern. The landscape is relatively flat, with large agricultural fields and hedgerows, and there are agricultural buildings in the vicinity. The storage yard and buildings are set back considerably from the public road, and are partly screened by deciduous boundary trees. The storage building is finished in green profiled metal panels, and, together with the canteen/toilet building and storage yard, the development has minimal visual impact in public views.
- 2.4. There are good sightlines along the road at the entrance, and the Planning Authority has not objected based on any traffic grounds. I conclude that the development, as described, is acceptable in terms of traffic safety and convenience.

- 2.5. A Site Characterisation Assessment submitted with the application refers to a trial hole 2.1m deep with no water ingress or bedrock encountered. Percolation test results are satisfactory and an EN Certified treatment system is proposed, with a filter and gravel distribution bed constructed in accordance with EPA Guidelines 2021. I submit that the proposal for wastewater treatment and disposal is acceptable.
- 2.6. I submit that the key considerations in this appeal fall under the following headings:
- Site History and Planning Background
  - Development Plan Provisions
  - Planning & development Act 2000, as amended.
  - Environmental Assessments
  - Conclusion

### **Site History & Planning Background**

- 2.7. Based on the information on file, including photographic evidence and letters from suppliers, I am satisfied that, while the site has been in long-term use as a storage compound, the use has been and remains unauthorised. The Planning Authority is of the view that a 'very significant intensification' took place in recent years. I conclude that the level of storage has increased in recent years, and that the type of activity associated with the storage of materials, including the use of machinery, has changed in recent years. On this matter, I conclude that the unauthorised use of the site as a storage compound has been maintained over a long-term period, and that the proposed development would facilitate the continued unauthorised use of the site.
- 2.8. The 1<sup>st</sup> party state that they understood that, at the time, the development was exempted planning permission being a utility development.
- 2.9. There is a planning history relating to this site. A previous, similar application was refused permission by the Planning Authority for two reasons. Reason 1 was similar to the reason currently under appeal. Reason 2 related to the failure of the applicant to demonstrate adequate unobstructed sightlines along the public road. This reason has not been repeated in the current appeal.

- 2.10. The contentions by the Planning Authority and 1<sup>st</sup> Party relating to intensification of use in recent times, and the status of the use as exempted development, are not matters for the consideration of the Board in this appeal.

### **Development Plan Provisions**

- 2.11. The site is in a Rural Area zoned 'RA'. I submit that the subject development cannot be considered to promote or protect the development of agriculture, forestry and sustainable rural related enterprise, community facilities, biodiversity, the rural landscape, or the built and cultural heritage. As such, I conclude that the proposed development would materially contravene this objective.
- 2.12. The site is located in a defined Central Lowlands Landscape Character Area, with a high landscape character and a moderate sensitivity for development changes. I submit that the subject development, as described, does not detract from the visual amenities or landscape character of the area.
- 2.13. It is an objective of the Plan (SH OBJ 1) to secure the implementation of the Core Strategy and Settlement Strategy, in so far as practical, by directing growth towards designated settlements, subject to the availability of infrastructure and services. The Planning Authority is of the view that, based on the information submitted with the application, the subject development materially contravenes this objective. The 1<sup>st</sup> Party contend that there is a long-term use of this site as a storage compound, there is a need for this type of development, and that its location in this area is justified by its proximity to the areas being served and the availability of residential accommodation for 10 staff operating from the storage compound. I submit that the long-term use of this site has been, and remains unauthorised, and that the proposed development would facilitate the continued unauthorised use of the site. In these circumstances, I conclude that the proposed development sited in this rural area, would be in material contravention of objective SH OBJ 1.
- 2.14. Policies of the Plan (ED POL 16 & RD POL 13) seek to support the location of a once-off medium to large scale rural enterprise only in instances where it is demonstrated, to the satisfaction of the Council, that the enterprise can be more readily accommodated in a rural setting than in a designated settlement centre and subject to standard development management considerations being applied, and to

protect agricultural or agri-business uses from unplanned and/or incompatible urban development.

2.15. In the grounds of appeal, the 1<sup>st</sup> Party refer to other objectives of the Development Plan and contend that these support the subject development. These include the following:

- CS OBJ14 – to support the economic growth of Meath as set out in the Regional Spatial Economic Strategy and the Economic Development Strategy for County Meath 2014-2022.
- ED OBJ 5 – to work with Irish Water and other infrastructural providers, to support the provision of services and facilities to accommodate the future economic growth of the County and to seek to reserve infrastructure capacity for employment generating uses.
- ED OBJ 12 – to work with Kildare County Council to further develop the area as an attractor for Life Sciences, High Tech, Bio Tech, ICT, Research and Development employment. The Council in conjunction with Kildare County Council will work with Irish Water and other agencies to ensure the delivery of key infrastructure to facilitate future development.

The 1<sup>st</sup> Party also refer to the Vision set out in the Plan – to develop, protect, improve, and extend water, wastewater, surface water and flood alleviation service throughout the County and to prioritise the provision of water services infrastructure to sustain and complement the overall strategy for socio-economic and population growth and to achieve improved environmental protection.

I consider that a key issue in this appeal relates to the siting of the proposed development in this rural area, and that the policies, as set out above, do not support the siting of the subject development at this location in this rural area.

**Planning & Development Act 2000, as amended.**

2.16. Section 37(2)(b) of the Act states as follows:

(b) Where a planning authority  
has decided to refuse  
permission on the grounds  
that a proposed development  
materially contravenes the

development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that—

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under [section 28](#), policy directives under [section 29](#), the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

2.17. The Planning Authority has decided to refuse permission on the ground that the subject development materially contravenes the Development Plan. The Board is restricted in any decision to grant permission by Section 37(2)(b) of the Act, as detailed above. Assessing the subject development in the context of (i) to (v) of Section 37(2)(b), I conclude as follows:

- the location of the subject development at this location is not of strategic importance,
- there are no conflicting objectives in the Development Plan, or objectives which are not clearly stated, insofar as the subject development is concerned
- there are no reasons to grant permission for the subject development in this location having regard to regional planning guidelines (or EMRA RSES),

guidelines under Section 28 or policy directives under Section 29, the statutory obligations of the local authority in the area, or any relevant policy of the Government, the Minister or any Minister of the Government

- there are no reasons why permission should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the Development Plan.

### **Environmental Assessments**

- 2.17.1. Having regard to the nature and limited scale of development, which is principally for storage purposes of materials facilitating public works projects, and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.
- 2.18. Having regard to the nature and scale of the development as a storage compound for materials facilitating public works projects, the separation and absence of connectivity to the River Boyne and River Blackwater SAC and SPA, and any other European sites, and to the qualifying interests and associated conservation objectives of the River Boyne and River Blackwater SAC and SPA, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **Conclusion**

- 2.19. I conclude that the use of the site as a storage compound is unauthorised, and that the proposed development would facilitate the continuation of the unauthorised use.
- 2.20. I conclude that the site is located in an area zoned 'Rural Area' in the Meath County Development Plan 2021-2027, with the objective to protect and promote, in a balanced way, the development of agriculture, forestry and sustainable rural-related enterprise, community facilities, biodiversity, the rural landscape, and the built and cultural heritage. The proposed development would materially contravene this zoning objective.

- 2.21. The proposed development would materially contravene objective SH OBJ 1 of the Meath County Development Plan 2021-2027 to secure the implementation of the Core Strategy and Settlement Strategy, in so far as practicable, by directing growth towards designated settlements, subject to the availability of infrastructure and services.
- 2.22. Under the provisions of section 37(2)(b) of the Planning and development Act 2000, as amended, the Board is precluded from the granting of planning permission for the proposed development as none of the provisions of section 37 (2)(b)(i)-(iv) apply.
- 2.23. I conclude that there is no convincing evidence to indicate that the subject development would give rise to the devaluation of property in the vicinity.

### **3.0 Recommendation**

- 3.1. I recommend that planning permission be refused.

### **4.0 Reason**

The Meath County Development Plan 2021-2027 zones this site 'Rural Area' with the objective to protect and promote, in a balanced way, the development of agriculture, forestry and sustainable rural-related enterprise, community facilities, biodiversity, the rural landscape, and the built and cultural heritage. The Plan also includes objective SH OBJ 1 to secure the implementation of the Core Strategy and Settlement Strategy, in so far as practicable, by directing growth towards designated settlements, subject to the availability of infrastructure and services. The Board considers that the proposed development materially contravenes these zoning objectives. Pursuant to the provisions of section 37(2)(b) of the Planning Act 2000, as amended, the Board is precluded from the granting of planning permission as none of the provisions of section 38(2)(b) (i) to (iv) apply. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.



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Des Johnson

Planning Inspector

16<sup>th</sup> April 2024.

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.