



An  
Bord  
Pleanála

## Inspector's Report ABP-319161-24

<b>Development</b>	Retain concrete base for use as a hard standing for the storage of silage/haylage bales, site entrance and all ancillary site works.
<b>Location</b>	Ballinrahin Lane, Ballickmoyler, Co. Laois
<b>Planning Authority</b>	Laois County Council
<b>Planning Authority Reg. Ref.</b>	23135
<b>Applicant(s)</b>	Sorcha Hennessy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Permission with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Avril Jacob
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	16/10/2024
<b>Inspector</b>	Caryn Coogan

## **1.0 Site Location and Description**

- 1.1. The site is located in the townland of Ballinrahin, Ballickmoyler, Co. Laois. It is approximately 1km east of Ballickmoyler village, northwest of Carlow town, within the Co. Laois boundaries.
- 1.2. The subject site is 0.40Ha. The site is a field, located east of a cul-de sac roadway that serves a number of one off dwellings and farm developments. The concrete base (690sq.m.) is in place and is located 23.5m from the public road. The cul de sac is off the Regional Road R429.
- 1.3. On the date of inspection the concrete base was been used to store farm machinery, farm items and storage items. The general topography is flat. Therefore the concrete base and items stored on it is visible from the adjoining road and dwellings.
- 1.4. The subject site has a mature hedgerow to the west. All other site boundaries are exposed. There are 3No. dwellings visible from the site. According to details on the file, the applicants house is to the southwest of the concrete base, setback considerably from the public road. The third-party appellants dwelling is to the north of the site. The applicant's family home is to the south of the site.

## **2.0 Development**

- 2.1. Permission is sought for retention of a concrete base for use as hard standing area for the storage of silage/ haylage bales, site entrance and all ancillary works.
- 2.2. The gross floor area of the base is 691sq.m.
- 2.3. According to the application form, there is no soiled yard water associated with the development, and there are no animals to be accommodated on the proposed development.
- 2.4. The further information submitted on 30<sup>th</sup> of November 2023 indicated a revised site layout plan showing the location of the proposed effluent tank, which would collect any seepage from the bales to be stored on the base. It was stated the hardstanding area provides a suitable loading facility for the distribution of bales to horses during the winter months.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Laois Co. Co. issued a Decision to Grant Planning Permission for the development on the 1<sup>st</sup> of February 2024. There were 12No. standard conditions attached.

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

- The site is located within the Lowland Agricultural Landscape Character Area
- Planning history is outlined
- The principle of the development is acceptable
- The design, layout and scale of the development is acceptable
- The development will not be visually obtrusive
- Further information relating to Environment Section.

##### 3.2.2. Other Technical Reports

- **Environment Section:** A revised site layout drawing is required showing the location of effluent storage tank to be used to the storage of contaminated growth from the hardstanding area. Calculations for the sizing of the storage tank.

#### 3.3. Prescribed Bodies

None

#### 3.4. Third Party Observations

3.4.1 An objection was received from a neighbour stating:

- The development is only 60m from her house, and 38m from her boundary fence.
- It was constructed without planning permission or without her consent.

- Serious allergies to wasps and horseflies.

## 4.0 Planning History

### 4.1 *Planning Reference 17/192*

Planning permission granted to Sorchá Hennessy and Stephen Fitzharris to construct a one and half storey dwelling house with an attached garage, septic tank, percolation area, stables, dungstead and effluent tank. (Constructed)

### 4.2 *Planning Reference 19/523*

Planning permission granted to Sorchá Hennessy to construct an agricultural fodder shed and all associated works east of the application site.

### 4.3 *Planning Reference 19/222*

Planning permission granted to Darragh & Alison Hennessy for a dwelling house (constructed)

4.3 I have appended a planning history map associated with the immediate area, to clarify the relationship of each planning application.

## 5.0 Policy Context

### 5.1. Development Plan

The current development plan governing the area is the Laois County Development Plan 2021-2027.

#### *DM RL 1 GENERAL CONSIDERATION FOR AGRICULTURAL BUILDINGS*

Agricultural developments have the potential to impact on the environment and the landscape. The traditional form of agricultural buildings is disappearing with the onset of advanced construction methods and wider range of materials. Some new farm buildings have the appearance of industrial buildings and due to their scale and mass can have serious major visual impacts.

In dealing with applications for agricultural developments the Planning Authority will have regard to the following:

- 1) Require that buildings be sited as unobtrusively as possible and that the finishes and colour used will blend the development into its surroundings.
- 2) The proposed developments shall meet with the requirements of the Department of Agriculture with regard to storage and disposal of waste.
- 3) The Council accepts the need for agricultural buildings and associated works (walls, fences, gates, entrances, yards) to be functional but they will be required to be sympathetic to their surroundings in scale, material and finishes.

All agricultural buildings should be located an adequate distance from any watercourse to reduce the risk of contamination.

## **5.2 European Sites**

Site Name River Barrow And River Nore SAC (Site Code: 002162) east and west of the subject site. There are no direct hydrological links from the site to the conservation sites.

## **5.3 EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1 Avril Jacob has taken this third party appeal against Laois Co. Co.'s decision to grant planning permission for retention of the development. The planning authority did not take into consideration her objections at the planning application stage.
- 6.1.2 The concrete slab measures over 690sq.m. It does not comply with the 100metres regulation from a neighbouring boundary. Teagasc and An Bord Pleanala state that Farm buildings and Developments should be 100metres from neighbouring properties unless the owner/ occupier gives their written consent. The applicant or her father never asked for the appellant's written consent.
- 6.1.3 The unauthorised concrete slab is only 32m from her roadside hedge and 46metres from her boundary hedge. The development is too close to her residential property. At 690sq.m. is a huge construction on her doorstep. The base exceeds the exempted limit of 200sq.m. by 490sq.m. Initially the appellant was told the base was to be for stables and a barn.
- 6.1.5 How will the 12No. conditions of planning permission be enforced? This includes the correct installation of an effluent tank, and how will the effluent be properly maintained.
- 6.1.7 The planning authority did not determine if the applicant was fulltime engaged in farming. The appellants well is 74metres from the proposed development, her water may become contaminated without proper measures. There are no conditions in the permission to carry out formal checks of the water quality.

### **6.2. Applicant Response**

None.

### **6.3. Planning Authority Response**

None.

## 7.0 Assessment

7.1. I have inspected the site and considered the appeal file. I will consider the appeal under the following headings:

- Development Plan Policy
- Planning History
- Impact on Residential Amenities

### 7.2 Development Plan Policy

The current development plan for the area, is the *Laois County Development Plan 2021-2027*. Chapter 9 relates to Rural Laois, with Agricultural Development Management Standards indicated under section *DM RL 1*, (as outlined above in Section 5 above). As this is a concrete slab/ base and not a building, the standards do not relate to this form of agricultural structure.

In the development plan the Council recognises the importance of agriculture for sustaining, enhancing and maintaining a viable rural economy. The proposal is acceptable in principle in terms of current planning policy.

### 4.3 Planning History

Section 4 of this report has outlined the recent planning history in the immediate vicinity of the subject site. The applicant, Ms Sorsha Hennessey, has two other planning applications in her name.

#### ***Planning Reference 17/192***

Planning permission granted to Sorcha Hennessy and Stephen Fitzharris to construct a one and half storey dwelling house with an attached garage, septic tank, percolation area, stables, dungstead and effluent tank. (Constructed)

#### ***Planning Reference 19/523***

Planning permission granted to Sorcha Hennessy to construct an agricultural fodder shed and all associated works east of the application site.<sup>9</sup>Not constructed to date)

I note from my inspection the stables, dungstead of effluent tank permitted under reference 17/192, have not been constructed to date. I also noted the agricultural fodder shed permitted under reference 19/523 is not constructed to date.

Having regard to the planning history and the 'permitted' development, the justification for the concrete base has not been established on the appeal file. If the function of the concrete base is the storage of silage/ hay bales for the horses as stated on the file, why has the concrete base been placed at this location, and not adjoining the site of the permitted stables and dungstead?. In addition, why has the applicant constructed this unauthorised concrete base when there is an outstanding permission for a fodder shed on the opposite side of the road to the subject site. How does this concrete base relate to the permitted developments?

I would have serious concerns about the cumulative impact of these three separate developments permitted and constructed on separate sites. I consider this current development to be piecemeal and haphazard. (Please see amended map indicating the recent planning history associated with the adjoining lands).

#### **4.4 Impact on Amenities**

The footprint of the subject concrete base is 690sq.m. It is configured parallel to the third-party appellant's dwelling, located north of the subject site. The applicant's house is set back from the subject site to the southwest. The applicant's dwelling overlooks the concrete base from the rear.

On the day of my inspection, the base was used to store farm machinery, farm items, and not silage bales as suggested by the appeal file. The adjoining fields were laid out in small paddocks with a number of horses. In my opinion, the storage of the items on the concrete base was unsightly. There were trailers, water tanks, containers. In addition, I do not know how these items, stored on the base, relate to the adjoining lands or the applicant.

There is a mature hedge between the subject site and the appellant's dwelling to the north. However, the concrete base is located only 74metres from her private well. The base is 46metres from her boundary hedge. The development is very close to the third-party appellant's residential curtilage. At the present time, there is no effluent associated with the storage of the particular items on the concrete base. However, silage storage may generate some effluent and odours in close proximity to the third party's dwelling.

The planning application details fail to establish the relationship of the development for retention to the applicant's dwelling house and the permitted fodder house on the



opposite side of the lane to the subject site. Potentially, if the existing permissions were executed, there would be disturbance carrying out the functions on three separate sites, which would ultimately impact on the nearest dwelling house to the concrete base, which is the third-party appellant's dwelling. In my opinion, the applicant had extensive lands available to locate the concrete base at a more appropriate location as opposed to positioning it in close proximity to a third party dwelling.

## **8.0 AA Screening**

Having regard to the scale of the proposed development, no hydrological link from the site to a European site, and the distance of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

## **9.0 Recommendation**

I recommend that planning permission for retention of concrete base be refused for the following reason.

## **10.0 Reasons and Considerations**

Having regard to proximity of the development proposed for retention to an existing dwelling to the north of the subject site, the history of permitted agricultural developments in the vicinity of the site to the applicant, the existing character and pattern of development in the vicinity, the Board considered the development would have an adverse impact to the residential amenity of the neighbouring dwelling to the north of the site by reason of injury to existing residential amenities v89 and potential odours. It 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.

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Caryn Coogan  
Planning Inspector

11<sup>th</sup> of November 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	APB319161-24		
<b>Proposed Development Summary</b>	Retention of a concrete base for use of storage of silage/ hay, site entrance and ancillary site works		
<b>Development Address</b>	Ballinrahin Lane, Ballickmoyler, Co. Laois.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>			Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		<b>N/A</b>	No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector: Caryn Coogan****Date: 11<sup>th</sup> of November 2024**