



An
Bord
Pleanála

Inspector's Report

ABP-320218-24

Development	Retention of a horse walker together with all associated site works
Location	Caim, Killoughrum ED, Enniscorthy, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20240505
Applicant(s)	Mark and Natasha Slevin
Type of Application	Retention permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Patrick O'Mahoney and Ann O'Mahoney
Observer(s)	None
Date of Site Inspection	29 th November 2024
Inspector	Aisling MacNamara

1.0 Site Location and Description

- 1.1. The subject site is irregular in shape and has an area of 0.3ha. The site is located within the rural area of Caim, approximately 8km east of Enniscorthy, County Wexford. The site is accessed from local secondary road L6118.
- 1.2. The site is located within a farm yard located to the rear of the applicants dwelling house. The farmyard contains two existing sheds, horse stables and the horse walker that is the subject of the appeal. There are paddocks to the rear / northeast and to the south west. The closest adjoining property is to the southwest which contains a dwelling and outbuildings. The dwelling is approximately 110m to the south west of the site and the farm outbuildings are close to the southwestern corner of the site.
- 1.3. The site can be accessed from the main driveway to the public road which serves both the house and farmyard. There is also a direct side access to the farmyard from the side of the applicants house.

2.0 Proposed Development

- 2.1. Permission has been sought to retain a horse walker. The horse walker is partially roofed and has an area of 132sqm (13m x 13m) and ridge height of 3.2m and contains a steel pole frame with steel mesh netting enclosure and a concrete walk track.

3.0 Planning Authority Decision

3.1. Decision

On 28th June 2024 Wexford County Council issued a notification of their decision to grant retention permission for the development subject to five conditions. Condition 4 required storm water from the shed roof to be diverted to a clean water outfall. Condition 5 required sightlines to be maintained and maximised at the junction of the private land and public road.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The report of the Executive Planner forms the basis of the planning authority's decision and includes a recommendation to grant permission. The report notes that an enforcement notice was issued in April 2024 requiring the removal of the unauthorised horse walker and an unauthorised agricultural shed.

3.2.2. Other Technical Reports

- The report of the Senior Executive Scientist (Environment) includes a recommendation to grant permission subject to condition requiring all storm water to be diverted to clean water outfall.
- The report of the Roads Section includes a recommendation to grant permission subject to condition requiring existing hedgerows at the access to the public road to be trimmed and maintained for sightlines, roadside drainage and the disposal of surface water within the site accordance with SUDs.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

One observation (the appellant) was made in respect of the application. The issues raised relate to the validation of the application, the site notice and the application form.

4.0 Planning History

- PA20240734 (currently on appeal ABP320725) – decision to grant Aug 2024 – permission for the retention and completion of a shed for housing horses together .
- Enforcement Notice issued on 4th April 2024 – remove unauthorised horse walker and agricultural shed.

5.0 Policy Context

5.1. Development Plan

Relevant policies and objectives in the Wexford County Development Plan 2022-2028 include the following:

- The site is outside any settlements and is within the rural area.
- Chapter 6 Economic Development Strategy
 - Objective ED99 *To facilitate the development of sustainable agricultural practices and facilities within the county, subject to complying with best practice guidance, normal planning and environmental criteria and the development management standards in Volume 2.*
 - Objective ED101 *To facilitate the modernisation of agriculture and to encourage best practice in the design and construction of new agricultural buildings and installations to protect the environment, natural and built heritage and residential amenity. Planning applications for new agricultural structures must clearly outline the use of the structure (livestock / equine / pig / poultry / storage) subject to Objectives ED97 and ED98.*
 - Objective ED102 *To ensure agricultural waste is managed and disposed in a safe, efficient and sustainable manner having regard to the environment and in full compliance with the European Communities Good Agricultural Practice for the Protection of Waters Regulations (2014) and relevant best practice guidelines.*
- Chapter 10 Environmental Management
- Chapter 11 Heritage and Conservation
- Development Management Manual
 - 5.5.1 Agricultural Buildings
 - 8.8.4 Agricultural waste

- Landscape Character Assessment – site is located within the lowlands landscape character unit which is stated to have a low landscape sensitivity rating.

5.2. Natural Heritage Designations

The subject site is not within or immediately adjacent to any designated or Natura 2000 sites. The site is located:

- 1.2km from Killoughrum Forest proposed Natural Heritage Area
- 4km from Slaney River Valley Special Area of Conservation
- 6.8km from Wexford Harbour and Slobs Special Protection Area

5.3. EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was lodged by the residents of the dwelling on the adjoining property to the southwest of the site and the issues raised can be summarised as follows:

- The proposal relates to unauthorised development that is the subject of an Enforcement Notice that has not been complied with.
- The application is not a valid application and technical reasons relating to the application documents are outlined relating in particular to the adequacy of the site notice, referencing of the site address, the application form and drawings.

- Permission should be refused. Insufficient information is provided in respect of open wells and aquifers, watercourses, tree stands and natural wildlife habitats and therefore there is insufficient information to allow for assessment and application should be refused.
- The appellants dwelling is not correctly referenced in the drawings and there is inadequate separation distance to the unauthorised development (breaching of a 100m limit).
- No information is provided on the location or impacts on bored wells in the area and there is potential risk to water supply which would be prejudicial to public health.
- Water bodies in this area are connected to the River Urrin and River Slaney which are of environmentally significant water bodies and habitats.
- The natural habitats in this area are part of a wildlife corridor connection to Killoughrum Forest along the River Urrin valley – a significant habitat for the area. Reference is made to sections of the county development plan including chapter 10 Environmental Management and Chapter 11 Landscape and Green Infrastructure.
- Lands are poorly drained and prone to flooding. Discharge of storm water and effluent / contaminated waters onto the appellants property
- Loss of amenity and enjoyment of property attributed to anxiety and financial loss associated with the development and the planning process.

6.2. Applicant Response

The applicant has submitted a response to the appeal. The key points of this submission are summarised as follows:

- The application has been validated.
- Unclear what the 100m limit refers to.
- The applicants farmyard is at a lower level than the farmyard of the appellants and there is no possibility of soiled water leaching into their yard or well.

- A farmyard has been at this site for many years and there is no change to this use.
- All minimum setbacks from streams and rivers have been adhered to.
- All soiled water are to be collected in accordance with good farm practices.
- No impact on the health or lifestyle of the appellants
- Acceptable agricultural development in this area

Note that the Board received a redaction of Point 7 and Point 8 of the submission.

6.3. Planning Authority Response

None

6.4. Observations

None

6.5. Further Responses

The appellant submitted a further response to the applicants response. The key points of this submission are summarised as follows:

- Further information and clarification outlining rationale as to why the application is not valid – additional information outlined regarding the adequacy of the site notice
- Confirms that the horse walker structure has been constructed within 100m of their house and interferes with the amenity of their property. In *Mc Cann v Furlong* (2024) IEHC 342, it was ruled that an unauthorised structure breached a required 100m separation distance for third party houses.
- The applicant has not submitted a site plan showing the location of the appellants private bored well and the planning authority is prevented from making a full assessment. In *Sweetman v An Bord Pleanála* (Derryadd) (2021) IEHC 390 it was proven that providing accurate planning

application documentation is a statutory obligation. In *Southwood Park Residents Association v An Bord Pleanála* (2-19) IEHC 204 it was ruled that a breach of the Planning and Development Regulations 2001 is fatal to the validity of a planning application.

- In assessing other planning applications, the planning authority has previously refused permission on basis that insufficient information is provided to assess impact on water supplies.

A response is provided to Points 7 and Point 8, however as these points have been redacted and as such no summary is provided of the points in the submission.

7.0 Assessment

7.1. 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:

- Procedural issues
- Drainage and impact on water bodies

7.2. Procedural issues

7.2.1. In terms of procedural matters and alleged irregularities regarding the nature of the erection of the site notice, I note the planning authority deemed that the site notice was erected in accordance with the Planning and Development Regulations 2001 (as amended). I am satisfied that the public have been informed of the proposed development.

7.2.2. In terms of procedural matters and the alleged irregularities in the content of the application documentation, it is a statutory requirement that all planning applications are valid and that the content of an application is in accordance with the Planning and Development Regulations (2001) as amended. I note that the planning authority was satisfied that the application was complete and compliant with the requirements of the legislation and on this basis validated the application. I am satisfied that sufficient information has been submitted to allow an assessment of the proposed development to be undertaken.

- 7.2.3. The third party appeal has made reference to legal judgements to support their case that that the application is not valid. In the case *Sweetman v An Bord Pleanála* (Derryadd) (2021) IEHC 390 it was ruled that that an application for a wind farm was not valid because the plans and particulars were not in accordance with the Planning and Development Regulations 2001 because the design details provided with an application were vague, referring to 'typical' details rather than precise details and a 'design envelope' rather than specified distances. In this subject application, I am satisfied that the plans and particulars are clear and that there is no confusion as to the nature of the development that is the subject of the application.
- 7.2.4. In the case *Southwood Park Residents Association v An Bord Pleanála* (2-19) IEHC 204, a decision to grant permission for a large scale housing development was overturned because a bat survey was not posted to the website and it was found that that this had materially impacted on the participation of the public. In this subject application, I am satisfied that the plans and particulars in the application are available for the public to view and that third party rights to participate have not been infringed.
- 7.2.5. The appellants have raised that the horse walker which is the subject of this application for retention permission is also the subject of an Enforcement Notice and that this Enforcement Notice has not been complied with. In this respect, I note that the matter of enforcement falls under the jurisdiction of the planning authority.
- 7.2.6. In conclusion, I am of the opinion that a valid application has been received and that it is appropriate to proceed with the assessment of the appeal.

7.3. Drainage and impact on water bodies

- 7.3.1. Firstly, I will state that I am satisfied that the proposal to retain a small horse walker that is located within an existing farmyard on an agricultural landholding within the rural area is acceptable in principle and is in accordance with objectives ED99 and ED101 in the Wexford County Development Plan 2022-2028 to support agriculture.
- 7.3.2. The concerns raised in the third party appeal relate mainly to the potential adverse impact of the development on water bodies in the area and specifically that storm water and contaminated effluent from the horse walker could adversely impact on their well water supply and ground and surface water bodies in the area and that these impacts would indirectly impact on natural heritage.

- 7.3.3. The horse walker is used to exercise horses and there is potential for animal waste and soiled wash water to impact on surrounding ground water bodies and surface water bodies. There are no streams or rivers on the site. The nearest stream is located approximately 135m to the northeast of the site. The River Urrin is located over 1km from the site which connects to the River Slaney. The site is located in the Ballyglass ground water body which has a 'good' Water Framework Directive (WFD) status of the period 2016-2021. The Geological Survey Ireland (GSI) categorises the aquifer in this area as a locally important aquifer containing bedrock that is moderately productive in local zones. The GSI categorise the aquifer as 'high vulnerability' to groundwater contamination. No detailed information is provided on the location of wells in the area, however notwithstanding, it is clear that well supplies are vulnerable to contamination.
- 7.3.4. I note that the Environment Section submitted an internal report and did not raise any objection to the development subject to a condition to divert storm water from the roof to a clean water outfall. Whilst I do accept that unmanaged discharge of surface and waste waters from the horse walker has potential to cause a risk to water bodies, I am of the opinion that having regard to the small size of the structure, that any potential risks of pollution can be adequately addressed through conditions to manage the collection and disposal of the surface and waste water.
- 7.3.5. Should permission be granted, it is recommended that a condition be attached to require the collection and disposal of clean uncontaminated surface water to soakways and the separate collection and disposal of soiled waters and manure to storage tanks. Drawings and details should be submitted to and agreed with the planning authority. It is recommended that the condition be attached to prohibit the use of the horse walker until the agreed drainage works are put in place.
- 7.3.6. The appellants have indicated that the unauthorised horse walker breached a required 100m separation distance to third party houses. I note that the 100m separation distance referenced by the appellants relates to the classes of agricultural buildings that are exempt from the requirement for planning permission, subject to the conditions and limitations as set out in the Planning and Development Regulations (2001) as amended. This is an application for permission to retain a structure and therefore the exempt development regulations are not relevant.

- 7.3.7. I am satisfied that subject to condition controlling the collection and disposal of both clean and soiled water and manure, that there would be no risk to any water bodies in the area and that the development would be acceptable in terms of public health.
- 7.3.8. The appellant has raised concerns that any impacts on the quality of water bodies could impact on biodiversity and natural heritage. In this regard, I am satisfied that the horse walker is within an existing farmyard complex and does not have any significant impacts on flora or fauna. Having regard to my assessment above and the inclusion of conditions for the collection and disposal of surface water and waste water I do not consider that there would be any negative impacts on water quality that could indirectly adversely impact biodiversity.
- 7.3.9. Furthermore, I am satisfied that subject to a condition for the collection and disposal of surface and waste waters from the horse walker that there would be no risk of uncontrolled discharge of water or flooding of the adjoining property.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.
- 8.2. The subject site is not located within or adjacent to any European Site. The closest European Site, part of the Natura 2000 network, is the Slaney River Valley Special Area of Conservation which is 4km from the proposed development.
- 8.3. The proposed development is located within a rural area and comprises the retention of a small agricultural horse walker.
- 8.4. Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European site.
- 8.5. The reason for this conclusion is as follows:
- Small scale and nature of the development
 - The location of the development at a considerable distance from European sites and the lack of significant indirect ecological or hydrological pathways to any European site.

I consider that the proposed development would not be likely to have a significant effect individually or in combination with other plans and projects, on a European site and appropriate assessment is therefore not required.

9.0 Recommendation

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

10.0 Reasons and Considerations

Having regard to the policies and objectives of the Wexford County Development Plan 2022-2028, the rural context, the use of the subject site as an agricultural farmyard 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.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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>The horse walker shall not be used until the drainage works that are the subject of conditions 3 and 4 have been carried out and completed.</p>

	Reason: In the interests of clarity and orderly development.
3.	<p>Drawings and details shall be submitted to and agreed in writing with the planning authority showing the following:</p> <p>(a) uncontaminated surface water run-off shall be disposed of directly in a sealed system to ground in appropriately sized soakaways,</p> <p>(b) all soiled waters and manure shall be directed to an appropriately sized storage tank (in accordance with the requirements of the European Union (Good Agricultural Practice for the Protection of Waters (Amendment) Regulations 2022, as amended, or to a slatted tank.</p> <p>(c) all separation distances for potable water supplies as outlined in the European Union (Good Agricultural Practice for the Protection of Waters)(Amendment) Regulations 2022, as amended shall be strictly adhered to.</p> <p>The arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of environmental protection and public health.</p>
4.	<p>All soiled waters and slurry generated by the proposed development shall be conveyed through properly constructed channels to storage facilities. No soiled waters or slurry shall discharge or be allowed to discharge to any drainage channel, stream, watercourse or to the public road.</p> <p>Reason: In the interest of public health</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</p>

	<p>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>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Aisling Mac Namara
Planning Inspector

11th December 2024

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	320218-24		
Proposed Development Summary	Retention of a horse walker with associated site works		
Development Address	Cairn, Killoughrum, Enniscorthy, Co. Wexford		
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	Tick if relevant and proceed to Q2.
		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)?			
Yes		State the Class here.	Proceed to Q3.
No	x		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes		State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No			Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes		State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____

Date: 11th December 2024