



An  
Bord  
Pleanála

## Inspector's Report ABP-320987-24

### Development

Retention of: extensions to existing agricultural shed, containers for feed storage, works to existing vehicular entrance and all associated siteworks and

Permission for removal of sections of roadside ditch and erect fencing.

### Location

Baltracey, Donadea, Co. Kildare

### Planning Authority

Kildare County Council

### Planning Authority Reg. Ref.

2460023

### Applicant(s)

James Cullen

### Type of Application

Retention & Permission

### Planning Authority Decision

Grant

### Type of Appeal

Third Party

### Appellant(s)

O' Shea Shotblast & Painting Ltd.

### Observer(s)

None

### Date of Site Inspection

11 February 2025

### Inspector

Paula Hanlon

## **1.0 Site Location and Description**

- 1.1. The site the subject of this appeal (0.73ha) hereafter referred to as “the site” forms part of an established farmstead, located along the eastern side of the R407 regional road in the open countryside within the rural townland of Baltreacy, approximately 4.5km southwest of Kilcock, Co. Kildare.
- 1.2. The splayed vehicular access within the delineated site adjoins the regional road, with an associated approximate 160m long accessway providing access into the site’s farm buildings which are setback from the roadside, by way of an adjoining field (west).
- 1.3. The delineated site contains a farm shed which was extended over time and the extensions combined so as to function as a single unit, accommodating a mix of agricultural uses, with internal segregation including the housing of livestock, machinery storage and hay & fertiliser storage, along with concrete hardstand, 2(no) metal storage containers, dungstead and silage pit.
- 1.4. The site is bound to the north, east and west by agricultural lands and its immediate area is typified as predominantly rural. A single storey dwelling and adjoining low profile farm buildings which form part of the farmstead are sited to the south of the delineated site. An established gated vehicular access off the R407, which is also to the south of the delineated site provides access to the subject farmstead and to a separate adjoining bungalow and adjacent agricultural lands located immediately to the southwest of the applicant’s landholding.
- 1.5. The roadside boundary along the north and south of the access which is the subject of this application is of mature native hedgerow, the height of which is maintained at a low level.

## **2.0 Proposed Development**

The applicant proposes the following:

Retention of

(1) extensions to an existing agricultural building comprising an agricultural machinery shed (265m<sup>2</sup>) and a hay store (134m<sup>2</sup>),

(2) two metal containers to be purposed for feed storage

(3) widening of existing vehicular entrance & installation of automatic gate and pallisade fencing, and

(4) all associated site works.

Permission is also sought for the removal of roadside ditch and erect fencing, so as to achieve improved sightlines along the R407.

### **3.0 Planning Authority Decision**

#### **3.1. Further Information**

The Planning Authority requested further information on 6 March 2024 in relation to the following:

- Traffic types and volumes
- Swept path analysis
- Road Safety Audit
- Details on earthen mound sought along the public road (incl. drainage requirements)
- Clarity on adjoining gateway/entrance to the southwest of the site
- Details on storm water runoff.

#### **3.2. Decision**

By Order, Kildare County Council issued a Notification of decision to grant planning permission on 9 September 2024 subject to 10(no) conditions.

#### **3.3. Planning Authority Reports**

##### **3.3.1. Planning Reports**

A planning report completed 05/09/2024 forms the basis for the decision by Kildare County Council to grant permission. The content of this report raises no outstanding issues in respect of roads and traffic matters and the requirement for hedgerow removal in order to achieve required sightlines. It concludes that having regard to the

existing agricultural developments on site and also the predominantly agricultural nature of the landscape, that the expansion of an existing agricultural enterprise would not be detrimental to the existing amenity of the area, and recommends a grant of permission subject to conditions. An Appropriate Assessment Screening Report with Conclusion Statement and an EIAR Screening are attached to the Planner's Report.

### 3.3.2. Other Technical Reports

- Water Services (08/02/24): No objection, conditions recommended
- Environment Section (08/02/24): Condition recommended (fertiliser storage).
- Clane Maynooth Municipal District Report (19/02/24): Further Information sought
- Transport, Mobility and Open Spaces Department (03/09/24): No objection, conditions recommended.

### 3.3.3. Conditions

I am generally satisfied that all conditions attached by the PA in its decision to grant permission are standard conditions insofar as they relate to the proposed development. The following conditions are of note;

- Achieve 160m sightlines (Condition 4)
- Pavement overlay requirement for entrance to junction mouth (Condition 5).

Consideration will be given to the attachment of these conditions within my assessment below [Refer Section 7].

### 3.4. Prescribed Bodies

None.

### 3.5. Third Party Observations

The PA received 1(no) third-party submission during the course of its determination, with the matters raised similar to those raised within the appeal submission.

## 4.0 Planning History

24/60017 - Retention permission refused for dwelling and associated works on the grounds of compliance with rural housing need and substandard design.

24/60019 - Retention permission refused for a compound within the farmyard for the storage of contractors portable site offices, containers and bulky construction equipment (fencing, pipes etc) on the grounds of materially contravening objectives of the CDP in protecting rural areas from incompatible development, and impacts on the amenities of the area.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The Kildare County Development Plan 2023-2029 (CDP) which came into effect 28 January 2023 is the operative Development Plan for the county.

5.1.2. The site is located within a rural area of Co. Kildare. Relevant policies, objectives and standards within the CDP are set out under Chapter 9 – Our Rural Economy and Chapter 15 - Development Management Standards.

5.1.3. Policy, Objectives and Development Management Standards of particular relevance include:

- Support and promote rural enterprises and encourage appropriate expansion and diversification in areas such as sustainable agriculture, forestry, peatlands, peatlands rehabilitation and sustainable peatland related tourism, food, crafts, renewable energy at suitable locations in the county, particularly where they contribute to a low carbon and resilient economy (Policy RD P1).

- Facilitate agriculture, horticulture, forestry, tourism, energy production and rural resource-based enterprise within the rural settlements and in appropriate rural locations subject to relevant development management standards (Objective RD O2).

- Require new buildings and structures:

- To be sited as unobtrusively as possible.

- To be clustered to form a distinct and unified feature in the landscape.

- To utilise suitable materials and colours.
- To utilise native species in screen planting to integrate development into the landscape (Objective RD O5).

Agricultural Development Standard [In terms of siting, scale, materials & finishes and planning considerations (including ecology)] (DM Standard 15.9.8).

Minimise the extent of hedgerow removal in order to achieve adequate sightlines. However, where it has been satisfactorily demonstrated that there is no other suitable development site (for planning reasons) any removed hedgerow shall be replaced with native hedgerow species. Opportunities should be sought to translocate existing species rich hedgerows, where possible, and subject to proper biosecurity protocols (Objective TM O102).

## 5.2. **Regional Policy**

Eastern & Midland Regional Spatial & Economic Strategy 2019-2031.

## 5.3. **National Policy**

- Climate Action Plan 2024
- Project Ireland 2040 – National Planning Framework (2018) and National Development Plan 2021-2030
- Department of Rural and Community Development's Our Rural Future: Rural Development Policy 2021-2025
- Department of Agriculture, Food and the Marine's Food Vision 2030
- Department of Agriculture, Food and the Marine's Ag Climatise A Roadmap towards Climate Neutrality
- Nitrates Action Programme (NAP) 2022-2025.

#### **5.4. Natural Heritage Designations**

The appeal site is not located on or within proximity to any designated Natura 2000 site(s) or Natural Heritage Area(s). The Rye Water Valley/Carlton SAC (001398) being the nearest European site is approximately 8.6 kilometres northeast (at its nearest point) to the site. Donadea Wood Hill pNHA is the nearest pNHA located approximately 3.2km southwest of the site.

#### **5.5. EIA Screening**

See completed Appendix 1 - Form 1 on file. Having regard to the nature and type of development proposed, it is not considered that it falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (As amended), and as such preliminary examination or an environmental impact assessment is not required.

### **6.0 The Appeal**

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

- The application submitted is invalid.
- The PA did not address all issues raised in the submitted third party submission at application stage including:
  - validity & legality concerns within the submitted application and public notice
  - planning status of existing buildings
  - sufficiency of details provided on a number of raised matters
  - justification for a second (vehicular entrance)
  - visual impact (fencing and gate), and
  - the appropriateness of shipping containers at this location.
- The proposal would give rise to the continuation and intensification of an unauthorised use on the site.

- The significant removal of hedgerow to accommodate the proposed development is not justified in accordance with adopted policy.
- Road and traffic safety concerns raised in regard to the lack of required surveys provided (no road survey/ traffic speed survey or traffic assessment).

## 6.2. Applicant Response

- The applicant confirms that the applicant's name given in the submitted application is the named applicant.
- The planning status of existing buildings is provided. Adjoining structures are of 1800s construction or farm buildings of 1980's construction which is deemed to be exempted development.
- The upgraded entrance and access do not intensify agricultural activity but improves road safety and farmyard amenities.
- The appellant's reference to unauthorised development on site is no longer relevant as the commercial yard previously on site has ceased.
- The extent of hedgerow removal sought is at the minimum level required to achieve required sightlines.
- The proposal is the upgrading of a long-established entrance location which was considered to be substandard and constituting a traffic hazard. Objective TM095 & Policy HOP25 are therefore not relevant.
- An Arborist Report, EcIA or Landscape Plan were not sought at application stage.
- No tree felling is sought. Significant planting of both trees & hedging was already carried out on the overall landholding. Previous tree felling was due to ash die-back and legal requirements under the Roads Act (1993).
- An Appropriate Assessment Screening report, undertaken by an ecologist accompanied the application. The applicant intends to comply with requirements under The Wildlife Act, a landscaping proposal was submitted and the site is located in area designated as of low landscape sensitivity.



- There is an issue of restricted sightlines attached to the second entrance serving the site does, with required associated works are on lands outside of the applicant's control.
- The palisade fencing was erected for security reasons. Screen planting will mitigate the visual impact without compromising security.
- A separation distance of 1km exists between the appellant and the subject site.

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

A response has been received from the Planning Authority dated 31/10/2024. Whilst the submission contains a typographical error in respect of the PA's made decision, it also refers the Board to the reports attached to its assessment of the application.

## 7.0 **Assessment**

Having examined the application details and all other documentation on file, including the appeal submission, the reports of the planning authority, having inspected the site and having regard to relevant local, regional and national policies, objectives and guidance, I consider that the main issues in this appeal to be considered are as follows:

- Roads & Traffic
- Visual Impact
- Ecology
- Procedural & Other Matters.

### 7.1. **Roads & Traffic**

The proposed development works relate to an already established vehicular access onto the R407 (Clane-Kilcock road) that serves an established farmstead. For this reason and in noting the issue of restricted sightlines associated with a second access that serves these lands, I consider that the principal of proposed works to the subject

entrance is acceptable, subject to satisfactorily complying with all other planning requirements.

Whilst considering raised concerns on the sufficiency of submitted details in regard to roads and traffic safety, I wish to highlight in the outset that the submission of a road survey, traffic speed survey and traffic assessment are not specifically required within the provisions of the CDP and there is no statutory provision which necessitates the need for such report(s) in this case. I note that no documentary evidence which supports the contention that the proposal would pose a risk to traffic safety accompanied the appeal submission.

The applicant outlines that the subject entrance accommodates 12 car movements and 4 tractor movements daily, with additional HGV movements twice monthly for animal feed deliveries.

The retention works sought, notably the widening of vehicular entrance and removal and setback of existing roadside boundary would improve visibility and allow for the achievement of required sightlines, with a visibility splay of 160m proposed. In my view, the achievement of sightlines is necessary so as to address the potential for conflicting movements on the R407 regional road at this location, taking account of all relevant considerations, including traffic levels and typical vehicle speeds. I am further satisfied that the proposal would not give rise to the intensifying of traffic movements to such an extent that would result in a traffic hazard, given the nature and extent of the structures sought in this case, notably agricultural machinery shed (265m<sup>2</sup>) and a hay store (134m<sup>2</sup>).

I submit that an independent Road Safety Audit (RSA) was provided at further information stage. I am satisfied, based on the raised problems and recommendations provided within the RSA that its recommendations on sightlines and surface finish at the junction mouth can be addressed by condition, should the Board be minded to grant permission.

I therefore am of the opinion that the proposed development works from a road and traffic safety perspective, in facilitating the traffic movements associated with the established farmstead whilst maintaining the safety and function of the adjoining regional road is acceptable.

## 7.2. Ecology and Landscape

While the appellant contends that an Ecological Impact Assessment (EclA) should have been provided, I submit that there is no statutory requirement requiring the undertaking of an EclA. Furthermore, given the site's context, I note that the provisions of the CDP do not require that the submitted application be accompanied by an EclA.

Given that no tree felling is sought as part of the subject application, I submit that an Arborist Report is also not required.

The existing roadside hedge which adjoins the subject site is not a townland boundary. It does however contribute positively to the local character and biodiversity of this predominantly rural area.

The proposal would result in the removal of a significant amount of roadside hedgerow (144m), a feature of local biodiversity value, so as to address road & traffic safety concerns associated with an established access.

I note that the applicant proposes a new 1.2m earthen mound with double staggered row of indigenous/native hedgerow of similar length to the existing hedgerow, setback from the adjoining road, as shown within drawing number 004.

On balance, whilst I accept that the removal of the existing roadside boundary as shown within the applicant's documentation is justified in addressing the need to accommodate required sightlines associated with an already established access onto a significantly trafficked regional road that serves a farmstead that has existed at this location for many decades, I consider that in the interest of biodiversity and visual amenity that the applicant should be required to setback and translocate the existing roadside hedging in lieu of proposed new roadside landscaping proposal shown within dwg number 004. I am satisfied that the removal and transplanting of the existing hedge, to be supplemented with additional tree planting as opposed to the undertaking of new hedgerow planting would further mitigate against the loss of local biodiversity and ecological devaluation which may arise and would more positively contribute to the efficacy of the wider ecological network going forward at this location. This approach in my view, would be consistent with Objective TM O102 of the CDP which outlines that opportunities should be sought to translocate existing species rich hedgerows, where possible. Accordingly, I suggest that the matter of the site's

roadside boundary treatment be addressed by a suitably worded condition in the event that the Board is minded to grant planning permission.

Furthermore, in noting that the appellant makes reference to bats within the context of the application requiring the submission of EcIA, I submit that there is no evidence provided to support the case that the proposed development will negatively impact on bat species. All bats are protected species under national and EU legislation. There is a separate process that lies outside of the planning process which the applicant is required to undertake with the NPWS which requires that a derogation license be issued, should any change in circumstance arise in relation to bat roosting on this site, or where any works undertaken would capture or kill, or disturb bats at important parts of their life cycle. In this context and given the nature and scale of the development proposed, I am of the view that the proposed development would not have a negative impact on bat species and there is no likelihood of significant effects on the environment.

### 7.3. Visual Impact

The matters raised by the appellant on visual impact pertain to the installation of an automated gate and palisade fencing which is at the site's entrance and the existence of 2(no) steel containers within the site.

The proposed works would not obstruct any protected view(s) and all views of the proposal would be predominantly fleeting views from adjoining traffic on the R407.

Notwithstanding, I concur somewhat with the appellant's view in respect of the use of palisade fencing and automated gate being more akin to a commercial/industrial operation as opposed to an agricultural development. In my view the use of palisade fencing along the entrance mouth and forward of the positioning of the automated gate forms a visual obstruction along the roadside, which is out of character and does not integrate successfully into its rural surroundings. Whilst I accept that this visual impact could be mitigated by way of additional screen planting along the palisade fenceline, as suggested within the applicant's appeal response, I see no reason to justify the need for its erection in the first instance. The erection of this palisade, which is visually prominent from the public road does not respect or enhance the local rural environs.

I consider that the use on an automated case gate in this case, setback from the roadside within the applicants grounds and with existing planting along the existing internal access road (south) allows for its effective integration into its surroundings and for this reason, I see no reason to dispute the retention of the automated gate itself as part of the overall development.

In light of the above, should the Board be minded to grant permission, I suggest that a condition be attached which requires that all palisade fencing along the entrance mouth of the subject agricultural gateway which is forward of the associated automated gateway be removed and replaced with appropriate boundary treatment, (notably post and wire fencing and native planting).

In regard to the 2(no) steel containers, I note that these structures are sited to the east (rear) of existing agricultural shed and would not be visible from the roadside or outside of the applicant's landholding.

Given the above and in noting that the site is located within a landscape designated as being of low sensitivity, I am of the view that the proposed development, subject to condition would not have a significant negative impact on the visual amenities of the area, if permitted.

#### **7.4. Procedural & Other Matters**

##### **7.4.1. Use of Shipping Containers**

The re-purposing of a shipping container allows for further uses outside of its traditional industrial use and as such, there is a requirement that their siting be assessed on a case-by-case basis. In this instance, given the siting of the 2(no) steel containers, nestled within the farmyard setback such a distance (in excess of 100m) from the roadside and screened from any public view, coupled with the applicant's intended use for feed storage purposes ancillary to the applicant's farm holding, I am satisfied that the inclusion of the steel containers on this site is acceptable. I note that the applicant confirmed that on-site feed storage within the steel containers is required to accommodate the needs of the subject farm only.

In terms of surface water drainage, I note that the matter was addressed at further information stage. Given the details provided on drainage and the minimal footprint and central location of the containers within the applicant's overall landholding, I see no reason to deem their siting to be inappropriate on these lands or in terms of its drainage. I recommend that a standard condition be attached in the event that permission is granted regarding the separation of all uncontaminated roof water and clean yard water from any foul effluent drains, foul effluent/slurry storage tanks or to the public road and that the development shall comply with the requirements of the planning authority for such works and services.

#### 7.4.2. Procedural Matters

In terms of procedural matters raised on details contained within the application form, public notice and legibility concerns in regard to the site layout map, I note that these matters were considered acceptable by the PA and I see no reason to dispute same. I am satisfied that the matters raised did not prevent the concerned party from making representations and that sufficient details have been provided to fully assess the planning merits of this appeal. Furthermore, in reference to unauthorised development on this site, I note that a commercial yard that was previously in operation on the applicant's lands has now ceased and that all adjoining buildings within the applicant's landholding lie outside of the redline boundary. I submit that such works in the form of unauthorised development fall outside of the Board's remit in deciding this application. This assessment represents my de novo consideration of all planning issues material to the proposed development.

## 8.0 AA Screening

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- Nature of works on an established farmstead
- Location - Distance from nearest European site and lack of any direct connections. This site is within a rural area, c.8.6 kilometres northeast (at its nearest point to this site), being the nearest European site.
- Taking into account the applicants Screening for Appropriate Assessment report undertaken by a qualified and the PA's screening determination.

## **9.0 Recommendation**

Having regard to the foregoing it is recommended that permission be granted for the proposed retention of development works sought, subject to conditions including required revisions to the proposed removal of the site's roadside ditch and fencing,

## **10.0 Reasons and Considerations**

Having regard to the nature, scale and extent of the proposed development and to its location and relationship with an established farmstead, it is considered that the proposed development is in accordance with adopted local policy and objectives of the Kildare County Development Plan 2023-2029, most notably Objective RD O2 in facilitating agriculture development at an appropriate rural location, it would not give rise to the creation of a traffic hazard or have a significant negative impact on the visual amenities of the area or have any significant effects on the ecology of the area, subject to compliance with the conditions set out below. The proposed development therefore would be in accordance with the proper planning and sustainable development of the area.

## **11.0 Conditions**

1. 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.

**Reason:** In the interest of clarity.

2. All palisade fencing along both sides of the vehicular entrance mouth and which is forward of the automated entrance gate is not permitted under this application. It shall be removed and replaced with post and wire fencing and native planting within the first planting season following the grant order date of this permission.

**Reason:** In the interest of visual amenity, local biodiversity and the proper planning and sustainable development of the area.

3. The development hereby permitted shall be used for agricultural related purposes only. The structures permitted shall not be used for any commercial purpose other than a purpose incidental to farming, whether or not such use might otherwise constitute exempted development.

**Reason:** In the interest of orderly development and the amenities of the area.

4. The proposed development shall be operated in accordance with the requirements as outlined in the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2022, as amended.

**Reason:** In order to avoid pollution and to protect residential amenity.

5. The existing roadside hedge shall be removed and transplanted behind the required sightlines attached to the subject vehicular entrance, within the first planting season following the grant order date of this permission. These transplanting works shall be supplemented with the planting of indigenous deciduous trees, full details of which



shall be submitted to the Planning Authority for written approval prior to commencement of development.

Any hedging or trees which die, are removed or become seriously damaged or diseased, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of visual amenity and biodiversity.

6. The applicant shall provide a pavement overlay of stone mastic asphalt, to the site's vehicular entrance to junction mouth with the R407 as recommended within the submitted Road Safety Audit.

**Reason:** In the interest of road safety.

7. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of environmental protection and public health.

8. All uncontaminated roof water from structures and clean yard water shall be separately collected and discharged in a sealed system to existing drains, streams or adequate soakpits and shall not discharge or be allowed to discharge to foul effluent drains, foul effluent and slurry storage tanks or to the public road.

**Reason:** In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.

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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Paula Hanlon  
Planning Inspector  
28 February 2025

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-320987-24		
<b>Proposed Development</b> <b>Summary</b>	Retention of: extensions to existing agricultural shed, containers for feed storage, works to existing vehicular entrance and all associated siteworks and  Permission for removal of sections of roadside ditch and erect fencing.		
<b>Development Address</b>	Baltracey, Donadea, Co. Kildare		
<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>	X
		<b>No</b>	
<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)?</b>			
<b>Yes</b>	Tick/or leave blank		
<b>No</b>	Tick or leave blank	X	No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>	Tick/or leave blank		

<b>No</b>	Tick/or leave blank		
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>			

<b>5. Has Schedule 7A information been submitted?</b>		
<b>No</b>		
<b>Yes</b>		

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_