



An  
Bord  
Pleanála

## Inspector's Report

### ABP-321095-24

<b>Development</b>	Permission to construct a machinery storage shed (open fronted).
<b>Location</b>	Clohass, The Leap, Enniscorthy, Co. Wexford
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20240926
<b>Applicant(s)</b>	Dan Nolan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Raymond Quirke
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	12 <sup>th</sup> February 2025

**Inspector**

Frank O'Donnell

## Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	6
3.3. Prescribed Bodies .....	6
3.4. Third Party Observations .....	6
4.0 Planning History .....	7
5.0 Policy Context .....	11
5.1. Wexford County Development Plan, 2022 to 2028 .....	11
5.2. Natural Heritage Designations .....	18
5.3. EIA Screening .....	18
6.0 The Appeal .....	19
6.1. Grounds of Appeal .....	19
6.2. Applicant Response .....	21
6.3. Planning Authority Response .....	21
6.4. Observations .....	21
6.5. Further Responses .....	21
7.0 Assessment .....	21
8.0 AA Screening .....	30
9.0 Summary and Conclusion .....	31
10.0 Recommendation .....	32
Appendix 1 – Form 1: EIA Pre-Screening	

## 1.0 Site Location and Description

- 1.1. The subject appeal site is located in a rural area at Clohass, the Leap, c. 3.8 km to the southwest of the centre of Enniscorthy. The appeal site comprises an existing machinery storage yard of an established plant hire and contracting business. The appeal site is located to the rear/ southwest of the Applicant's family home and is accessed via an existing laneway to the south of the said dwelling. There is an existing 75 sqm machinery shed on site and a smaller c. 45 sqm shed to its immediate south. The subject appeal site has a stated site area of 0.285 hectares. The main compound site is shown to be set back 72.3 metres from the centreline of the public road to the west. There is established residential development to the north and south of the appeal site and the balance of surrounding lands are in agricultural use.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the following:
- Permission to construct a 236.21 sqm Open Fronted Machinery Shed. The shed is shown to measure 30.5 metres in length, by 11 metres in width/ depth (including a canopy overhang) and 6.78 metres in height. The structure is proposed to comprise a 3 sided concrete wall to a height of 2.3 metres with metal clad sheeting to the roof, sides and rear.
  - All associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Local Authority issued a Notification of Decision to GRANT permission on 25<sup>th</sup> September 2024 subject to 6 no. conditions.

Condition no. 4, 5 and 6 read as follows:

- ‘ 4. a) *Sightlines must be maintained at all times.*

- b) *Any damage or interference with the roadside drainage shall be made good at the developer's expense, to the satisfaction of the Local Authority.*
- c) *All surface water generated within the boundaries shall be collected and disposed of within the curtilage of the site in accordance with SUDs.*
- d) *The carriage of the public road shall not be raised, lowered, or otherwise altered where the access way meets it.*
- e) *The gradient of the access drives shall not exceed 3% for the first 7m adjacent to the carriageway.*
- f) *An interceptor drainage grating shall be provided across the full width of the entrance gates and piped to a satisfactory outfall. Surface water shall not discharge onto the public road from the proposed development. The applicant should carry out any necessary works to prevent water ingress onto the development from the public road.*
- g) *The access way shall be piped with suitably sized pipe to ensure that no interference will be caused to existing roadside drainage, adequate provision should be made to allow for its maintenance in the future.*

*Reason: In the interests of traffic safety.*

- 5. *The application site shall not be open to members of the general public for the hire of plant and machinery.*

*Reason: To ensure the proposed development accords with the permission and that effective control is maintained.*

- 6. *The shed shall be for plant and machine storage only and shall not be used for any other reason.*

*Reason: To ensure the proposed development accords with the permission and that effective control is maintained.*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The **Local Authority Planner** considered that having visited the site and having noted the type of activities carried out, that it is clear the yard is solely a compound for a long standing family business and that it is not in use by visiting members of the public for the hire of plant. The Local Authority Planner considered that the shed can be facilitated having regard to the type of high end plant on site, which includes diggers, tractors etc and that it will not present a detrimental impact on the visual amenities of the area owing to the setback observed from the public road to the rear of the applicant's dwelling. The Local Authority Planner finally noted that it will be conditioned that the site shall be operated in accordance with the terms and conditions of PL 26.238294 and shall not be open to members of the general public for the hire of plant or machinery.

#### 3.2.2. Other Technical Reports

- The **Roads Department** raise no objection to the proposed development subject to 7 no. conditions.
- The **Environment Department** raise no objection to the proposed development subject to 3 no. conditions, see Report dated 19<sup>th</sup> August 2024 & 23<sup>rd</sup> August 2024. A separate later Report from the Environment Department dated 28<sup>th</sup> August 2024 and 3<sup>rd</sup> September 2024 raised no objection to the proposed development subject to 1 no. condition.

### 3.3. Prescribed Bodies

- None

### 3.4. Third Party Observations

#### 3.4.1. 2 no. Observation Submissions were received from the following:

- Raymond Quirke
- Dan Nolan (Applicant) c/o Patrick Nolan

3.4.2. The submission from Raymond Quirke was received on 30<sup>th</sup> August 2024. The issues raised in this Observation Submission are covered in the Grounds of Appeal.

3.4.3. The submission from Dan Nolan C/o Patrick Nolan was received on 4<sup>th</sup> September 2024. The issues raised in the Observation Submission can be summarised as follows:

- The purpose of the proposed open fronted shed is for the applicant to store his machinery to protect against the rain and to stop the machines rusting.
- There will be no additional traffic movements generated from this proposed shed, this is just a base for the Applicants Machinery storage. Most of the Applicant's work is based in Cork.
- This Machinery Storage Shed backs onto the Applicant's own land. Landholding Map attached.

## 4.0 Planning History

### 4.1.1. On Site Planning History

- **20100478:** Retention of 2 no. unauthorised entrances and an unauthorised compound and retention of unauthorised domestic garage. Permission was REFUSED on 5<sup>th</sup> July 2010 for the following reason:

*1. It is considered by the Planning Authority that the shed as constructed taken in conjunction with the adjoining yard and separate access could not reasonably be considered to be a use ancillary to the main dwelling house on site and would need to be assessed more in view of a commercial development for which inadequate details were received in terms of the impacts on the residential amenities of surrounding properties from the noise, dust and surface water generated from the development, the impact on visual amenities of the area by virtue of the scale of the development and the impact on traffic safety and road conditions in the area by the nature of its use. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

- **20101098 (Appeal Ref. no. PL26.238294):** Permission for the erection of a machinery maintenance and storage building gross floor area 75.5 metres, erection of new boundaries, fences and gates and provision of new machinery compound (0.21 hectares) with vehicular access from the existing south-west gateway and associated site works at Clohass, Enniscorthy, County Wexford.

**The proposed development was revised by further public notices**

**received by the Board on the 26th day of September, 2011 and now**

**comprises** [1] Retention and continuance of the Dan Nolan Plant Hire and Contracting Business, [2] Demolition of the existing machinery shed building on the North East of the site, [3] Erection of a new machinery maintenance and storage building with a gross floor area of 75.5 square metres, [4] Construction of a new machinery compound (0.21 Hectares), [5] Erection of new site boundaries, fences and gates, and site landscaping works in accordance with revised plans submitted, [6] Closure of the existing north west entrance at the public road and reinstatement of garden along the north east boundary, [7] Maintenance of the existing vehicular access from the existing South-West gateway to serve the site, and [8] Confirmation of proposed business operational hours of 0800 to 1800 Monday to Friday inclusive, and 0800 to 1300 on Saturdays. The Board decided to GRANT the proposed development on 11<sup>th</sup> November 2011 subject to 11 no. conditions. Conditions 1, 2, 3, 4, 5, 7 and 9 read as follows:

- ‘1. *The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 16th day of June, 2011, 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 interests of clarity.*



2. (a) *The business operation hereby permitted shall remain tied to the associated dwellinghouse on the landholding, and shall not be separately sold or leased.*

*(b) Sanitary facilities to serve the site shall be provided at the adjoining dwellinghouse.*

*Reason: In the interests of orderly development and public health, and to protect the amenities of the area.*

3. *The demolition of the existing machinery shed building on site, the closure of the existing entrance to north-east of the site and the re-instatement of gardens in this area shall be carried out within three months of the date of this order.*

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

4. *Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1300 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.*

*Reason: In the interest of orderly development and to safeguard the residential amenities of property in the vicinity.*

5. (a) *Any external lighting shall be designed to minimise light spill outside the site and to prevent any glare on the internal roads or public road.*

*(b) There shall be no external lighting of the site outside of the permitted operational hours as set out in condition number 4 above.*

*Reason: In the interests of residential amenity and the visual amenity of the area.*

...

7. (a) *During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:-*

- (i) *An LAeqT value of 55 dB(A) between the hours of 0800 to 1800 Mondays to Fridays inclusive, and between the hours of 0800 to 1300 on Saturdays. The T value shall be one hour.*
- (ii) *An LAeqT value of 45 dB(A) at any other time. The T value shall be 15 minutes. The noise at such time shall not contain a tonal component.*

*At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.*

- (b) *All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 “Assessment of Noise with respect of Community Response” as amended by ISO Recommendations R 1996 1 and 2 “Description and Measurement of Environmental Noise” as applicable.*

*Reason: To protect the residential amenities of property in the vicinity of the site.*

....

- 9. *The Dust Emission or Total Particulate Release to the airborne environment shall not exceed 150 milligrammes per square metre per day, averaged over a 30 day measurement period.*

*Reason: To protect the residential amenities of property in the vicinity of the site.’*

4.1.2. Section 5 Exemption Certificate Application (As referenced in the Appeal submission)

- **EXD00328:** The Applicant applied for a new shed under Schedule 2 – Part 1 Exempted Development Rural Class 9 of the Planning and Development

Regulations, 2001 to 2006. **The outcome/ decision is not attached to the subject appeal file.**

4.1.3. Planning Enforcement (as noted in the Local Authority Planners Report)

- Complaint number: 0065-2020, 0077-2020. Details: Cases closed re non-compliance with conditions of planning reg. ref. no. 20101098 (Appeal Ref. No. PL.238294).

## 5.0 Policy Context

### 5.1. Wexford County Development Plan, 2022 to 2028

#### Volume 1 Written Statement

#### Chapter 6 Economic Development

##### Strategic Economic Development Objectives

- **Objective ED01:** *To facilitate sustainable economic development, increase and improve job opportunities and ensure that County Wexford provides an outstanding business environment.*
- **Objective ED08:** *To develop our urban and rural communities as engines of economic growth, establishing Wexford as a great place to set up a new business.*
- **Objective ED11:** *To protect the natural resources, amenities and heritage of our county and ensure that economic development does not significantly impact on this heritage, the environmental capacity or on the amenity of the residents of the county.*

##### Place Objectives

- **Objective ED45:** *To direct commercial development to the settlements identified in the Settlement Hierarchy. Economic development proposals will be permitted within settlements on suitably zoned land or within towns and villages defined within the Core Strategy / Settlement Hierarchy, subject to the proper planning and sustainable development of the area. Exceptions to the objective will be permitted in accordance with those outlined in this chapter,*

*Chapter 7 Tourism Development, Chapter 12 Coastal Zone Management and Marine Spatial Planning, Chapter 14 Recreation and Open Space Strategy, Volume 8 Retail Strategy and Volume 10 Energy Strategy of the Plan.*

- **Objective ED49:** *To ensure that commercial development in rural areas is related to agriculture, horticulture or other rural related resource or activity. Exceptions to this objective are detailed in Section 6.7.6 of this chapter, Chapter 7 Tourism Development, Chapter 12 Coastal Zone Management and Marine Spatial Planning, Volume 8 County Retail Strategy and Volume 10 Energy Strategy.*
- **Objective ED51:** *To ensure that, where economic development uses bound sensitive uses such as residences, natural and built heritage assets or community and education uses, that an appropriate buffer is maintained to protect the sensitive use.*
- **Objective ED52:** *To ensure that all planning applications for new development achieve a high standard of design in terms of contribution to the streetscape, layout, architectural design, building format, materials, finishes, conservation of features of architectural and historical merit and high quality public realm. All future development should make a positive contribution to the distinct identity of its settlement and succeed in enhancing a sense of place.*

#### Rural Economy (Section 6.7.6)

*‘....*

*Rural economic development incorporates a broad range of sectors and land uses including agriculture, forestry, energy production, extractive industry and maritime activities. There are also areas of economic activity which are dependent on rural resources but which are not necessarily best located in our rural areas – such as industrial scale agrifood. ....*

*As outlined in Objective ED45 and Objective ED49 it is the Council’s policy to direct commercial development to the settlements identified in the Settlement Hierarchy. Exceptions to these objectives will be permitted in accordance with those outlined in this chapter, Chapter 7 Tourism Development, Chapter 12 Coastal Zone Management and Marine Spatial Planning, Chapter 14*

*Recreation and Open Space Strategy, Volume 8 Retail Strategy and Volume 10 Energy Strategy. Developments referred to in Objectives ED89 to ED98 must comply with the location specific objectives of the Plan.'*

#### Rural Economy Objectives

- **Objective ED97:** *To ensure that all buildings are appropriately sited and sympathetic to their surroundings in terms of scale, design, materials and colour. The grouping of buildings will be encouraged in the interests of visual amenity. In general, the removal of hedgerows to accommodate agricultural buildings will generally not be permitted.*
- **Objective ED98:** *To ensure all developments permitted in rural areas in accordance with Objective ED49, including agricultural, horticultural and rural diversification do not impact negatively on the quality of the environment or character of the rural area or rural settlement. Applications for all such developments will be required to submit details to demonstrate that the proposed development:*
  - *Will not result in the contamination of potable water, surface or ground waters, or impact on natural or built heritage;*
  - *Is appropriate in terms of scale, location, design and that the character of the farm or settlement is retained and enhanced where possible;*
  - *When located on a farm, it is located within, or adjacent to, existing farm buildings, unless the applicant has clearly demonstrated that the building must be located elsewhere for essential operational or other reasons;*
  - *Is appropriately sited so as to benefit from any screening provided by topography or existing landscaping and does not seriously impact on the visual amenity of the area;*
  - *Will not result in an unacceptable loss of residential amenity by reason of noise, odour or pollution;*
  - *Will not result in a traffic hazard,*
  - *Will provide for adequate waste management; and*

- *Where possible will restore and/or enhance built and/or natural heritage.*

*The Council will monitor and report on the number, nature and impacts of applications for economic development granted in rural areas outside of settlements. Reporting will take place as part of the 2 year review of the County Development Plan and as part of SEA.*

#### Commercial Development in Rural Areas Objectives

- **Objective ED122:** *To consider proposals for major commercial development in rural areas in exceptional circumstances where:*
  - i. *The specific characteristics of the proposed development such as noise, odour, resource requirements or unique energy requirements makes it unsuitable for a town or village location or a location proximate to residential properties: and*
  - ii. *Where relevant, it is a development necessary to meet national or regional waste management or climate change objectives and targets.*

*The development will only be considered where the Planning Authority is satisfied that the requirements of Objective ED124 have been complied with and the resultant assessment by the Planning Authority has concluded that the location is appropriate and the development is consistent with the proper planning and sustainable development of the area.*

- **Objective ED123:** *To consider proposals for economic development with unique location requirements in rural areas in exceptional circumstances and where the applicant has clearly demonstrated that the proposal meets the following criteria:*
  - i. *The development is of regional, and/or national, economic significance, is a development of very significant economic investment and a form that is specialist in nature;*
  - ii. *The development has specific location requirements in terms of access to the grid network and/or ready access to fibre infrastructure connections; and*

- iii. *The direct employment relative to site area is not high and therefore the use would not represent an efficient use of zoned serviced land.*

*The development will only be considered where the Planning Authority is satisfied that the requirements of Objective ED124 have been complied with and the resultant assessment by the Planning Authority has concluded that the location is appropriate and that the development is consistent with the proper planning and sustainable development of the area.*

- **Objective ED124:** *To require planning applications for development proposals referred to in Objective ED122 and Objective ED123 to be accompanied by a detailed evidence based report which:*
  - i. *Demonstrates compliance with the criteria in either Objective ED122 or Objective ED123 respectively;*
  - ii. *Contains an assessment of zoned lands in the county and a justification as to why those lands are not suitable for the proposed development;*
  - iii. *Identifies and assesses impacts on all sensitive receptors including residences, natural and built heritage, landscape, rural character and shall also examine the impact of the proposal on other rural related and rural dependant economic activities;*
  - iv. *Demonstrates that the proposed development will not have a negative impact on these receptors; and*
  - v. *Contains a Traffic and Transport Assessment/Road Safety Audit/Travel Plan to address the issue of accessibility by various modes of transport and demonstrate that the road infrastructure has capacity to cater for the proposed development. Developer funded infrastructural improvements will be conditioned, where deemed necessary.*
- **Objective ED125:** *To consider the development of a replacement commercial use on a brownfield site in a rural area where an existing use has ceased and subject to compliance with Objective ED124 (iii), (iv) and (v). In general, the Planning Authority will not consider development which is people intensive (either employee or customer), the subdivision of the property or an increase*

*in the intensity of activity on the site. The applicant will also be required to submit proposals to ensure that the proposal will have a positive impact on the visual character of the area.*

- **Objective ED126:** *To consider the extension of an established commercial enterprise in the open countryside provided the resultant scale and form of the enterprise is compatible with the character and scale of the area and subject to compliance with the other relevant objectives of this Plan, compliance with normal planning and environmental criteria and the development management standards contained in Volume 2. The Planning Authority will not permit an extension or intensification of the use where it would render the scale of the enterprise no longer appropriate in a rural area. The scale of the enterprise/use will be assessed having regard to a number of factors including impacts on the character of the rural area and impacts arising for residents and other rural related activities from traffic movements to and from the site, water and wastewater requirements and emissions including noise and odour.*

## Volume 2 Development Management Manual

### Section 5 Enterprise and Employment Developments

- Section 5.1: Requirements for all Developments
  - The Planning Authority will consider the following when assessing these developments:
    - *The proposal must comply with the relevant economic development objectives land use policies as set out in Volume 1 Chapter 6 Economic Development Strategy, Volume 3 Settlement Plans and Specific Objectives or the respective local area plan, where relevant.*
    - *The existing road network must be able to safely cater for the additional vehicular traffic generated by the proposed development. This may include developer-led improvements as part of the proposal to address any identified traffic issues.*



- *The proposal must provide suitable and safe access arrangements, sufficient car parking for the vehicles using the site, manoeuvring and servicing areas.*
- *The proposal should also include safe and direct access routes for pedestrians and cyclists and suitably designed cycle parking areas.*
- *The site layout, building design, associated infrastructure and landscaping arrangements must be accessible, propose high quality design and sustainability including energy efficiency and the protection and enhancement of biodiversity and green infrastructure.*
- *Appropriate boundary treatments and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view.*
- *In the case of proposals in the countryside, the siting, layout and design should respect and enhance the rural setting and provide for satisfactory measures to assist integration into the landscape.*

....

- Section 5.1.1: Details to be submitted with Planning Applications
- Section 6.2.6 Siting and Design of Access/ Egress Points

## Volume 7 Landscape Character

### Section 3.0 Landscape Character Assessment

- Section 3.1 Landscape Character Units
  - Table no. 7-1 Landscape Character Units:
    - Landscape Character Unit: Lowlands – Low to Moderate Sensitivity
    - Landscape Objectives:

- **Objective LO4:** *To require all developments to be appropriately sited, designed and landscaped having regard to their setting in the landscape, ensure that any potential adverse visual impacts are minimised and that natural features and characteristics of the site are retained.*
- **Objective LO5:** *To ensure that developments are not unduly visually obtrusive in the landscape, in particular, in or adjacent to the Upland, River Valley, Coastal or Distinctive Landscape Character Units.*

## 5.2. Natural Heritage Designations

5.2.1. The appeal site does not form part of, nor does it adjoin, nor is it located within close proximity to any designated Natura 2000 site. The nearest Natura 2000 sites are as follows:

- Slaney River Valley SAC (Site Code 000781), c. 2.32 kilometres to the south;
- Wexford Harbour and Slobs SPA (Site Code 004076), c. 3.3 kilometres to the east.

## 5.3. EIA Screening

5.3.1. 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

6.1.1. The Grounds of Appeal can be summarised as follows:

- Design and Layout:
  - The proposed shed is 5 times the size of the existing sheds on site and will result in a very negative impact on the visual amenities of the area. The proposal is of an excessive scale, height and design and is more appropriate in an industrial area.
  - A second 70 sqm shed was constructed on site without planning permission. This is not shown on the plans. The application should have been invalidated. This unauthorised structure should be included in any retention application.
  - Unauthorised works were carried out to the compound during the Covid pandemic lockdowns in 2020. Aerial images show the yard area was increased in 2020. The unauthorised works includes a new 2m high metal palisade fence on the site boundary.
- Residential Amenity/ Commercial use/ History of Non-Compliance:
  - The proposal would be injurious to the residential amenities of the Appellants property and the general area.
  - The proposed development will result in noise pollution/ noise nuisance.
  - Existing shed is used for Commercial purposes only.
  - Lands to the northeast of the Appellants home are used for unauthorised dumping of soils, storage of topsoil and stone aggregate which are used in the Applicant's business. Construction machinery, timber logs, tractors, trailers, sewer pipes and other construction items are also stored here. The entrance to this said site is unauthorised, unsafe and dangerous with poor sightlines. The rear of this site facilitates traffic access to the subject appeal site. This site/ land was excluded from the Applicant's landholding in 2010, misleading the Planning Authority.

- The business operates 6 days a week from 7 am to 7.30 pm, contrary to condition no. 4 of planning reg. ref. no. 20101098 (PL26.238294). Tractors often depart the site at 6 am.
- The existing floodlights are unauthorised and create considerable external floodlight pollution. These floodlights are contrary to condition 5 (b) of Planning Reg. Ref. No. 20101098 (PL26.238294). The Applicant does not understand why this condition has not been enforced by the Local Authority.
- There is regular intermittent commercial traffic to and from this site, including on weekends. The Applicants vehicles pass on 3 no. sides of the Applicant's property outside of normal working hours, contrary to conditions 4, 5 (a) & 5 (b) of planning reg. ref. no. 20101098 (Appeal Ref. No. PL26.238294).
- A 2.4 metre infill fence has not been erected/ constructed to date as per condition no. 6 of planning reg. ref. no. 20101098 (PL26.238294).
- Road Safety:
  - The proposals give rise to an excessive number of vehicle entrances onto the public minor road. The proposal would result in significant increased vehicular traffic and increased vehicle movements and would endanger public safety by reason of a traffic hazard.
- Previous Planning History:
  - The Applicant applied for a new shed under Schedule 2 – Part 1 Exempted Development Rural Class 9 of the Planning and Development Regulations, 2001 to 2006, planning reg. ref. no. EXD00328.
  - Permission was refused in 2010 under planning reg. ref. no. 20100478 for retention of 2 no. unauthorised entrances & an unauthorised compound and retention of unauthorised domestic garage.
- Other Matters:
  - The proposals will serve to depreciate all property values in the area.

- The proposal will create an undesirable precedent for other similar proposals.

## 6.2. **Applicant Response**

- None

## 6.3. **Planning Authority Response**

- None

## 6.4. **Observations**

- None

## 6.5. **Further Responses**

- None

## 7.0 **Assessment**

### 7.1. Introduction

- 7.1.1. The subject proposal seeks permission to construct a new 236 sqm (open sided) machinery shed on the subject appeal site. The principle for a Plant Hire and Contracting Business at this location is established under a previous planning permission, as planning reg. ref. no. 20101098 (Appeal ref. no. PL26.238294) refers. Since this said permission was granted, the site has been increased in size to the rear. It is upon this extended site to the rear where it is proposed to provide the new (open sided) machinery shed.
- 7.1.2. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider the main issues in this appeal are as follows:
- Planning Status of the Subject Appeal Site
  - Principle of the Proposed Development

- Residential Amenity
- Design, Scale and Visual Amenities
- Other Matters
  - *Traffic Impact*
  - *Accuracy of submitted Plans and Drawings*
  - *Depreciation of Property Values*

## 7.2. Planning Status of the Subject Appeal Site

- 7.2.1. I have compared the proposed site layout plan (as lodged with the Local Authority on 2<sup>nd</sup> August 2024) with the approved site layout plan (Drg. No. P.03) from the previous approved permission reg. ref. no. 20101098 (Appeal ref. no. PL26.238294). I note the proposed site is shown to measure 35.1 metres along the northern site boundary compared to 22.8 metres as previously approved. This represents a difference of 12.3 metres. I also note, as per the proposed site layout plan, that the rear eastern boundary has been extended in line with the rear of the existing machinery shed and that this deviates from the previously approved site layout plans. I have also compared available aerial photography.
- 7.2.2. In my view, it is clear that the subject appeal site has been significantly increased in size from that previously approved under planning file ref. no. 20101098 (Appeal ref. no. PL26.238294). As there is no record of planning permission having been obtained for such an increase in the site size, it is my view that the said works, i.e. the increase in site size, including the hardstanding area, appears to be unauthorised.
- 7.2.3. I note under the previous appeal on the subject site, as planning reg. ref. no. 20101098 (Appeal ref. no. PL26.238294) refers, that the Inspector recommended permission be refused as the development proposed to be retained would facilitate an unauthorised use and that in these circumstances it would not be appropriate for the Board to consider a grant of permission. The Board subsequently sought further information from the Applicant, under Section 132 of the Act, to address certain issues including i) confirmation of the business which it was proposed to retain, ii) confirmation of the buildings to be demolished, iii) details of the operational hours of the business, iv) details of the number of employees in the business, v) the

proposals for boundary screening and vi) the furnishing of a noise survey with particular emphasis on findings at the noise sensitive locations on the boundaries with adjoining sites. Revised public notices were subsequently sought by the Board and received from the Applicant wherein a revised development description was provided (see revised development description for planning reg. ref. no. 20101098 (Appeal ref. no. PL26.238294 as set out above in Section 4.0 of this Report). The Board subsequently issued a decision to Grant permission for planning reg. ref. no. 20101098 (Appeal ref. no. PL26.238294) subject to a total of 11 no. conditions.

7.2.4. A similar issue arises in the subject case whereby it would appear that unauthorised development has taken place and that the subject planning application, as presented, does not seek to regularise such works by way of retention. The development proposed under the subject application would facilitate an unauthorised use and in such circumstances, it is my view, that it would not be appropriate for the Board to consider a grant of permission. The Board may however wish to seek further information to clarify the situation.

7.2.5. The Appellant also makes reference to a previous Section 5 Declaration Application relating to the subject appeal site, as Referral Ref. No. EXD00328 refers. The outcome/ decision of this said Referral Case is not attached to the subject appeal file. Irrespective of the planning status of this said shed, as noted further above, the subject appeal site appears to have been extended without the benefit of planning permission and this said extension of the site appears to be unauthorised.

### 7.3. Principle of the Proposed Development

7.3.1. The principle for a Plant Hire and Contracting Business at this location is established under a previous planning permission, as planning reg. ref. no. 20101098 (Appeal ref. no. PL26.238294) refers, albeit on a smaller site. Having regard to the nature of the proposed development, which seeks to construct a new machinery shed on an extended site, the relevant policy objectives, as set out in the Development Plan, are considered to include Objectives ED45, ED49, ED51, ED52, ED97, ED98 and ED126.

7.3.2. As the proposed development represents an extension to an established commercial enterprise, I consider Objective ED126 to be of primary relevance in the assessment of this application. The principle of the proposed development is assessed in greater

detail below against the above referenced objectives and in accordance with normal planning and environmental considerations.

#### 7.4. Residential Amenity

- 7.4.1. The proposed new (open fronted) machinery shed is estimated to be located within 61 metres of the existing dwelling to the northwest and within 50 metres of the Applicant's existing dwelling to the immediate west. The Applicant previously constructed a 75.5 sqm, 5.1 metre high, shed within c. 27 metres of the existing dwelling to the northwest and this has since been demolished in accordance the terms of condition no. 3 of planning reg. ref. no. 20101098 (Appeal ref. no. PL26.238294). The proposed position of the new open sided machinery shed is therefore estimated to be located a further 34 metres to the southeast away from the dwelling to the northwest and is shown to be 23.5 metres away from the western site boundary.
- 7.4.2. The Local Authority Planner refers to 2 no. separate planning enforcement complaints in 2020, ref. no's 0065-2020 and 0077-2020. The referenced cases are stated to be closed and relate to non-compliance with the conditions of planning reg. ref. no. 20101098 (Appeal Ref. No. PL.26.238294). It is not expressly stated which conditions were not complied with.
- *Hours of Operation*
- 7.4.3. Condition no. 4 of the previous permission, planning reg. ref. no. 20101098 (Appeal ref. no. PL26.238294) relates to hours of operation. The Appellant submits that the Applicant sometimes operates outside the set times and hours. The Appellant states that the Applicant operates 6 days a week from 7 am to 7.30 pm and that tractors often leave as early as 6 am. While this is not disputed, the Appellant has not provided any specific supporting evidence in this regard and therefore, in the absence of any definitive information to the contrary, this to me, does not serve to unequivocally demonstrate a serious and persistent breach of the condition.
- 7.4.4. Notwithstanding the above, I note the condition anticipates that a degree of flexibility may be required where deviation from the times stipulated will only be allowed in exceptional circumstances, where prior written approval has been received from the planning authority. It is unclear whether any such exceptional circumstances have been agreed with the Local Authority.



7.4.5. The enforcement of planning conditions is a matter for the Local Authority. As noted further above and as referenced in the Local Authority Planners Report, there have been previous breaches of the planning conditions imposed by the Board under the previous permission, reg. ref. no. 20101098 (Appeal ref. no. PL26.238294). Based on the Appeal Submission, it appears that the referenced breaches include condition no. 4 (Hours of Operation) and condition no. 5 b) (External Lighting outside the hours of operation stipulated in Condition no. 4). In any case the 2 no. planning enforcement cases (ref. no's 0065-2020 and 0077-2020) have been closed and I note from the Local Authority Planners Report, in relation to the conditions in place under the above permission in relation to noise, dust, hours of operation., lighting etc, that it is stated that following some enforcement investigations, all these conditions are being adhered to.

7.4.6. In summary, I cannot say with confidence that there has been a clear and consistent breach of planning condition no. 4 of planning reg. ref. no. 20101098 (Appeal ref. no. PL26.238294) which relates to hours of operation. In the absence of same and noting that 2 no. previous enforcement cases from 2020 regarding non-compliance with certain conditions of the aforementioned permission have been closed, it would appear to me that the existing development is broadly compliant with the terms of this said condition. In the event of a Grant of Planning Permission being issued, I would recommend that the same condition be attached.

- *External Lighting*

7.4.7. Condition no. 5 (Parts a) and b)) of planning reg. ref. no. 20101098 (Appeal ref. no. PL26.238294) relates to external lighting. I note the Appellants concerns in relation to the existing external lighting and, in particular, the Applicant's stated history of non-compliance with condition 5 b) of PL26.238294 which stipulates that there shall be no external lighting on the site outside of the permitted operational hours as set out in condition number 4 (Hours of Operation).

7.4.8. The Appellant states there are at least 3 no. floodlights on the site, the locations of which are shown on a submitted aerial photo, namely in the southwest corner of the appeal site, the northern corner of the appeal site and affixed to the front gable of the existing permitted 75.5 sqm machinery shed. The Appellant further states *'these unauthorised floodlights are on light sensors, so they come on as soon as it gets*

*dark and stay on all night until it gets bright'*. Where this is the case, this would suggest to me that the operation of the said floodlights is in breach of condition no. 5 b) of planning reg. ref. no. 20101098 (Appeal ref. no. PL26.238294). However, as stated, the enforcement of planning conditions is a matter for the Local Authority and I note from the Local Authority Planners Report that the issue of lighting clearly formed part of the basis of previous planning enforcement and that all these conditions (including external lighting) are being adhered to.

7.4.9. The Appellant states that he does not understand why the Local Authority has not fully enforced this condition. It would seem to me that the Appellant believes the Applicant to still be in breach of this said condition. I would therefore recommend and I consider it to be reasonable, in the event of a Grant of permission being issued, to impose a more stringent lighting condition whereby on site lighting be operated outside of the stipulated hours of operation solely by means of motion sensors, to the written satisfaction of the Local Authority.

- *Noise*

7.4.10. I note the Appellants specific concerns in relation to anticipated noise impacts arising as a result of the proposed development. I further note point no. 6 of the Request for Additional Information issued by the Board on 6<sup>th</sup> May 2011 under Appeal ref. no. PL26.238294, sought a Noise Survey with a particular emphasis placed on findings at the noise sensitive locations on the boundaries with adjoining owners. Subsequently, as part of the decision to Grant permission, the Board attached a specific noise condition, see Condition no. 7.

7.4.11. I note the issue of compliance with the noise condition arose during the course of previous planning enforcement by the Local Authority. I further note the Local Authority state that following some enforcement investigations in relation to these issues (including noise) that all these conditions have been adhered to.

7.4.12. I note the concerns of the Appellant in relation to noise impacts seemed to be focused on activities outside the stipulated hours of operation.

7.4.13. Again, as noted further above, the enforcement of planning conditions is a matter for the Local Authority. I am satisfied that the existing condition is ample to control noise impacts arising as a result of the proposed development. Subject to adherence to said noise limits I would have no concerns in relation to noise impacts arising as a

result of the proposed development. I would therefore recommend, in the event of a Grant of permission being issued, that the same condition be applied.

- *Use of Adjacent Lands*

7.4.14. The Appellant raises concerns in relation to the use of the adjoining lands to the immediate north of his property. This field is outside of the defined extents of the site which is the subject of this appeal and is therefore outside of the scope of this assessment. Any alleged unauthorised development on the said lands is a matter from the Local Authority.

- *Conclusion on Residential Amenity*

7.4.15. In conclusion, I am satisfied that the proposed development, as presented, is acceptable in terms of its impact upon the established residential amenities of the area. Should the Board decide to Grant permission, I recommend that all relevant conditions attached to appeal ref. no. PL26.238294 should be applied.

## 7.5. Design, Scale and Visual Amenities

- *Design, Scale and Visual Amenities*

7.5.1. The subject open sided machinery shed is shown to have a maximum height of 6.8 metres and a maximum length of 30.5 metres. Excluding the canopy overhang, which is proposed to extend 3 metres beyond the main structure, the side elevation of the structure measures 8 metres.

7.5.2. I note permission was previously granted under planning reg. ref. no. 20101098 (Appeal Ref. no. PL26.238294) for the existing enclosed machinery shed located to the immediate south of the subject new machinery shed. This said existing shed has an overall height of 5.1 metres and an overall depth of 10.9 metres. The front elevation of the new shed is shown to have a height of 5.8 metres to the bottom of the canopy (maximum height of 6.8 metres).

7.5.3. Having regard to the open sided design of the shed, the proposed external metal cladding finish, the proposed storage use, the separation distances proposed to be observed to the nearest dwellings and the location of the shed set back 99 metres from the centreline of the public road to the rear of an existing dwelling, I do not considered the proposal will serve to impact negatively upon the established visual amenities of the area.

- *Scale*

7.5.4. I am further satisfied that the scale of the proposed building with a proposed floor area of 236 sqm is not excessive having regard to the established use of the subject site as a Plant Hire and Contracting Business together with the nature of the proposed new building, the purpose of which is to provide cover from the elements for the Applicant's Plant and Machinery, which are currently stored openly on site and the established size and scale of surrounding buildings.

#### 7.6. Other Matters

- *Traffic Impact*

7.6.1. I note the existing vehicular access formed part of the proposed development description permitted under planning reg. ref. no. 20101098 (Appeal Ref. No. PL26.238294). I further note that under the current application, there are no alterations proposed to this entrance. The Applicant submits there will be no extra traffic movements generated from the proposed shed.

7.6.2. The Local Authority Roads Department, as per the Report dated 28<sup>th</sup> February 2024, raise no objection to the proposed development subject to 7 no. conditions. Aside from a recommended condition in relation to the maintenance of sightlines at all times, no concerns are raised in terms of traffic impacts or road safety. The Local Authority Planner similarly raises no specific concerns in relation to traffic safety in the Report dated 24<sup>th</sup> September 2024 and notes that no additional traffic will be generated.

7.6.3. The Appellant is concerned that the proposals will give rise to an excessive number of vehicle entrances onto the public minor road leading to a significant increase in vehicular traffic and traffic movements and that this would endanger public safety by reason of a traffic hazard.

7.6.4. In my opinion, the proposed development will not serve to give rise to any significant increase in traffic volumes or traffic movements to and from the site. Furthermore, as the existing vehicular entrance is already permitted under planning reg. ref. no. 20101098 (Appeal Ref. No. PL26.238294), I am satisfied that the proposed development, as presented, will not give rise to any significant traffic impacts on the

public road network. I am therefore satisfied that the proposed development is acceptable from a traffic safety perspective.

- *Accuracy of the submitted Plans and Drawings*

7.6.5. I note the Inspector under appeal ref. no. PL26.238294 referred to a separate single storey detached shed structure. This structure is not shown on the submitted site plan for planning reg. ref. no. 20101098 (Appeal ref. no. PL26.238294) stamped received by the Local Authority on 11<sup>th</sup> May 2010 nor indeed is it shown on the submitted site layout drawing which is the subject of this appeal. For ease of reference, the said shed is located to the immediate south of the existing permitted 75.5 sqm machinery shed.

7.6.6. In my view therefore, the submitted site layout plan does not appear to comply with the provisions of Article 23 (1) a) of the Planning and Development Regulations, 2001 to 2023. The Appellant also points out that the site location map does not show the Applicant's landholding outlined in blue, see Article 22 2) ii) of the Planning and Development Regulations, 2001 to 2023. A similar issue regarding the accuracy of the submitted plans arose in the Inspectors assessment of the previous application on site, as planning reg. ref. no. 20101098 (Appeal ref. no. PL26.238294) refers.

7.6.7. The planning application has nonetheless been deemed valid by the Local Authority.

- *Depreciation of Property Values*

7.6.8. The Appellant considers that the proposed development will depreciate the value of all neighbouring houses in the vicinity. The Appellant has not provided any evidence in support of this consideration. Having regard to the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

- *Condition no. 6 of as planning reg. ref. no. 20101098 (Appeal ref. no. PL26.238294)*

7.6.9. Condition no. 6 of planning reg. ref. no. 20101098 (Appeal ref. no. PL26.238294) states '*All landscaping and fencing works shall be carried out or completed within four months of the date of this order.*' The Appellant considers that this condition has not been complied with as a 2.4 metre infill fence to close the end of the silage pit

laneway has not been erected. I note however that the laneway is permanently sealed from access from the public road by means of a stone wall and that the top of the lane, adjacent to the appeal site, is defined by an agricultural gate.

7.6.10. I further note the Local Authority, has on two separate occasions, closed planning enforcement cases pertaining to the site. The installation of a fence would however serve to permanently seal off the site from the said laneway and therefore, in the event of a Grant of permission being issued, I recommend that the same condition, or similar, be attached. I do not consider the absence of a fence at this location to represent a serious breach of condition no. 6.

- *Undesirable Precedent*

7.6.11. The Appellant considers that the proposed development, if permitted, will set an undesirable precedent for similar type of development in a rural area. All appeal cases are assessed and determined on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development. The subject appeal site is somewhat unique in that the principle for a Plant Hire and Contracting Business is already established on the site, as planning reg. ref. no. 20101098 (Appeal Ref. No. PL26.238294) refers. The Applicant is seeking to extend onto the existing permitted site to provide a new machinery shed which will accommodate existing plant. Extending onto an existing business in the countryside is not unusual in my opinion and I note development plan Objective ED126 sets out the relevant planning considerations to be applied to such a proposal. I consider the proposed development to be acceptable in this instance and I do not therefore accept that it will serve to create an undesirable precedent for similar development in the area.

## **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 located in a rural area. Slaney River Valley SAC South (Site Code 000781), is the closest Natura 2000 site located c. 2.32 kilometres to the south.

- 8.3. The proposed development comprises the construction of an open fronted machinery storage shed.
- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- The small scale and nature of the proposed development works
  - Location-distance from nearest European site and lack of connections
  - Taking into account the AA Screening determination by Local Authority
- 8.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **9.0 Summary and Conclusion**

- 9.1.1. The principle for a Plant Hire and Contracting Business at the subject site is established under planning reg. ref. no. 20101098 (Appeal Ref. no. PL26.238294). Having read the submissions on file, visited the site and having regard to the provisions of the Wexford County Development Plan and, in particular, Objective ED126 which relates to an extension of an established commercial enterprise in the countryside, the planning history of the site and all other matters arising, I am satisfied the proposed development of a 236 sqm Open Fronted Machinery Shed is acceptable on planning grounds and would be in accordance with the proper planning and sustainable development of the area.
- 9.1.2. I note however that the site has been significantly extended and that the new Machinery Shed is proposed to be located on this extended site area. This extended part of the site does not appear to have the benefit of planning permission and this matter is not addressed in the assessment of the Local Authority. The Board may therefore wish to seek further information to clarify the situation. As the situation

currently stands however, it is my opinion that it would not be appropriate for the Board to consider a Grant of permission.

## 10.0 Recommendation

10.1. I recommend that permission be REFUSED for the following reason.

1. On the basis of the submission made in connection with the planning application and the appeal, the Board is not satisfied that the extended site upon which the machinery storage shed is proposed to be located has the benefit of planning permission and is authorised. The development proposed to be retained would facilitate an unauthorised use and in these circumstances, it would not be appropriate for the Board to consider a grant of permission.

*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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Frank O'Donnell  
Planning Inspector

28<sup>th</sup> February 2025



# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-321095-24		
<b>Proposed Development Summary</b>	Permission to construct a machinery storage shed (open fronted).		
<b>Development Address</b>	Clohass, The Leap, Enniscorthy, Co. Wexford		
<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>X</b>
		<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>			Proceed to Q3.
<b>No</b>	<b>X</b>	Not a Class	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>		State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
<b>No</b>	<b>X</b>	N/A	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	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

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