



An
Bord
Pleanála

Inspector's Report

ABP-321485-24

Development	Retention of agricultural shed and permission to construct wall, also to install an effluent tank and associated site works.
Location	Ballintubbert, Stradbally, Co. Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	2460457
Applicant(s)	Joseph O Keefe
Type of Application	Retention & Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Michael and Catherine Purcell
Observer(s)	Dept of Housing, Local Government and Heritage
Date of Site Inspection	21 st March 2025
Inspector	Matthew O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is 1.68ha and located in the rural townland of Ballintubbert, Co. Laois. The site is approximately 7.8km to the southeast of Stradbally, Co. Laois and approximately 9 km to the west of Athy, Co. Kildare. The appeal site is accessed via a farm lane from the L-7958 (Local Road) which leads to a farmyard comprising an agricultural shed with surrounding concrete apron and hardstanding area in addition to a stable building, approximately 70 metres to the southeast of the shed at the end of the farm lane. The shed is sited to the rear of a stone outbuilding at the rear boundary of a neighbouring residential property.
- 1.2. The topography of the area is generally flat with some lightly undulating hills. The surrounding area is characterised predominantly by agricultural lands and associated farm holding along with one-off rural dwellings of varying styles and arranged in both individual and linear settings. There are no Protected Structures or National Monuments on or immediately adjoining the appeal site. The site is not located within a Flood Zone.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
- Retention of a modified and extended agricultural shed.
 - Permission for construction of a block wall to the northern boundary of the shed.
 - Permission to install an effluent tank.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Laois County Council granted planning permission, subject to 11 no. conditions. The following conditions are of particular note:

Condition 2: Development shall be in accordance with the structural specification of the Department of Agriculture, Food & the Marine Farm Building and Structures Specifications.

Condition 3: Shed shall be used as described, namely for storage of dry stock, machinery and livestock. The livestock area shall ensure that livestock are kept on straw bedding and fed dry food by an Easy Feed System.

Condition 4: Uncontaminated surface water from roofs and clean paved areas shall be collected separately from farmyard materials and disposed of in a sealed system designed in accordance with BRE 365 Digest.

Condition 5: Organic fertiliser transportation requirements.

Condition 6: Effluent/Slurry generation shall be disposed of by land spreading in accordance with the requirements of the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022, as amended).

Condition 7: During operation phase, the Planning Authority shall be immediately informed of any accidental spillage of wastewater, organic fertiliser, fuel, machine oil or any other substance which may threaten the quality of any watercourse or groundwater body.

Condition 8: All storage facilities shall be maintained/managed to prevent run-off or seepage into ground or surface water; and, comply with construction specifications for such facilities.

Condition 9: Discharge of soiled water, effluent and waste.

Condition 10: External lighting shall be cowled and directed away from the public roadway and adjoining properties.

Condition 11: Payment of a financial contribution of €918.00.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The first Planner's Report had regard to the submitted documentation, locational context of the site, planning history in vicinity, policy framework of the Development Plan and inter departmental/referral reports.
- The Planning Authority noted the cover letter of the applicant which claims that there was an existing shed in the location of the agricultural shed to be retained and that the damaged roof was removed. The applicant constructed a new agricultural shed over the old shed in 2018 to accommodate farm machinery and store hay and straw.

- Based on the Planning Officers site visit, review of maps/images and the supporting information, the Planning Authority was satisfied that a small farmstead has been historically used at this location.
- The principle of the development is considered acceptable in this rural area and the siting and design of the agricultural shed is also considered to be acceptable.
- Details required demonstrate that the proposed effluent tank would not have an adverse impact on the existing water supply of the adjacent neighbouring property and to demonstrate how the proposed development meets the requirements of the Department of Agriculture with regard to storage and disposal of waste.
- In terms of residential amenity, the Planning Authority considered that impact of the agricultural shed is mitigated with the presence of the existing outbuilding on the adjacent residential property to the northwest and that given the rural area and historic nature of the existing farmstead that the agricultural shed would not be detrimental to the amenity of the adjacent residential property.
- The neighbouring outbuilding is not a habitable dwelling. It is noted that the proximity of the agricultural shed would restrict the use of the building on the adjacent property to outbuildings only. The construction of the block wall adjacent to the neighbouring outbuilding would further reduce any potential impacts on this outbuilding. Details of the proposed block wall its relationship with the adjacent neighbouring building should be provided along with demonstrating its fire rating.
- No concerns were raised with respect to access.
- No issues raised with respect to AA or EIA.

Further Information was sought in relation to 4 no. items which are summarised as follows:

- Item 1: Confirm the size of the original shed.
- Item 2: Submit details of the proposed concrete wall.
- Item 3: Clarify details of the effluent and waste disposal.
- Item 4: provide a response to the third party submission.
- The second Planner's Report provides an analysis of the applicant's Further Information response and forms the basis for the grant of permission with

conditions. With respect to Item 1 of the Further Information Request, the Planning Authority note that the size of the original shed is 160sq.m. In terms of Item 2 of the Further Information Request, the Planning Authority deemed the details of the wall to be acceptable. With respect to Item 3 of the Further Information Request, the Planning Authority acknowledged the details submitted regarding effluent and disposal of waste in addition to storage provision. The Planning Authority also noted the applicant's response to the observation received from the Third Party.

3.2.2. Other Technical Reports

- Municipal Engineer – No response received.
- Environment Section – No response received.
- Water Services Section – No response received.
- Enforcement Section – No response received.

3.3. **Prescribed Bodies**

- Uisce Eireann – No response received.

3.4. **Third Party Observations**

3.4.1. One third party observation was received by the Planning Authority and is broadly summarised as follows:

- The agricultural shed has been constructed immediately adjacent to the neighbouring property without the benefit of permission.
- The application is substantially similar to the application refused by An Bord Pleanála (ABP-314664-22).
- The shed is in close proximity to a dwelling house in separate ownership and there is availability of alternative sites on the landholding to accommodate a shed.
- There are concerns regarding the spread of fire from the agricultural shed to the neighbouring property.
- Surface water drainage and treatment of effluent/soiled water is not addressed. The development would not be in compliance with the requirements of the Good Agricultural Practices for Protection of Waters Regulations.

- Concerns regarding health risks of contamination to neighbouring well.

4.0 Planning History

4.1. The planning history is associated with the subject site:

22421 / ABP-314664-22 Permission approved by Laois County Council to retain (i) agricultural shed as constructed; (ii) stables as constructed and associated site works. Applicant: Joseph & Margaret O'Keefe.

The above application was appealed to An Bord Pleanála (Ref. ABP-314664-22) whereby a SPLIT decision was issued which granted retention of the stables but refused retention of the agricultural shed.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Laois County Development Plan 2021-2027 is the relevant Development Plan for the subject site.

5.1.2. Section 9.2 of Chapter 9: Rural Laois in the Development Plan relates to 'Agriculture'.

5.1.3. The following Development Management Standard of the Development Plan is considered to be of particular relevance to the subject development:

DM RL 1: General Consideration for Agricultural Buildings

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

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

- 1. Require that buildings be sited as unobtrusively as possible and that the finishes and colour used will blend the development into its surroundings.*
- 2. The proposed developments shall mee with the requirements of the Department of Agriculture with regard to storage and disposal of waste.*

3. *The Council accepts the need for agricultural buildings and associated works (walls, fences, gates, entrances, yards) to be functional but they will be required to be sympathetic to their surroundings in scale, material and finishes.*
4. *Buildings should relate to the landscape. Traditionally this was achieved through having the roof a darker colour than the walls.*
5. *Appropriate roof colours are dark grey, dark reddish brown or a very dark green. Where cladding is used on the exterior of the farm buildings dark colours should be used.*
6. *Location and impact on the road network and other associated uses.*
7. *Ensure it does not have an undue negative impact on the visual/scenic amenity of the countryside and identify mitigating measures where required.*

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

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is not located within any designated Natura 2000 sites, with the nearest designated site being the Ballyprior Grassland Special Area of Conservation (Site Code: 002256) which is located approximately 2.7km to the west of the site. The River Barrow and River Nore SAC (Site Code: 002162) is approximately 4.8km to the north of the appeal site.

5.3. EIA Screening

- 5.3.1. The proposed agricultural 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). As such, no mandatory requirement for EIA arises and there is no requirement for a preliminary examination or screening assessment. Please see Appendix 1 of this report.

6.0 The Appeal

6.1. Grounds of Appeal

The Third Party appeal has been received in relation to the Planning Authority's decision to grant permission. The grounds of appeal are submitted from the

neighbouring property to the immediate northeast of the appeal site. The grounds of appeal can be summarised as follows:

Impact on Residential Amenity

- An Bord Pleanála previously refused retention permission for an agricultural shed and the location of the current shed due to concern over impact of residential amenity.
- The current application remains the same as the previous application, apart from amended wording of the statutory notices.
- There was never a shed at this location and the Planning Authority focus on the historic basis for an agricultural shed at this location rather than the issue of impact of residential amenity.
- The Planning Authority rely on an existing outbuilding between the shed to be retained and the appellants' house as being sufficient to ensure that there will be no impact on residential amenity.
- Any agricultural use was abandoned at the structures on the appeal site and planning permission would have been required to re-establish the use.
- Relying on an unroofed structure with minor agricultural use to justify the provision of a larger agricultural shed with a more intensive use is unreasonable.
- The argument that the appellants' outbuilding is sufficient to ensure against material impact on residential amenity is unsatisfactory and unreasonable and fails to consider noise and disturbance associated with an agricultural shed as well as odours.
- There are no means of mitigating noise generated by cattle given the proximity of the shed to the appellants' dwelling. A limiting noise condition is considered to be meaningless.
- There will be general disturbance from the shed as it can be used at anytime with farm vehicles, lights and worker noise.
- Foul odours from the use of the shed will impact on residential amenity as the shed is too close to the appellants' property.

Devaluation of Property

- The subject development will impact on the current value of the appellants' house on account of foul odour, noise and disturbance. The development will prevent the redevelopment of the conversion of the vernacular outbuilding to residential use. A letter from an auctioneer has been provided indicating impact on property value.

Technical Items

- The Planning Authority did not give due consideration to the issues raised in the submission regarding drainage, soiled water, dung and wells and it is unclear as to why their points were not accepted. The response of the applicant to the matters raised were weak.

Maintenance

- Due to the location of the shed, the appellants cannot maintain the gutters on that side of the outbuilding

Demountable

- The appellants are not opposed in principle to an agricultural shed on the lands in an alternative location. The shed can be removed and re-erected elsewhere. A refusal of permission would not be fatal to the applicant having a shed on their lands.

6.2. Applicant Response

A response has been received on behalf of the applicants which is summarised as follows:

- The site of the shed is on lands in the ownership of the applicant which covers approximately 11 acres.
- The surrounding site context and planning history on the subject site and the Third Party property is outlined.
- The proposed development is set out against the local planning policy in addition to the statutory and regulatory provisions of planning legislation in respect of agricultural development.

- The principle activities undertaken in the open countryside are related to agriculture and rural resources. The use of the lands for agriculture comprises exempted development and there is no evidence that the keeping of animals requires consent.
- The sounds generated by 10 cattle would not be especially noticeable or intrusive to residential amenity. These noises would continue by animals on the land regardless of the appeal outcome.
- The physical structure for which permission is sought does not create noise.
- It is not considered that there is a casual link between the proposal and specific noise issues which are being complained about.
- The neighbouring dwelling is c. 475sq.m and has a height of 9.32 metres. The subject shed is 306sq.m and has a ridge height of 5 metres. It is not especially large.
- The existing Coach House reduces the degree to which the subject building can be seen.
- The use of the building is for agriculture and the objection may stem from the provision of animal accommodation. The applicant would accept a condition which requires the shed be used for farm storage exclusively.
- The separation distance between the agricultural shed and the dwelling (15 metres) with intervening Coach House is not considered to adversely affect residential amenity.
- The previous decision of An Bord Pleanála was a conclusion rather than a reason for decision and does not comply with planning law. Sufficient information was not provided to identify the precise nature of concern being articulated.
- In cases where a final decision differs from the approach of the Planning Inspector, the Board is required to explain its reasons for doing so. The Direction is NOT sufficiently detailed so as to comply with the requirement of planning law.
- The applicant invites the Board uphold the planning authority's decision to grant planning permission for the development.

6.3. Planning Authority Response

- None.

6.4. Observations

6.4.1. One observation has been received in respect of the subject development from the Department of Housing, Local Government and Heritage. The matters raised relate to Nature Conservation are summarised as follows:

- The application includes provision of a 3,000/3,5000 litre effluent tank. The works are proposed in a 'High Vulnerability' ground water area, with the Fuer River located 1.8km south of the site. This river is a tributary of the River Barrow which is part of the River Barrow and Nore SAC some 6.8km east of the proposed development. The Fuer River and proposed development site share the same groundwater body and sub-catchment.
- Due to the nature of works, distance from the SAC and identified pathway an Appropriate Assessment is required. The submitted documents do not include an Appropriate Assessment Screening Report or the likely required Natura Impact Statement. It is recommended that the applicant prepare such a report for this application.

7.0 Assessment

Having examined the application details, the appeal and all other documentation on file, the reports of the Planning Authority, having conducted an inspection of the site, and having reviewed relevant planning policies and guidance, I am satisfied that the main issues to be considered are those raised by the Third Party in their grounds of appeal. I am satisfied that no other substantive issues arise. This appeal can be addressed under the following relevant headings:

- Planning History
- Principle of Development
- Impact on Residential Amenity
- Drainage
- Appropriate Assessment (Screening)

7.1. Planning History

7.1.1. Having regard to the planning history on the site, I note that a previous application for retention of an agricultural shed and stables was granted by Laois County Council under Reg. Ref. 22241. However, the application was subject to a Third Party appeal to An Bord Pleanála under Ref. ABP-314664-22 whereby the retention of the stables element of the development was approved by the Board but the retention of the agricultural shed was refused. The reasons and considerations set out in the Board's decision to refuse stated as follows:

- 1. Having regard to the proximity of the agricultural shed, which is proposed to be retained, to the existing dwellinghouse, the Board considered that the development proposed to be retained would adversely impact the residential amenity of the dwellinghouse.*
- 2. Having regard to the lack of detail on file regarding dung storage, the Board could not be satisfied that the agricultural shed proposed to be retained would accord with the standards for agricultural buildings as set out in development management standard DM RL 1 of the Laois County Development Plan 2021-2027.*

7.1.2. According to the Order from the Board, in not accepting the Inspector's recommendation to grant retention, the Board considered the proximity of the shed to the appellant's property and the extent of lands available to the developer.

7.1.3. The subject development, as described in the statutory development description seeks retention of a modified and extended agricultural shed. This description differs from the previous application on the site under Reg. Ref. 22421 (ABP-314664-22) which sought, in part, to retain an agricultural shed as constructed. The applicant argues that there was a pre-existing building on the site (prior to 2009) which had a floor area of 160sq.m with stone walls and wooden pillars supporting a roof and concrete block walls forming open-sided animal bays and holding yard. The current application therefore seeks to retain modifications and extensions to this previous building which now totals 306sq.m in floor area.

7.1.4. In my view, the agricultural shed proposed to be retained under this application is not substantially different to the shed previously refused by An Bord Pleanála under ABP-314664-22 as the siting, layout, height and footprint/floor area (306sq.m) are

fundamentally unchanged. I do however note that the primary revisions to the agricultural shed from the previous application include the provision of a low level concrete block walls along the front (north-west facing) elevations of the building and other concrete block walls in the layback area where cattle are housed. Apart from these revisions, the agricultural shed is essentially as previously constructed and considered by An Bord Pleanála. The proposed works as part of this development also include a new concrete block wall along the side (north-east facing) elevation within the shed and set 600mm from the party boundary which is the rear elevation of the outbuilding at the neighbouring property. The proposed works also seek the installation of an effluent tank to capture soiled water from the development which was not included with the previous application.

7.1.5. Having regard to the above, I therefore acknowledge that the description of the development to be retained has changed from the previous application and that some minor changes have been carried out the agricultural shed along with additional elements proposed under the current application. That said, it is my opinion that the shed development before the Board now is fundamentally the same as that previously considered and refused retention under ABP-314664-22.

7.2. Principle of Development

7.2.1. The subject development to be retained relates to an agricultural shed located on farm lands in a rural area of County Laois. At the time of my inspection, I observed that the agricultural shed was being used for storage of a tractor and associated attachments (mowers and hoppers), a trailer, straw bales and that there were several cattle also housed on dry bedding within the building. I am satisfied that the building is as described on the submitted planning particulars.

7.2.2. As previously outlined, Chapter 9 of the Development Plan relates to 'Rural Laois' and contains a Development Management Standard (DM RL 1) in respect of Agricultural Development. I shall consider the subject development against each of the listed criteria:

1. *Require that buildings be sited as unobtrusively as possible and that the finishes and colour used will blend the development into its surroundings.*

The agricultural shed to be retained is claimed by the applicant to have been erected in the area of an older farmstead. Having inspected the site and the

subject shed, I note that there are stone walls in a rectangular form contained within part of the envelope of the new agricultural shed. Particulars on the appeal file suggest there was a roof over this earlier structure at some time in the past. The overall use and extent of this structure is disputed by the appellants. Nevertheless, the shed to be retained is of a conventional shed design with a portal A-frame that is larger than the pre-existing stone wall perimeter. The building is set behind the boundary of an existing residential property and adjacent to a stone outbuilding on the neighbouring site. The subject shed roughly 95 metres from the public road and is not readily visible from approaches on the nearby road network. The shed is finished in dark green coloured sheeting to the roof and sides with low level block walls to some side profiles.

The location of the agricultural shed in proximity to the neighbouring dwelling and associated impacts on residential amenity arising from the building form the primary basis of the appeal. I consider that this matter requires further consideration in Section 7.3 of this report in terms of consistency with this particular criterion.

2. *The proposed developments shall meet with the requirements of the Department of Agriculture with regard to storage and disposal of waste.*

The subject development consists of a shed to be used as a machinery store, straw/hay store and layback area for the winter housing of a small number of cattle which are bedded on straw. The proposed elements of the works includes the installation of an effluent tank for collection/storage of soiled water. It is considered that the development would comply with the requirements of the Department of Agriculture through standard conditions. A more detailed consideration of this particular matter is set out in Section 7.4 of this appeal.

3. *The Council accepts the need for agricultural buildings and associated works (walls, fences, gates, entrances, yards) to be functional but they will be required to be sympathetic to their surroundings in scale, material and finishes.*

The agricultural shed to be retained has a total floor area of 306sq.m and is internally subdivided for use as a machinery store, hay/straw store and winter housing of cattle housing. As noted, the agricultural shed has a conventional farm building style and appearance. The height of the shed is 5.025 metres and is

finished with dark coloured cladding and low-level block walls with parts of the shed open-sided. In general terms, I would accept that the agricultural shed is a functional farm building. However, I consider that it is imperative to assess the development in relation to its surroundings – namely the neighbouring residence. Therefore, I consider that further consideration on this matter is required and is considered in Section 7.3 of this report.

4. *Buildings should relate to the landscape.*

I consider that the general design of the agricultural shed to be synonymous with similar farm buildings found throughout in the countryside and which relate to the rural landscape. I therefore consider the subject development is in accordance with this criterion of the Development Plan.

5. *Appropriate roof colours are dark grey, dark reddish brown or a very dark green. Where cladding is used on the exterior of the farm buildings dark colours should be used.*

The subject development is clad in dark green metal sheeting and therefore complies with this criterion of the Development Plan.

6. *Location and impacts on the road network and other associated uses.*

The subject shed is located on agricultural lands in a rural area of County Laois. The lands are served by an existing farm lane from the L-7958 – a local road. I do not envisage any undue impacts on the surrounding road network from the subject development. As such, the subject development complies with this criterion of the Development Plan.

7. *Ensure it does not have an undue negative impact on the visual/scenic amenity of the countryside and identify mitigating measures where required.*

The appeal site is within an area designated as a 'Lowland Agricultural Area' within the Development Plan's Landscape Character Area/Types and is described as a flat open landscape with long range views towards the upland areas. Field patterns tend to be of large scale and are generally bounded by deciduous hedgerows containing mature trees. Furthermore, much of the lowlands have an enclosed character with well-treed road corridors, dense hedgerows, parkland and areas of woodland. I consider that the agricultural building would be capable of integrating

into the receiving environment without detrimental or adverse impact to the visual or scenic amenity of the area in terms of its landscape character.

Conclusion on Principle of Development

7.2.3. Having regard to the above, it is my opinion that the principle of agricultural structures in rural locations is generally acknowledged and is therefore acceptable. However, the full compliance of this development to be retained with the Development Management Standard (DM RL 1) of the Laois County Development Plan 2021-2027 requires further consideration in terms of its siting/location on the neighbouring residence. I consider that this can be addressed in the following section of this report.

7.3. Impact on Residential Amenity

7.3.1. The primary basis of the grounds of appeal essentially relates to residential amenity impacts from noise, odours and disturbance arising from the activity at the agricultural shed to be retained which is in close proximity to the Third Party's dwelling. The applicant's response to the appeal claims that the principle activities undertaken in the open countryside are related to agriculture and that noise generated by 10 cattle would not be especially noticeable or intrusive to residential amenity and would occur on the lands in any event. It is further stated in the appeal response that the physical structure of the shed itself does not create noise. The response to the appeal argues that the separation distance between the agricultural shed to be retained and the neighbouring dwelling is not considered to adversely affect residential amenity and that the outbuilding reduces the degree to which the agricultural shed can be seen.

7.3.2. I note that the agricultural shed to be retained is located approximately 16 metres from the rear of the appellants' house and has been erected almost immediately abutting the wall of the appellants' stone outbuilding which forms part of the rear boundary of their property. In my opinion, the agricultural shed to be retained is in close proximity to the neighbouring residence. Notwithstanding the argument of the applicants that there was a pre-existing building and historic farmstead at the site of the development to be retained, the subject agricultural building currently in situ was erected on or about 2018 and is the development presently for consideration by the Board. The siting and location of the agricultural building, in my view, would seriously detract from the residential amenity of the neighbouring residence on account of its nearby proximity to the dwelling and the rear private amenity space which would be utilised for the

enjoyment of the occupants. I consider that the residential impacts would arise principally from disturbances from the day-to day activities at the agricultural shed immediately adjacent to the appellants' property by reason of farm-related noise and odours emanating from the housing of animals during the winter months.

7.3.3. I consider that the location of the agricultural shed immediately adjacent to the outbuilding on the appellants' property would be screened/obscured in terms of visual impacts. However, the agricultural shed effectively abuts the outbuilding of the neighbouring property which also forms part of the rear party boundary. During my inspection, I observed that the window opes of this outbuilding, which face onto the agricultural shed, are boarded/closed up and therefore are not in use as windows. The location of the shed structure to be retained would hinder any effectual reopening of these opes. Whilst I acknowledge that this outbuilding is not a habitable structure and therefore the residential amenities on this structure are not significantly impacted, I am of the opinion that the proximity of the agricultural shed to this outbuilding restricts/curtails its use exclusively to an ancillary building to the main residence.

7.3.4. Taking the above into consideration, I am of the view that there was adequate scope for the applicant to erect an agricultural shed in a different location on their landholding which would have mitigated residential amenity concerns on the neighbouring Third Party property. The erection of other agricultural buildings on the applicant's lands is already evidenced with the standalone stable building situated approximately 65 metres from the agricultural shed building.

7.3.5. Therefore, in conclusion, I consider that the shed to be retained would not be in accordance with Development Management Standard (DM RL 1) of the Laois County Development Plan 2021-2027 as the shed would not be sited unobtrusively or sympathetically to its surroundings due to its close proximity to a third party residence. It is also my view that the previous reason for refusal under ABP-314664-22 has not been addressed in the current application or appeal as I consider that the development to be retained would have adverse impacts on the residential amenity of the neighbouring dwelling. The development should be refused.

7.4. Drainage

- 7.4.1. The Third Party appeal contends that the Planning Authority did not give consideration to the issues raised in the submission with respect to drainage, soiled water and dung in addition to potential impacts/contamination of wells.
- 7.4.2. The subject development does not include a water connection. Rainwater from the roof is indicated as being captured in a rainwater tank which outflows to a box store which drains along the boundary to a drainage ditch. The proposal includes the installation of a 3000 litre effluent tank to be sited at the concrete apron adjacent to the agricultural shed which will direct effluent generated by livestock (6-10 cattle) when housed in the shed on dry bedding during winter months.
- 7.4.3. According to the appeal file, the current arrangement on the site indicates that the dung is cleaned out 3-4 times over the winter period and spread on the land as natural fertiliser. In this regard, I note that the carrying out of land spreading does not form a specified part of this particular application and that any subsequent, land spreading would be regulated by the provisions of S.I. No. 113/2022 entitled “European Union (Good Practice for Protection of Waters) Regulations 2022” (as amended). I further note that in response to the request for Further Information that a handwritten was submitted from an Agricultural Consultant stating that the existing shed is compliant with the “European Union (Good Practice for Protection of Waters) Regulations 2022” (as amended).
- 7.4.4. Based on the information of the appeal file, I consider that the effluent treatment proposed would be appropriate for the collection of soiled water and would mitigate against pollution threats to the ground water and impacts to nearby wells. In addition, the potential risks to water quality arising from either construction works and/or operational phases of this development is considered in the Screening for Appropriate Assessment Determination (see Appendix 2).

8.0 Appropriate Assessment (Screening)

- 8.1. Please refer to Appendix 2 of this report which contains a Screening for Appropriate Assessment Determination where I have concluded the following:
- 8.2. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that:

8.3. The proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

This conclusion is based on:

- The nature and extent of the proposed development;
- The limited zone of influence of potential impacts;
- The limited potential for pathways to any European site;
- Distance from European Sites; and,
- Standard pollution controls that would be employed regardless of proximity to a European site and effectiveness of same.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

9.0 Recommendation

9.1. I recommend that retention be REFUSED for the following reasons and considerations.

10.0 Reasons and Considerations

10.1. The agricultural shed to be retained, by reason of its close proximity to the neighbouring property would detract from and be seriously injurious to the residential amenities of the dwelling. As such, it is considered that the subject development would be contrary to Agriculture Development Management Standard DM RL 1 (General Consideration for Agricultural Buildings) of the Laois County Development Plan 2021-2027, which requires that buildings be sited as unobtrusively as possible to be sympathetic to their surroundings. The subject development would, therefore, be contrary to proper planning and sustainable development.

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.

Matthew O Connor
Planning Inspector

31st March 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321485-24		
Proposed Development Summary	Retention of agricultural shed and permission to construct wall, also to install an effluent tank and associated site works.		
Development Address	Ballintubbert, Stradbally, Co. Laois		
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	
	No		
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			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			EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			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: _____

Appendix 2 - AA Screening Determination (Appendix to Main Report)

Screening for Appropriate Assessment Screening Determination

Step 1: Description of the project

I have considered the subject development comprising the retention of a modified and extended agricultural shed and permission to construct a block wall to the northern boundary of the shed and installation of a 3000 litre effluent tank in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The subject site is on agricultural lands in a rural area. The bedrock aquifer type is indicated as a 'Regionally Important Aquifer – Karstified (diffuse) and has a 'High' Groundwater Vulnerability. The Groundwater Body is indicated as the Bagnalstown Upper which is stated as being 'Not at Risk'. There are no available watercourses indicated on EPA mapping on/adjoining the subject lands with the nearest water features identified as being approximately 1.82km to the south (Fuer River) and approximately 3km to the southeast (unnamed). The Stradbally River, a tributary of the Barrow is approximately 4km to the north of the site.

The Ballyprior Grassland SAC (Site Code: 002256), at its closest point, is located approximately 2.75km to the west of the appeal site. The next closest Natura 2000 site is the River Barrow and River Nore SAC (Site Code: 002162 which is approximately 4.8km to the north of the site.

In relation to the Ballyprior Grassland SAC, I note that this European Site has a lesser linear separation distance to the appeal site than the other designed site being considered under this proposed development. However, I consider that it is not probable that the subject development, if approved, would give rise to any adverse impact upon the respective conservation objectives of this site. This reasoning is based on the topographic nature, lack of hydrological pathway and setting of the subject development in the context of this designated area and their associated qualifying interests/features.

I note that An Bord Pleanála is the competent authority having responsibilities under the Habitats Directive and is therefore required to screen developments under Article 6(3) so as to make a decision under this provision.

I have taken the contents of the observation received from the Department of Housing, Local Government and Heritage into account in the following AA Screening Assessment. The correspondence received refers to the location of the works in a 'High Vulnerability' ground water area with the Fuer River approximately 1.8km from the site which is a tributary of the River Barrow which itself is part of the River Barrow and Nore SAC. The Fuer River and proposed development site share the same groundwater body and sub-catchment.

Step 2: Potential impact mechanisms from the project

The site is not within or adjoining any Natura 2000 sites and I do not consider that there is potential for any direct impacts, such as habitat loss, on any European site. That said, having regard to the subject development, I consider that the following elements would potentially generate an indirect source of impact/effects on European Site(s):

- Uncontrolled release of pollutants to ground water (e.g. run-off bearing silt, fuel/ oils, concrete) during the construction of the boundary wall and effluent tank to water quality sensitive habitats.
- Potential for the release of effluent (e.g. stray fodder and spilt slurry) generated by the development via surface water and to water quality sensitive habitats.

The site of the proposed development is not located in or immediately adjacent to a European site. The closest European site, as referred above, is approximately 2.75km to the west (as the crow flies) being the Ballyprior Grassland SAC but there is no associated hydrological link between the appeal site and this European Site.

In terms of an associated hydrological link, the nearest watercourse identified is the Fuer River, some 1.82km from the appeal site which connects to the River Barrow estimated at 16km to the southeast which is part of the River Barrow and River Nore SAC. As noted, this watercourse has been identified in the submission received by the Department of Housing, Local Government and Heritage as an identified pathway.

It is therefore likely that the ditches from the appeal site would drain to other surrounding surface water bodies, which connect to the Fuer River which eventually drain into the River Barrow (forming part of the River Barrow and River Nore SAC. As such, potential impact mechanisms include those from surface water pollution from any construction works (silt/ hydrocarbon/ construction-related), resulting in a deterioration of water quality. In addition, spillage of effluent from the shed and/or the associated effluent tank could impact on surface water bodies, as could additional contaminated surface water run-off from additional hardstanding/hardsurfaced areas.

With reference to EPA mapping, the appeal site is within the same groundwater body (Bagnalstown Upper) as parts of the River Barrow and River Nore SAC, and therefore, groundwater pollution as a result of construction activity and operational activity is a potential impact mechanism.

There are no other readily apparent impact mechanisms that could arise as a result of this project.

Step 3: European Sites at risk

Table 1: European Sites at risk from impacts of the proposed project

Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk
Indirect surface water pollution	Via drains to ditches which connect to watercourses which eventually flow to the River Barrow and River Nore SAC	River Barrow and River Nore SAC	<ul style="list-style-type: none"> • Desmoulin's whorl snail (<i>Vertigo moulinsiana</i>) [1016] • Freshwater pearl mussel (<i>Margaritifera margaritifera</i>) [1029] • White-clawed crayfish (<i>Austropotamobius pallipes</i>) [1092] • Sea lamprey (<i>Petromyzon marinus</i>) [1095] • Brook lamprey (<i>Lampetra planeri</i>) [1096] • River lamprey (<i>Lampetra fluviatilis</i>) [1099] • Twait shad (<i>Alosa fallax</i>) [1103] • Salmon (<i>Salmo salar</i>) [1106] only in fresh water • Estuaries [1130] • Mudflats and sandflats - not covered by seawater at low tide [1140] • Salicornia and other annuals colonizing mud and sand [1310] • Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330] • Otter (<i>Lutra lutra</i>) [1355] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Killarney fern (<i>Trichomanes speciosum</i>) [1421] • Nore freshwater pearl mussel (<i>Margaritifera durrovensis</i>) [1990] • Water courses of plain to montane levels with the Ranunculion
Indirect groundwater pollution	Infiltration to groundwater via the Bagenalstown Upper Groundwater Body		

			<p>fluitantis and Callitricho-Batrachion vegetation [3260]</p> <ul style="list-style-type: none"> • European dry heaths [4030] • Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430] • *Petrifying springs with tufa formation (Cratoneurion) [7220] • Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] • *Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]
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River Barrow and River Nore SAC (Site Code: 002162)

Having regard to the relevant 'Site Synopsis' on the NPWS website, this site comprises freshwater stretches of the Barrow and Nore River catchments as far upstream as the Slieve Bloom Mountains, and it also includes the tidal elements and estuary as far downstream as Creadun Head in Waterford. The larger of the many tributaries include the Lerr, Fushoge, Mountain, Aughavaud, Owenass, Boherbaun and Stradbally Rivers of the Barrow, and the Delour, Dinin, Erkina, Owveg, Munster, Arrigle and King's Rivers on the Nore.

Land use at the site consists mainly of agricultural activities – mostly intensive in nature and principally grazing and silage production. Slurry is spread over much of the area. Arable crops are also grown.

The spreading of slurry and fertiliser poses a threat to the water quality of the salmonid river and to the populations of E.U. Habitats Directive Annex II animal species within the site.

The main threats to the site and current damaging activities include high inputs of nutrients into the river system from agricultural run-off and several sewage plants, over-grazing within the woodland areas, and invasion by non-native species. The water quality of the site remains vulnerable.

Overall, the site is of considerable conservation significance for the occurrence of good examples of habitats and of populations of plant and animal species that are listed on Annexes I and II of the E.U. Habitats Directive.

Furthermore, the site is of high conservation value for the populations of bird species that use it.

Step 4: Likely significant effects on the European site(s) 'alone'

Table 2: Could the project undermine the conservation objectives ‘alone’			
European Site and qualifying feature	Conservation objective (summary)	Could the conservation objectives be undermined (Y/N)?	
		Effect A (Indirect ground water pollution)	Effect B (Indirect ground water pollution)
River Barrow and River Nore SAC			
Desmoulin's whorl snail (<i>Vertigo moulinsiana</i>) [1016]	To maintain the favourable conservation condition of Desmoulin's whorl snail in this SAC	No. Please see explanation below	No. Please see explanation below
Freshwater pearl mussel (<i>Margaritifera margaritifera</i>) [1029]	Under Reivew.	No. Please see explanation below	No. Please see explanation below
White-clawed crayfish (<i>Austropotamobius pallipes</i>) [1092]	To maintain the favourable conservation condition of White-clawed crayfish in in this SAC	No. Please see explanation below	No. Please see explanation below
Sea lamprey (<i>Petromyzon marinus</i>) [1095]	To restore the favourable conservation condition of Sea lamprey in this SAC	No. Please see explanation below	No. Please see explanation below
Brook lamprey (<i>Lampetra planeri</i>) [1096]	To restore the favourable conservation condition of Brook lamprey in this SAC	No. Please see explanation below	No. Please see explanation below
River lamprey (<i>Lampetra fluviatilis</i>) [1099]	To restore the favourable conservation condition of River lamprey in this SAC	No. Please see explanation below	No. Please see explanation below
Twaite shad (<i>Alosa fallax</i>) [1103]	To restore the favourable conservation condition of Twaite shad in this SAC	No. Please see explanation below	No. Please see explanation below
Salmon (<i>Salmo salar</i>) [1106] only in fresh water	To restore the favourable conservation condition of Salmon in the River Barrow and River Nore SAC	No. Please see explanation below	No. Please see explanation below
Estuaries [1130]	To maintain the favourable conservation condition of Estuaries in this SAC	No. Please see explanation below	No. Please see explanation below
Mudflats and sandflats - not covered by seawater at low tide [1140]	To maintain the favourable conservation condition of the Mudflats and sandflats not covered by seawater at low tide in this SAC	No. Please see explanation below	No. Please see explanation below
Salicornia and other annuals colonizing mud and sand [1310]	To maintain the favourable conservation condition of Salicornia and other annuals colonizing mud and sand in this SAC	No. Please see explanation below	No. Please see explanation below
Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]	To restore the favourable conservation condition of Atlantic salt meadows in this SAC	No. Please see explanation below	No. Please see explanation below
Otter (<i>Lutra lutra</i>) [1355]	To restore the favourable conservation condition of Otter in this SAC	No. Please see explanation below	No. Please see explanation below

Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]	To restore the favourable conservation condition of Mediterranean salt meadows in this SAC	No. Please see explanation below	No. Please see explanation below
Killarney fern (<i>Trichomanes speciosum</i>) [1421]	To maintain the favourable conservation condition of Killarney Fern in this SAC	No. Please see explanation below	No. Please see explanation below
Nore freshwater pearl mussel (<i>Margaritifera durrovensis</i>) [1990]	To restore the favourable conservation condition of the Nore freshwater pearl mussel in this SAC	No. Please see explanation below	No. Please see explanation below
Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]	To maintain the favourable conservation condition of Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation in this SAC	No. Please see explanation below	No. Please see explanation below
European dry heaths [4030]	To maintain the favourable conservation condition of European dry heaths in this SAC	No. Please see explanation below	No. Please see explanation below
Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]	To maintain the favourable conservation condition of Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels in this SAC	No. Please see explanation below	No. Please see explanation below
* Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]	To maintain the favourable conservation condition of Petrifying springs with tufa formation (<i>Cratoneurion</i>) i in this SAC	No. Please see explanation below	No. Please see explanation below
Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	To restore the favourable conservation condition of Old oak woodland with Ilex and Blechnum in this SAC	No. Please see explanation below	No. Please see explanation below
* Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0]	To restore the favourable conservation condition of Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) in this SAC	No. Please see explanation below	No. Please see explanation below

Surface Water

In terms of surface water, the rain water run-off from the roof of the shed will be collected into a rainwater tank and discharged into a storage box which outflows to a drainage ditch. It will therefore be separate to any soiled water. Run-off and soiled water drainage from the shed and concrete apron will be directed into the proposed effluent tank.

I note that standard best practice construction measures would be employed at construction stage to prevent pollutants entering any drains which may eventually

outflow towards watercourses which eventually connect to European Site. To this end, any significant impacts on water quality within the River Barrow and River Nore SAC, resulting from contaminated surface water run-off are unlikely as it is my consideration that any potential pollutants which may outflow from the proposed development to the drains and subsequently enter any watercourses would be subject to various dilution and dispersion.

Furthermore, standard condition(s) will require the surface water system to be designed to the satisfaction of the Planning Authority and this drainage system will be designed so as to prevent contaminated storm/surface water entering the drains and by association any watercourses. The attachment of drainage condition(s), in my view, is a standard pollution control measure and would be included on any development of this nature, notwithstanding any proximity to, or any hydrological connections to, a designated Natura 2000 site. I note that this is not a mitigation measure that is designed specifically to avoid impacts on any designated Natura 2000 site(s).

At operational stage, effluent generated from the proposed development would be directed to the effluent tank. This effluent storage tank would be required to be designed and sealed in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations (as amended). I consider that this arrangement for storage would enable water quality within the River Barrow and River Nore SAC to be protected.

The Board shall note that the carrying out of land spreading does not form a specified part of this application. The particulars with the appeal file indicate that livestock numbers will not be increased and that the subject development includes a section of the shed to be used for the winter housing of 6-10 animals. Notwithstanding, I note that the application of fertilisers is regulated under the European Union (Good Agricultural Practice for Protection of Waters) Regulations (2022). These regulations contain specific measures to protect surface waters and groundwater from nutrient pollution arising from agricultural sources. Such measures include that there should be no land spreading within 5-10 metres of a watercourse.

Ground Water

In relation to potential ground water impacts, I note that the proposed development would not require significant excavations other than the groundworks associated with the construction effluent storage tank and boundary wall. Best practice construction measures will serve to protect groundwater. Even if these standard construction measures should not be fully implemented or should they fail to work as intended, the indirect hydrological link via groundwater represents a weak ecological connection, given the distance to the nearest European Site. As such, any pollutants from the site that should enter groundwater during the construction stage, via spillage onto the overlying soils or by way of spillage into nearby ditches, will be subject to dilution and dispersion within the groundwater body, rendering any significant impacts on water quality within the River Barrow and River Nore SAC unlikely.

At operational stage, and as outlined with regard to the surface water impacts, the effluent storage tank is required to be designed and sealed in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations (2022) and in this manner ground water quality will be protected. I note the best practice measures that would be adhered to at construction stage, and the relevant regulations and standard conditions that will be required to be adhered to at operational stage, are not mitigation measures intended to reduce or avoid any harmful effect on any Natura 2000 site and would be employed by any competent operator, notwithstanding any proximity to any designated Natura 2000 site.

I note the comments contained in the appeal submission from the Department of Housing, Local Government and Heritage which have referred to the nature of works and distance from the Fier River which is a tributary of the River Barrow, which forms part of River Barrow and River Nore SAC and shared groundwater bodies. However, having regard to the above, I am satisfied with the conclusion reached in this regard and consider that the development would be unlikely to give rise to a significant effect individually or in combination with other plans or projects on any European site.

I further note the Planning Authority carried out an Appropriate Assessment Screening as part of their assessment but have not indicated any adverse effects to the integrity of any Natura 2000 areas.

Likely significant effects on the European site(s) ‘in-combination with other plans and projects’

Having regard to the appeal file, I am satisfied that there is no available evidence in respect of any plans or projects that are proposed/permitted which could impact with the proposed development. As such, it is my opinion that no in-combination issues arise.

I conclude that the proposed development would have no likely significant effect in combination with other plans and projects on the qualifying features of any European site(s). No further assessment is required for the project.

Overall Conclusion - Screening Determination

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude 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. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

This conclusion is based on:

- The nature and extent of the proposed development;
- The limited zone of influence of potential impacts;
- The limited potential for pathways to any European site;
- Distance from European Sites; and,

- Standard pollution controls that would be employed regardless of proximity to a European site and effectiveness of same.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.