



An
Bord
Pleanála

Inspector's Report ABP-321723-25

Development	Retention permission for wastewater treatment system, percolation area, existing well and alterations to existing agricultural building.
Location	Sheilstown, Knockananna, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	221301
Applicant	Muireann Brennan
Type of Application	Retention
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Muireann Brennan
Observer(s)	None
Date of Site Inspection	6 th May 2025
Inspector	Matthew O'Connor

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1.0 Introduction

- 1.1. The subject development seeks retention for a packaged wastewater treatment system, percolation area, existing well and alterations to existing agricultural building. The Planning Authority refused permission for 2 no reasons relating, in short, to the scale of the altered agricultural shed and the associated operations on the landholding relative to its use which was considered to represent commercial development; and, the lack of evidence in respect of the suitability of the site to treat/dispose foul effluent.
- 1.2. The Planning Authority's decision to refuse was subject to a First Party appeal to An Bord Pleanála whereby the decision to refuse retention was upheld. The decision of An Bord Pleanála was subsequently brought under Judicial Review by the applicant and the High Court Order has remitted the case back to An Bord Pleanála for further consideration and determination.

2.0 Site Location and Description

- 2.1. The appeal site is 0.43 hectares and located in the rural townland of Sheilstown, Co. Wicklow and is approximately 5km (3.5km as the crow flies) to the northeast of the settlement of Knackananna. The subject site is accessed from the northern side of the local road network and comprises a shed building with adjoining yard area, part of a rectangular water feature with uniform planted area and internal hard-surfaced road. There is screen planting at the site entrance and surrounding the shed building with additional tree and hedge planting along the roadside boundary. The adjacent landholding is planted with trees.
- 2.2. The site is generally flat and slopes downhill gradually in a northwestern direction from the road. The surrounding area is generally defined as an upland rural area where the predominant land use is agricultural grasslands and planted coniferous forestry with dispersed individual dwellings. There are no Protected Structures or Recorded Sites and Monuments located within or immediately adjacent to the appeal site.

3.0 Proposed Development

- 3.1. The subject development comprises retention of:
 - packaged wastewater treatment system and percolation area;
 - existing well; and,

- alterations to existing agricultural building.

4.0 Planning Authority Decision

4.1. Decision

4.1.1. The Planning Authority recommended refusal for the subject development for the following two reasons:

1. *Having regard to;*

- (a) The layout and scale, and types of uses identified within the altered agricultural shed.*
- (b) The alterations to the external façade of the shed which accommodate multiple window openings.*
- (c) The agricultural landholding/operations identified in the submitted documents.*
- (d) The lack of information on traffic movements, and insufficiency of the road network.*

It is considered that the need for the proposed development has not been adequately justified or demonstrated to be necessary for the efficient operation of the agricultural purposes on site, the development would be over and above the needs of the existing agricultural use on the landholding, and would represent commercial development at this point. The development would therefore represent haphazard development in this rural area, would set a precedent for similar footloose development, would be contrary to the objectives of the County Development Plan 2022-2028 in respect of Economic and Farming development in the rural area, and would result in a traffic hazard, and would be contrary to the amenities of this rural area, and to the proper planning and sustainable development of the area.

2. *Inadequate evidence is available that the site is suitable for septic tank effluent percolation and if found to be unsuitable then this development would be prejudicial to public health.*

4.2. Planning Authority Reports

4.2.1. Planning Report

- The Planner's Report formed the basis for the decision to refuse retention.
- The report notes the site planning history, associated Development Plan policy context and any comments returned on internal/external referrals.
- In terms of assessment, the Planning Authority noted that the development is to be used for agricultural purposes only.
- Having regard to the barn, the Planning Authority noted the stated use/purpose of the structure for the planting and maintenance of the trees and parkland - being agricultural activities; storage of equipment; provision of welfare facilities for persons undertaking agricultural activity on the land; and, storage of records in connection with the agricultural activities.
- The Planning Authority considered the need for various facilities within the barn such as offices, a meeting room, kitchen/canteen, changing rooms etc was not justified and beyond being reasonably considered as appropriate for the agricultural use identified.
- The development was deemed to fall outside of the scope of the permitted agricultural use on the site and that the principle of the development was not acceptable.
- The external changes were considered as minimal and that the windows faced away from the public road, did not impact on neighbouring amenity and that visual impacts were reduced due to planting. The external finishing materials were deemed as being appropriate.
- The Planning Authority contended the development would result in increased traffic on the public road and wider road network. The development was deemed premature due to deficiency in the road network, lack of capacity, and inadequate road width/alignment/surfacing.
- No issues raised regarding Appropriate Assessment (AA) or Environmental Impact Assessment (EIA).

4.2.2. Other Technical Reports

Environmental Health Officer: Further Information requested seeking compliance with Drinking Water Regulations; a revised site layout plan detailing location of pond-like water feature in relation to the on-site wastewater treatment system and compliance with minimum separation distances as per EPA Code of Practice (2021); and, a cross section of the wastewater system showing existing ground level, water table and filter and attenuation layer depths as per Wicklow County Council's policy for wastewater treatment & disposal systems for single houses (PE < 10)

4.3. **Prescribed Bodies**

- An Taisce: No response received.
- Failte Ireland: No response received.

4.4. **Third Party Observations**

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

- Concerns for marine biodiversity as wastewater effluent may enter the streams that run from the sides of the shed.
- The catchment area is approx. 600 ha and these streams gather water which over flow on the land.
- The natural flow of water has been altered by the developer by making a pond which redirected the natural flow of the north stream.
- The retention notice states alterations to the existing agricultural shed but does not state the use of whether it be for domestic or commercial use.
- If the agricultural shed was for commercial use the road way would be unable to sustain traffic flow.
- The applicant has no local connection to the area for looking for permission to build/change an agricultural premises for private or commercial use.

- Previous application in locality were refused on the basis of scenic amenity. The developer has blocked natural views of the Wicklow mountains with the planted trees and hedging.
- Traffic/Road safety concerns due to the local roadway and width.
- Images showing clear visibility to the right and left of the entrance are false as both sides of the entry are blind spots from planted hedging.

5.0 Planning History

5.1. The following planning history is associated with the site:

05/2881 Permission GRANTED to erect an agricultural shed. Applicant: Brendan Caulfield.

Condition No. 4: The proposed development shall be used for agricultural use only and for no other purpose.

6.0 Policy Context

6.1. Development Plan

6.1.1. The Wicklow County Development Plan 2022-2028 is the relevant Development Plan for the appeal site.

6.1.2. Chapter 9 relates to 'Economic Development' with Section 9.6 setting out a number of objectives for Wicklow's Rural Economy. I consider the following objectives to be relevant to agriculture:

Strategic Objective: To encourage the continued operation of farming and its associated uses where it already exists, and to facilitate the diversification of the agricultural economy through the support of appropriate alternative farm enterprise sources.

CPO 9.37 To facilitate the development of environmentally sustainable agricultural activities, whereby watercourses, wildlife habitats, areas of ecological importance and other environmental assets are protected from the threat of pollution, and where development does not impinge on the visual amenity of the countryside. Developments shall not be detrimental to archaeological and heritage features of importance.

CPO 9.38 To encourage and facilitate agricultural diversification into suitable agri-businesses. Subject to all other objectives being complied with, the Council will support the alternative use of agricultural land for the following alternative farm enterprises:

- Specialist farming practices, e.g. organic farming, horticulture, specialised animal breeding, deer and goat farming, poultry, flower growing, forestry, equine facilities, allotments, bio-energy production of crops and forestry, organic and speciality foods; and*
- suitable rural enterprises*

CPO 9.39 To protect agricultural or agri-business uses from incompatible uses, which are more suited to being located within an urban settlement.

CPO 9.40 To ensure that agricultural developments do not cause increased pollution to watercourses. Developments will be required to adhere to the Nitrates Directive (91/676/EC), the Nitrates National Action Programme and the EC (Good Agricultural Practice for Protection of Waters) Regulations 2009 (as amended), with regard to storage facilities, concerning the protection of waters against pollution caused or induced by nitrates from agricultural sources. Developments will be required to comply with relevant measures, which operate to protect water quality from pollution by agricultural sources. The disposal and storage of agricultural waste shall comply with the standards required by Council.

6.1.3. Chapter 13 relates to 'Water Services' with Section 13.2 containing Water Services Objectives.

6.1.4. Chapter 17 relates to 'Natural Heritage and Biodiversity' with Section 17.3 having regard to 'Landscape'. In terms of Wicklow's landscape categories, the subject site is located within Hierarchy 3 with a Landscape Category defined as "Areas of High Amenity" and are described as 'Transitional Lands' in the landscape area. According to the Development Plan, the Area of High Amenity Transitional Area comprise of lands which act as a natural buffer and provide a clear distinction between the less sensitive landscapes within the County and the landscape areas identified as Areas of Outstanding Natural Beauty. These lands are located at Manor Kilbride, south of

Hollywood moving towards Donard and lands extending from the Glen of Imaal towards Aughrim.

6.1.5. Section 17.4 sets out the Natural Heritage & Biodiversity Objectives and the following are considered to be relevant:

CPO 17.1: To protect, sustainably manage and enhance the natural heritage, biodiversity, geological heritage, landscape and environment of County Wicklow in recognition of its importance for nature conservation and biodiversity and as a non-renewable resource.

CPO 17.2: Ensure the protection of ecosystems and ecosystem services by integrating full consideration of these into all decision making.

CPO 17.3: To support and promote the implementation of the County Wicklow Heritage Plan and the County Wicklow Biodiversity Action Plan.

6.1.6. Volume 3 of the Development Plan contains Appendix 1: 'Development and Design Standards' and Section 4.3.4 relates to Agriculture.

6.2. Natural Heritage Designations

6.2.1. The appeal site is not located on or within any designated Natura 2000 sites, with the nearest designated sites being the Wicklow Mountains Special Area of Conservation (Site Code: 002122) is approximately 4.26km to the north; the Wicklow Mountains Special Protection Area (Site Code: 004040) is approximately 6.75km to the north; the Slaney River Valley Special Area of Conservation (Site Code: 000781) is approximately 4.72km west; the Vale of Clara (Rathdrum Wood) Special Area of Conservation (Site Code: 000781) is approximately 14.63km to the northeast. In addition, the Ballinacor Wood Proposed Natural Heritage Area (Site Code: 001749) is approximately 9.49km to the northeast. The Avoca River Valley Proposed Natural Heritage Area (Site Code: 001748) is approximately 12.2km southeast. The Tomnafinnoge Wood Proposed Natural Heritage Area (Site Code: 001852) is approximately 12.15km to the south.

6.3. EIA Screening

6.3.1. The subject 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 (or Part V of the 1994 Roads Regulations). 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 this report.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The First Party appeal has been submitted against the Planning Authority's decision to refuse retention. The grounds of appeal are summarised as follows:

- The Planning Authority erred in attributing relevance to the scale/internal layout of the barn in reaching its decision.
- The internal alterations to the barn are exempted development under Section 4(1)(h) of the Planning & Development Act 2000 and are not relevant to the purposes of assessment.
- The barn is to be used for sanitation/welfare purposes given the remote location of the site and to allow for the efficient operation of agricultural activities.
- The Planning Authority erred in its determination that the development is not justified or demonstrated as necessary for the efficient operation of agricultural practices at the landholding or that the barn is over and above the needs of the existing agricultural use thereby amounting to 'commercial use'.
- The project is a private, non-commercial enterprise undertaken on a voluntary, not-for-profit basis.
- The development is not haphazard development and will not endanger traffic safety. The Planning Authority did not define what would constitute a significant increase in traffic. Traffic levels are negligible.
- The Planner's Report does not refer to or quote any Development Plan policy or objective that the development breaches. The activities on site accord with biodiversity policies/objectives set out in the Development Plan.
- The Planning Authority failed to request additional information deemed necessary for the Environmental Health Officer to assess the development in relation to wastewater treatment and the decision to refuse permission was not justified.
- No grounds for refusal have been provided in relation to the well. It is likely that the well is statute barred but was included for the purposes of regularising development.

- The refusal of permission was not based on its own merits but on matters connected to an Enforcement Notice issued by Wicklow County Council.

7.2. Planning Authority Response

- None

7.3. Observations

- None

7.4. Further Responses under s.131 of P&D Act 2000 following Remittal

7.4.1. On foot of previous legal proceedings, Section 131 letters were issued by the Board on 5th February 2025 to the participants to make any further general submissions or observations on the planning application. A response was received from the application and is summarised below:

First Party (Applicant) Response Submission

7.4.2. The applicant's further observations on the subject development is set out under the following headings:

- Purpose and use of the agricultural barn/shed
 - The use of the agricultural barn/shed is incidental to the use of agricultural activities on the land.
 - The purpose of the alterations to the existing agricultural shed/barn is to provide welfare facilities, changing areas and dry storage and working areas.
 - The applicant provides and maintains a diversity of planting and wildlife corridors to gain a greater understanding of the impact of climate change and biodiversity loss on the environment in Ireland and how this can be mitigated. The applicant's desire is to reduce their impact on climate change and offset their personal carbon footprint. This is basis of the project.
 - The lands and the agricultural shed are for private use only with access restricted by locked gates.
 - It is not a commercial enterprise and there are no employees, students or any income from the lands or the agricultural shed/barn.
 - It is realised the name 'Sheilstown Horticultural Research Project' as previously submitted and reference to research centre caused unintended confusion.

- The project name was to inspire the applicant's family to capture the project potential. A name was also required for an Eircode. Any reference to the name 'Shielstown Horticultural Research Project' or 'Horticultural Research Centre' should be disregarded.
- The original idea was to allow horticultural students limited access to the lands for climate related field studies research. This is no longer the plan in view of issues raised. No field studies/research on the land by students will be undertaken and any reference to research/education or third party access to the appeal site be disregarded.
- The applicant, with their husband and on occasion 1 – 2 no. immediate family attend the land on average once a month to carry out horticultural activities. The agricultural shed/barn is used for welfare, changing and storage purposes.
- Since March 2023, an individual undertakes maintenance and planting work.
- On one occasion only has there been 6 no. people on the land at one time with 3 no. people using the barn facilities. The lands and agricultural shed/barn is accessed usually by 2 - 4 no. people every few months.
- Layout and Scale
 - The agricultural shed is in accordance with Reg. Ref. 05/2881.
 - The internal alterations to the building were intended to reduce the overall useable space by provision of dry, warm, clean and maintainable environment inside the agricultural shed/barn.
 - The internal layout was determined by existing steels and partitions.
 - There were errors on the floor plan drawings submitted at application stage. A revised floor plan drawing showing the correct use of space and correctly labelled within the building has been submitted to avoid confusion.
 - The suggestion that the creation of the spaces inside the pre-existing shed results in a change of use because it exceeds the bare minimum necessary is irrational.
 - Assurances are provided that there is no intention to engage in any commercial enterprise in the agricultural shed.
 - The layout of alterations cannot be justified as implying that a commercial activity/enterprise is intended to be undertaken in the agricultural shed or lands.
 - The use of the space and layout is exempted development pursuant to Section 4 of the Planning and Development Act 2000 (as amended).

- The agricultural shed will not be used by students and any areas indicated on previous drawings for potential use by students should be disregarded.
 - The spaces are designated for storage. The provision for potential future students was included at the outset as it was most cost effective to undertake all of the work inside the agricultural shed at the same time.
 - Following the receipt of the Enforcement Notice, these spaces were redesignated as storage.
- Alterations of External Façade
 - The addition of windows on the external façade was intended to promote use of natural light.
 - A membrane was added to the roof to make the building waterproof.
 - The intention of the window sizes was to not materially change the nature, style and character of the agricultural shed.
 - The window openings are on elevations which are not visible from the public road.
- Waste Water Treatment System
 - The Engineers report confirms there is no risk of pollution arising from the wastewater treatment system and it is adequate to deal with effluent from the use of the agricultural shed for sanitation purposes.
 - The wastewater treatment system has capacity to cater for up to 50 people per day.
 - Since March 2023, no more than 4 people have used the agricultural shed/barn and sanitation facilities in any one day. On average, the sanitation facilities in the agricultural shed are used no more than twice per month.
 - The EHO report did not raise concerns regarding the capacity or installation of the wastewater treatment system which shows there is no likelihood of pollution of a water supply source.
 - The EHO requested further information but this was never requested by the Planning Authority. Should Further Information have been sought, the relevant information would have been furnished.
 - The wastewater treatment system complies with minimum separation distance as set out in Table 6.32 of the EPA's Code of Practice (2021) in relation to the pond.

- Traffic Movement
 - Traffic movement to and from the barn are minimal.
 - The lands are accessed by car due to the remote location.
 - Vehicle movement is reduced as there are welfare facilities on site.
- Boundaries
 - There have been no revisions to the site boundaries.
 - Additional lands were acquired from the original area at the agricultural shed.
 - The application site boundaries were determined by the planning consultant and not intended to revise to project boundaries or separate the agricultural shed from the activities on the land.
 - All activities undertaken in and around the agricultural shed are incidental to the agricultural activities being undertaken.
- Gates and CCTV Infrastructure
 - The gate forms part of the deer prevention system which pose a significant threat to trees and plants. The site is surrounded by deer fencing. The height of the gate is to prevent ingress of deer.
 - The design of the gate is an agricultural style and provides continuity along the road. The slatted design allows for wind to pass through the gate due to the exposed location.
 - The electric gates are for ease of access.
 - The CCTV system was installed to allow monitoring of the project and to mitigate the risk of damage and trespass.
 - The CCTV system does not visually impact the surrounding area or change the character/appearance of the shed.
- Climate Action and Biodiversity
 - The primary purpose of the project has been the preservation and enhancement of native species of trees and the provision of habitat with the intention of increasing biodiversity and wildlife corridors in order to offset our carbon footprint and leave a positive impact in the context of climate change emergency.
 - The project is in line with the Wicklow County Development Plan 2022-2028 in respect of Biodiversity objectives.

- Over 50,000 trees have been planted with further lands to be used for tree planting and habitat creation.
- A number of mammals, birds, amphibians, reptiles, insects and flora species have been identified on the site.
- The Board is reminded of their obligations under the Climate and Low Carbon Development Act 2015 and Section 59B of the Wildlife Amendment Act 2000.

Engineering Consultants Response Submission on behalf of Applicant

7.4.3. A response was submitted to An Bord Pleanála on behalf of the applicant seeking to clarify the wastewater treatment system installed on the site as being adequate to treat and dispose effluent and that minimum separation distances between the system and the nearby pond on the lands are achieved. The response is broadly summarised as follows:

- The agricultural shed is not a domestic building. There are no wastewater provisions for a building like a barn which is neither habitable nor commercial.
- 4-bedrooms/6-persons was filled in on the Site Characterisation Form as the fields cannot be blank. Figures were a best estimation on the load.
- The installed tank has the capacity to cater for up to 50 people per day and is calculated in the context of anticipated use.
- As the building is not a domestic dwelling and not permanently/continuously inhabited, the actual amount of water that needs to be allocated is more akin to the amounts related to small community schemes and commercial properties which is between 30-40 litres in the relevant EPA directions.
- An allocation of 20-30 litres per person would be sufficient and therefore the 1,200 litre tank has a capacity to cater for up to 50 people per day.
- Additional Information was sought by the EHO but not requested by the Planning Authority. If this request was made, the information would have been furnished to confirm that water quality complies with Drinking Water Regulations and that minimum separation distances between the system and features comply with EPA's Code of Practice (2021).

Planning Consultants Response Submission on behalf of Applicant

7.4.4. A response was submitted to An Bord Pleanála on behalf of the applicant setting out the planning context of the subject development. The response is broadly summarised as follows:

- The application to the Planning Authority and the appeal to An Bord Pleanála relate to retention of works carried out in connection with the existing agricultural shed in 2022.
- The application for retention is not constrained by the terms of the site outline submitted in connection with the construction of the shed approved under Reg. Ref. 05/2881.
- The redline application boundary is for the purposes of retention works to the agricultural shed and the wastewater treatment system. There is no attempt to separate the agricultural shed from the activities on the surrounding land.
- The primary purpose of the project is the preservation and enhancement of native species of trees and the provision of habitat with the intention of increasing biodiversity and providing wildlife corridors in order to offset the applicant's carbon footprint in the context of the climate change emergency.
- Sets out relevant planning policy of the Wicklow County Development Plan 2022-2028 with respect to agriculture and biodiversity.
- Refers to the legal obligation of An Bord Pleanála under the Climate and Low Carbon Development Act 2015 and the Wildlife Amendment Act 2023.

8.0 Assessment

Following an order of the High Court, this case has been remitted back to An Bord Pleanála to the point in time immediately prior to the completion of an Inspector's Report for further consideration and determination. In the interests of justice, the participants (applicant and Planning Authority) were invited to make further general submission/observations on the matter subject to this referral under section 131 of the Planning & Development Act 2000 (as amended). I note that the appellant has provided an additional submission to their appeal, which is summarised in Section 7.4 of this report. The response repeats much of the planning case presented at application stage and in the appeal but has also sought to clarify a number of matters which were the cause of confusion during the application and appeal stage. In

addition, I note that as part of the further response submitted with this appeal, the applicant has submitted a revised floor plan for the shed clarifying the internal layout of the agricultural shed.

Having regard to the foregoing, I consider the main issues in the assessment of this appeal are as follows:

- Principle of the Development
- Alterations to Agricultural Shed
- Wastewater Treatment
- Access & Sightlines
- Appropriate Assessment

8.1. Principle of Development

8.1.1. The assessment of the Planning Authority considered that the internal floor plans of the agricultural shed submitted with the application comprising a canteen, kitchen, office, W/C, meeting room, storage/potting shed, office, boot room, utility and male/female changing rooms (each with W/Cs) in addition to 2 no. terraces at each of the shed doors had not been justified and was beyond what could be reasonably considered appropriate for the agricultural use identified on the applicant's landholding. As such, the Planning Authority deemed the subject development to fall outside the scope of the agricultural use as permitted on the appeal site under Reg. Ref. 05/2881. This reasoning formed the basis for the first refusal reason whereby the Planning Authority also indicated that the development would be representative of commercial development.

8.1.2. The applicant has countered by stating that the use of the agricultural shed has not changed from that granted under Reg. Ref. 05/2881 and which was conditioned to be used for agricultural use only and for no other purpose. According to the applicant, the agricultural shed remains incidental to the use of agricultural activities on their landholding which seeks to restore the landscape in the context of the ongoing climate emergency and for the purposes of offsetting the carbon footprint of the applicant and their family and providing habitat to encourage biodiversity. This 'project', as referred to extensively by the applicant, includes the planting of broadleaf trees, restoration and creation of habitat to facilitate biodiversity renewal including wildlife corridors,

restoration of botanical biodiversity of meadowland, conservation/renewal of upland wetland and renewal of an existing watercourse. As a point of note, the Board shall be informed that the majority of this 'project' on the applicant's landholding is outside the redline application boundary and does not form part of the development which is before the Board for consideration. Additionally, I further note that the applicant has highlighted how their ongoing agricultural activities promote the policies envisaged by the Climate and Low Carbon Development Act 2015 (as amended) and the Wildlife Amendment Act 2000 in addition to referring to the legal obligations of An Bord Pleanála with respect to same. However, on this matter, I am of the view that the activities outlined by the applicant relate to their wider landholding and do not form part of the appeal site or indeed the subject development which is before the Board.

8.1.3. In considering the applicant's contention that the agricultural shed is incidental to agricultural activities on their landholding through horticultural purposes; I note the interpretation of the Planning & Development Act 2000 (as amended) states that "agriculture" includes horticulture. On the basis of the information submitted with the appeal file including the Landscape Design Strategy Document, I acknowledge the applicant's concept for the lands as presented and their reasoning for planting trees and providing habitat for biodiversity and improvement of the landscape. Moreover, I refer to Objective CPO 9.38 of the Wicklow County Development Plan 2022-2028 which seeks to encourage and facilitate agricultural diversification into suitable agribusinesses and that Wicklow County Council will support the alternative use of agricultural land for alternative farm enterprises. Specialist farming practices indicated in this regard include but are not limited to 'horticulture' and 'forestry'. Therefore, I am of the view that there is policy provision in the Development Plan supporting the principle of different and diverse agricultural practices and as such, it may be construed that the applicant's activities on overall landholding in terms of planting trees and other plants may broadly align with this objective.

8.1.4. The applicant has also clarified the original concept for their overall landholding was to allow horticultural students access to the lands for climate related field studies research and education purposes and that the agricultural shed would be used in conjunction with this activity. However, it has been stated by the applicant that this is no longer the intention and that any references to the name 'Shielstown Horticultural Research Project' or 'Horticultural Research Centre' should be disregarded. The

aforementioned 'project' has been emphasised by the applicant as being a private, non-commercial enterprise being undertaken on a not-for-profit voluntary basis and that there are no employees, students or any income from the lands or the agricultural shed. Therefore, I note the concerns raised by the Planning Authority and their considerations of the subject development insofar as it related to a horticultural research centre on the overall lands which may have been deemed to represent a material change of use of the agricultural shed and attendant lands which would require the benefit of planning permission. However, I acknowledge that this matter has been subsequently clarified by the applicant on the appeal file and the activities on the appeal site and the applicant's landholding will be for their private use. Furthermore, having conducted an inspection of the lands, I note that I did not observe any apparent evidence of any commercial activity ongoing on the appeal site at the time of my visit.

- 8.1.5. In relation to the internal works to the existing agricultural shed, I would draw the Board's attention to the applicant's consideration that the internal revisions made to the agricultural shed are exempted development pursuant to Section 4(1)(h) of the Planning and Development Act 2000 (as amended) and is not relevant for the purposes of the assessment of the application. As such, it is my consideration having reviewed the particulars of the appeal file, that the applicant has not provided for permission for the internal works to this building and so it does not form part of the subject development for retention in this appeal.
- 8.1.6. Nevertheless, I note that the assessment of the Planning Authority considered the overall use of the site in conjunction with the provision of the services which form part of the subject development and I am of the opinion that it is prudent to have regard to the as-built status of the agricultural shed as the wastewater treatment system, well and external alterations to this building are fundamental elements of this retention application. The applicant has stated that it was initially intended to utilise the agricultural shed in association with the research project/centre and the building would cater for the provision of a classroom for lectures, potting area, kitchen/canteen, meeting room, storage space and male and female changing/washing facilities. However, the applicant has stated in a further response that there were errors on the original floor plan drawings and has provided a revised floor plan drawing demonstrating the internal space to avoid confusion. According to the applicant, the

correct internal space comprises a kitchen, office, W/C, meeting room, storage/potting shed, boot room, storage room, plant room, and two storage rooms each with shower rooms within. There are 2 no. voids illustrated adjacent to the shed doors. The applicant claims that revisions to the existing agricultural shed is to provide for welfare facilities, changing areas and dry storage and working areas for a limited number of persons (applicant, their family and an individual undertaking maintenance and planting/horticultural activities) on the landholding.

8.1.7. In considering the subject development, I am of the view that the elements to be retained comprising a well, wastewater treatment and external alterations to an agricultural shed (waterproofing and windows) are somewhat unusual in the context of agricultural activity on lands. In my opinion, agricultural sheds are primarily used in association with farming activities such as the housing of animals/livestock and the storage of feed/seeds, farming equipment and machinery (tractors/trailers). By their usual nature, agricultural sheds are also largely open internally for the purpose of loose housing for animals to roam and to enable appropriate manoeuvrability for when storing feed, equipment or machinery. I also consider that agricultural sheds are utilitarian buildings and are not generally internally subdivided into a series of rooms to provide kitchens, offices, meeting rooms and numerous storage rooms and toilets/washrooms. In addition, it is also my consideration that ground floor level window opes would not normally be present in a conventional agricultural shed. Such buildings have a functional or rudimentary use to house animals/livestock where, in many cases, the shed would be open sided for ventilation; or, in the case of a barn, be closed for safety and security purposes where farm machinery, equipment, feed and other such materials would be stored and out of natural elements. Moreover, a planted garden area surrounding a water feature is not an item that would be expected immediately adjacent to an agricultural shed.

8.1.8. To this end, I note the concerns raised by the Planning Authority in relation to the subject development and the circumstances whereby retention for the elements relating to a well, wastewater treatment and external alterations to the agricultural shed have been sought and why such items would be required in association with agricultural activity. Notwithstanding, I note the rationale presented by the applicant in respect of the original intention of the 'project' on the landholding and subsequent indication that the shed is incidental to the agricultural activities on the applicant's

landholding. I further acknowledge that it is practical to re-use an existing building on the site and that it is reasonable that the applicant would wish to provide sanitation facilities, changing areas and kitchen/canteen area along with associated storage in conjunction with their agricultural activities on the lands. Therefore, the development in question can be considered on the basis of its intended for purposes for agricultural activity.

8.1.9. As a further matter of clarity, I note that other development which has occurred on the applicant's landholding such as the entrance gate and installation/erection of CCTV have not been included with the application for consideration and are therefore outside of the remit of the Board for consideration in this appeal.

8.2. Alterations to Agricultural Shed

8.2.1. As noted, the subject development seeks, in part, alterations to existing agricultural building. Based on the particulars submitted on the appeal file, it is my opinion that the alterations for consideration in this development are confined to external alterations to the agricultural shed building. The subject development seeks to retain the installation of window opes on the north-eastern (side) and north-western (rear) elevations and a waterproof membrane. The applicant states that the intention of the windows to the building's external façade was to optimise natural light and was not intended to materially change the nature, style and character of the agricultural shed.

8.2.2. In general terms, I note that the building has a conventional style and design with A-frame form, rectangular shape and metal cladding finishes and concrete walls. I have previously outlined my views that ground floor level windows would not be features that are normally associated with conventional agricultural sheds as such buildings have a utilitarian in purpose. That said, I note these opes are located on elevations which are not directly visible from the adjacent public road and are largely screened from public view by the intervening planting/hedging on the applicant's landholding. Accordingly, I am of the view that the external appearance of the agricultural shed is not significantly altered by the window opes to be retained and that the building would maintain a design and style which is typical of similar agricultural structures common to rural areas and prevailing landscape character.

8.3. Wastewater Treatment

- 8.3.1. The subject development seeks retention of a packaged wastewater treatment system and percolation area. The Planning Authority's second refusal reason is based on inadequate evidence available that the site is suitable for septic tank effluent percolation and therefore, if the site was found to be unsuitable then the development would be prejudicial to public health. The applicant has countered by stating that the proposed system is adequate to deal with effluent and wastewater from the use of the agricultural shed for sanitation purposes and was selected as the least invasive, safest and most hygienic system to serve the lands. The applicant also considers that the Environmental Health Officer (EHO) did not raise concern regarding the capacity or installation of the wastewater treatment system and noted that Further Information was sought to clarify concerns in terms of compliance with Drinking Water Regulations; detailing minimum separation distances as per EPA Code of Practice (2021) and sectional composition of the wastewater system but was not requested by Planning Authority.
- 8.3.2. During my site inspection, I observed the lands to be in good condition. The surrounding landholding is extensively planted with various deciduous trees which indicate suitable soil depth and quality. There was no apparent evidence of hydraulic constraint or standing water in the area of development however, I noted the presence of rushes in the immediate surrounds of the wastewater system which may suggest poor percolation characteristics or a high water table. I did not observe any indicators or experience odours to suggest that the installed system is not functioning correctly.
- 8.3.3. In considering the subject development to be retained, I have reviewed the submitted Site Characterisation Form which indicates the aquifer category as being 'Locally Important' and having an 'High' groundwater vulnerability classification. The Groundwater Protection Response Category is 'R1' which is detailed in Table E1 (Response Matrix for DWWTSs) of the EPA's Code of Practice for Domestic Waste Water Treatment Systems (PE <10) (EPA 2021) as being 'Acceptable subject to normal good practice (i.e. system selection, construction, operation and maintenance in accordance with this CoP)'. The Site Characterisation Form states a 2.1 metre deep trial hole was dug and the water table was encountered at 1.8 metres. The soil/sub-soil is classified as topsoil between 0.1m – 0.5m, soil between 0.6m – 1.0m and clay between 1.1m – 1.6m. In terms of soil structure, the trial hole is indicated as being

loose and having a medium density/compactness. The surface test result for soil percolation is indicated at 15.22min/25mm and the sub-surface test result for soil percolation is indicated at 22.11min/25mm. The comments on results state that the ground is suitable for a tertiary treatment system and infiltration treatment area to discharge to groundwater. I note that the installed system to be retained is indicated as an 8 PE tank with a 20sq.m sand/soil treatment area and filter depth of 1.2 metres.

8.3.4. In relation to capacity/loading, the applicant claims that the system to be retained has a capacity of up to 50 people per day but has subsequently clarified that on average, the facilities are used no more than twice a more by no more than 4 no. people on any given day. According to the EPA's Code of Practice for Domestic Waste Water Treatment Systems (PE <10) (EPA 2021), in order to calculate waste water capacities, a typical daily hydraulic loading of 150 litres per person should be used for all DWWTSs to ensure adequate treatment is provided. The calculations submitted by the application are based on an allocation of 20-30 litres for each person as anticipated water usage would be much lower than a normal domestic scenario and I consider this to be practical in the context of the development. Therefore, taking the applicant's assertion that the agricultural shed is not a habitable structure or for commercial use, I am of the view that the system to be retained would have capacity to cater for the hydraulic loading on the basis of the limited anticipated use.

8.3.5. The submitted particulars indicate the invert level below the existing ground level as 0.75 metres. According to Table 6.3: 'Minimum unsaturated soil/and/or subsoil depth requirements' of the EPA's Code of Practice, polishing filters following secondary systems and infiltration areas following tertiary systems require a minimum depth of 0.9 metres in areas with a 'R1' response category. I am of the view that the system to be retained, as indicated, will offer approximately 1.1 metres (1100mm) of vertical separation which exceeds the required separation for this area category as outlined in the EPA's Code of Practice and would therefore be acceptable. Based on the information submitted and from my on-site observations, I consider that the infiltration filter/bed is sufficiently sized and can accommodate the PE 8 hydraulic loading.

8.3.6. The applicant has submitted information in their appeal to address the concerns raised by the EHO. A cross-section has been provided detailing the ground level, tank and infiltration bed/filter and I consider this sufficiently demonstrates compliance with the wastewater objective set out in the Development Plan in respect of private wastewater

treatment plants. The system to be retained is located approximately 34 metres from the pond on the applicant's land adjacent to the appeal site and has been detailed on a revised Site Layout drawing. According to Table 6.2: 'Minimum separation distances from the entire DWWTS' of the EPA's Code of Practice, the DWWTS – periphery of tank/plant and infiltration/treatment area (m) percolation trenches should be 50 metres from a 'Lake or foreshore' or 10 metres from a 'Watercourse/stream' and 'Open drain or drainage ditch'. In relation to a feature stated as an on-site dwelling house, the plant/treatment area should be 10 metres from a 'free water surface constructed wetland'. I consider that the EPA's Code of Practice does not implicitly refer to a pond and therefore based on my site observations and review of the submitted documentation, I am satisfied that there would be adequate separation between the wastewater treatment system and the pond which is upgradient of the installed system. The applicant also submitted an Environmental Chemistry Test Certificate and a Commissioning Certificate in relation to the well. I consider that this information is adequate to inform that the well water complies with Drinking Water Regulations.

8.3.7. Having regard to the above, I consider that it has been demonstrated that the subject site can accommodate the wastewater treatment system and that this system would be in accordance with the EPA's Code of Practice for Domestic Waste Water Treatment Systems (PE <10) (EPA 2021) in terms of the safe and efficient disposal of effluent. I therefore consider that the wastewater treatment can be retained in situ. In addition, I have no objection to the retention of the well on the site.

8.4. Access & Sightlines

8.4.1. The Planning Authority's first refusal reason partly relates to the lack of information on traffic movements and insufficiency of the road network being considered to represent haphazard development which would result in a traffic hazard. This recommendation is based on the Planning Authority's assessment which considered the subject development in terms of the intended use of the landholding, as indicated by the applicant, in addition to associated traffic movements that would be generated by same in the context of the area. In the appeal response, the use of the existing entrance and associated vehicle movements to and from the appeal site has been clarified by the applicant as being used by a minimal number of persons and that traffic movements generated by the development would therefore be limited.

- 8.4.2. The site is accessed by an existing entrance comprising a sliding panelled gate. In the interests of clarity, I note that this entrance is not subject to the appeal. In respect of visibility from the existing access, the applicant has shown a sight line of 90 metres to the west and a sight line to the northeast which is unspecified in length. I would note that the vision lines as set out on the Site Plan incorrect as the lines of vision traverse across the Applicant's lands and are not clear as it is obscured by planted hedging, trees, post and wire fencing and a raised roadside embankment.
- 8.4.3. During my inspection of the appeal site, I observed the public road to be of limited width and contains a number of bends and variation in gradients over short distances. I am of the view that visibility from the entrance serving the appeal site is both poor and restricted. That said, the road is lightly trafficked (serving predominantly agricultural lands and forestry) and would be conducive to lower traffic speeds on account of the alignment and carriageway width.
- 8.4.4. On balance, I am of the view that the access is an existing entrance where there has been existing agricultural related traffic movements from and onto the local road. I note that the applicant has indicated the limited intent of use to their landholding and on this basis, it is my opinion that the subject development would not result in an intensification of the use of the existing entrance or would result in significant additional traffic which may exacerbate the existing situation on this road. Therefore, I am satisfied that the development to be retained will not give rise to road safety concerns by way of creation of a traffic hazard.

9.0 Appropriate Assessment (Screening)

- 9.1. Having regard to the nature and scale of the subject development, which comprises the retention of a packaged wastewater treatment system, percolation area, existing well and alterations to existing agricultural building, the location of the site within a rural area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded. Accordingly, Appropriate Assessment is not required.

10.0 Recommendation

- 10.1. I recommend that the decision of the Planning Authority be overturned in this instance and that retention is GRANTED for the subject development for the reasons and considerations and subject to the conditions set out below.

11.0 Reasons and Considerations

- 11.1. Having regard to the nature of the development to be retained associated with agricultural use which would generate limited vehicle movements, it is considered that, subject to compliance with the conditions set out below, the subject development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, and would be acceptable in terms of traffic safety and convenience. The subject development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application and as amended on appeal dated 24/02/2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The agricultural shed shall be used for agricultural purposes only and shall not be used for human habitation or any commercial purpose other than a purpose incidental to agricultural practices, whether or not such use might otherwise constitute exempted development.

Reason: In the interests of clarity and having regard to the submitted particulars with the application and as subsequently changed/clarified with the appeal.

3. The developer shall ensure that a clean, potable water supply is provided which complies with the EU (Drinking Water) Regulations, SI 122 of 2014 as amended. A map showing the location of the supply borehole shall be submitted to the planning authority.

Reason: In the interests of public health and proper planning.

4. The wastewater treatment system shall be maintained in accordance with the details submitted to the Planning Authority and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.

Reason: In the interest of public health and the protection of the environment.

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

15th May 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-321723-25
Proposed Development Summary	Packaged wastewater treatment system, percolation area, existing well and alterations to existing agricultural building.
Development Address	Sheilstown, Knockananna, Co. Wicklow.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in <u>Part 1</u>, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1 .	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____