



An
Coimisiún
Pleanála

Inspector's Report

ABP-322321-25

Development

RETENTION PERMISSION SOUGHT for the construction of stable building and associated site works; and PLANNING PERMISSION is sought for the construction of an access lane with new entrance onto a private lane, and realignment of neighbouring roadside fencing to improve sightlines with associated ancillary works.

Location

Ballycorrigan, Ballina, Co. Tipperary.

Planning Authority

Tipperary County Council.

Planning Authority Reg. Ref.

2560099.

Applicant(s)

Seamus McKeogh.

Type of Application

Retention Permission & Planning Permission.

Planning Authority Decision

Grant.

Type of Appeal

Third Party.

Appellant(s)

Freda Delaney.

Observer(s)

None.

Date of Site Inspection

11th day of July, 2025.

Inspector

Patricia Marie Young.

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1.0 Site Location and Description

- 1.1. This irregular Z-shaped appeal site has a stated site area of 0.085ha and forms part of a larger plot of land that contains a mainly two storey in built form dwelling house, a converted stable building, a stable building to which this application in part relates and a sand pit arena. The site is located on the northern side of a rural road (Note: Boher Road / L2128) which has a posted speed limit of 60kmph. Despite the rural character of this location, it contains an *ad hoc* proliferation of one-off dwellings. The site is located c1km to the east of the R494 and c2.5km to the centre of Ballina, in County Tipperary.
- 1.2. The modern stable building is accessed via a restricted in width internal access lane within the red line site area and with this lane opening onto a private restricted in width and poorly surfaced private lane that provides connection to Boher Road, c35m to the south. According to the information provided with this planning application this lane adjoins the main western boundary of the First Party's larger 0.97ha site on which the subject stable building has been constructed and is one of two access points serving the First Party's landholding at this location providing access onto a private Third Party cul-de-sac agricultural in function laneway. These access points are also in addition to two separate entrances that are setback from the Boher Road. With the Boher Road access points adjoined by a separate entrance serving the residential plot of 'Ballycorrigan House' which is located to the immediate east. Within the site the four noted entrances above connected by a number of internal driveways, with part of the larger site area at the time of inspection in use as grassland for grazing horses.
- 1.3. In close proximity to the southern elevation of the stable building subject of this application is the appellants property. The submitted documentation indicates that at its closest the rear elevation of their mainly dormer in built form dwelling house is over c14m to the south west of the subject stable building and 3.36m to the appellants property boundary at its nearest point. The documentation indicates that the stable building has a finished floor level of 92.27m whereas the appellants dwelling occupies lower ground levels with it having a finished floor level of 89.08m. To the north of appellants dwelling the private amenity space is heavily overshadowed with the ground's levels significantly lower in comparison to the timber fencing and access road serving the First Party's stable building. The appeal site wraps around the northern

and western boundary of the appellants adjoining property which also contains two other structures. That is to say a derelict cottage that adjoins the Third-Party laneway and a single storey ancillary building which is located along the northern rear boundary of their site. This property is accessed via a setback lane located to the immediate west of the Third Party's lane's junction with Boher Road. This adjoining property separates the main site area associated with this appeal case from Boher Road. The aforementioned Third-Party lane is a cul-de-sac lane that provides access to farmland.

- 1.4. Photographs of the site and its environs taken during the course of my site inspection are attached to file. I also refer the Commission to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. Retention permission is sought for construction of a stable building (Note: with a floor area of 130m² and containing 6 separate stalls) and associated site works and permission for construction of an access lane with new entrance onto a private lane, and realignment of neighbouring roadside fencing to improve sightlines with associated ancillary works.

- 2.2. This application is accompanied by the following documentation:

- A letter of consent dated the 5th day of February, 2025, from the Third-Party landowner that forms part of the site area. It indicates that they consent to:
 - Access and usage rights to the laneway and entrance to the laneway attached to their property in order to improve sightlines.
 - Permission to relocate the roadside fencing together with associated site works on part of their property to improve sightlines.
- Landscape Treatment Proposal.
- Statement of Planning Consistency.
- Sight Line Assessment.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 27th day of March, 2025, the Planning Authority issued a notification to grant permission subject to four number conditions. Of note:

Condition No. 2: Deals with Uncontaminated Surface Water.

Condition No. 3: Requires landscaping to be implemented by the first planting season.

Condition No. 4: Requires the roadside boundary west of the junction between the lane serving the site and the L2128 be setback behind the required sight triangle, the sight triangle is taken from a point 4.5 metres back from the road edge at the centre of the proposed access to a point 70 metres away at the nearside road edge with the sight triangle achieved prior to further construction on site (Note: sub condition (a)). It also includes other roadside boundary treatment requirements under sub conditions (b) to (f).

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report (24.03.2025) includes the following comments:

- General principle of a stable building is acceptable in a rural location.
- The reasons for the siting of the stable building are accepted.
- It is noted that the applicant has access to 10ha of land for land spreading.
- The additional landscaping to buffer and screen the development was deemed to be acceptable.
- Alterations to roadside boundaries to achieve sightlines are deemed to be acceptable, subject to safeguards.

- Unauthorised development concerns outside of the red line site area are outside the remit of consideration under this planning application and are subject to enforcement.
- No archaeological or architectural heritage features of interest in the site and in the vicinity.
- No flooding issues arise.
- No AA or EIA issues arise.
- No S48 development contributions are applicable.
- Concludes with a recommendation to grant permission, subject to safeguards.

3.2.2. **Other Technical Reports**

District Engineer (25.03.2025) report included the following comments:

- In accordance with Table 6.2 Design Speeds and associated Y-Distances of the County Development Plan the required sight line is 90 metres. The applicant has submitted an effective speed limit survey. This survey indicates that the effective speed limit on the approach from the left is 44 kph and 45 kph from the right.
- These speeds are consistent with their observations.
- The effective speed limit is low due to the narrow width of the road at 3.6 metres and a series of bends.
- A reduced sight line of 70 metres as per table 4, Volume 3 of the County Development Plan is acceptable in this case. However, it requires a section of existing embankment on the north approach (Ballina direction) to be removed.
- No objection subject to safeguards.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. Third Party Observations

- 3.4.1. 1 No. Third Party Observation received. The concerns raised are the same as those set out in their appeal submission which is summarised under Section 7.1 of this report below.

4.0 Planning History

4.1. Site and Immediate Setting

ABP-313783-22 (P.A. Ref. No. 211231): Split Decision (Note: Decision date: 22.09.2023)

On appeal permission was granted for the extension and associated works to the house as well as the conversion of the former stables to outbuildings subject to conditions. Permission was refused for the new stable area, and associated site works including road related development for the following single stated reasons and considerations:

“The Board was not happy that sufficient information had been provided to justify the siting of the new stables at this location, in light of the negative impact on the appellants residential amenity”.

Note: The appeal site overlaps with part of this site and is served by a separate access road onto Boher Road including a strip of roadside boundary to the west of the entrance onto Boher Road.

P.A. Ref. No. 02510799: Permission granted for a dwelling house, garage, septic tank and ancillary site works. Of note are the following conditions:

Condition No. 4: *“Existing trees and hedgerows within and on the boundaries of the site, except those trees whose removal is required to facilitate the development shall be retained and maintained to form a feature of the proposed development”.*

Reason: “In the interest of visual amenity”.

Condition No. 5: *“A scheme of landscaping to include native and naturalised trees and hedgerows shall be implemented on site in the first planting season after the commencement of development”.*

Reason: *“In the interest of visual amenity”.*

Decision date: 03.03.2003.

4.2. Other – Enforcement

4.2.1. Of relevance to this subject application:

- **P.A. Ref. No. TUD-21-034:** Warning Letter - Enforcement action in relation to unauthorised development consisting of:

- 1) Additional horse stables adjacent to an existing neighbouring dwelling.
- 2) Entrance/Access Road to recently constructed horse stables.
- 3) Existing Hard Standing Area.
- 4) Removal of Existing adjoining landowners' entrance and boundary treatment.

Date: 26.04.2021.

- **P.A. Ref. No. TUD-23-194:** Warning Letter - Enforcement action in relation to unauthorised development consisting of:

- 1) Horse stables and adjoining sand arena adjacent to an existing neighbouring dwelling.
- 2) Entrance/Access Road to recently constructed horse stables.
- 3) Existing Hard Standing Area.

Date: 07.12.2023.

5.0 Policy Context

5.1. Development Plan

5.1.1. Tipperary County Development Plan, 2022- 2028, is applicable, and under which the site is located within the rural area of the county. The site is also located in the

Landscape Character Area, 'The Lakelands'. Of note Volume 3 of the County Development Plan describes this landscape character area as: *"working landscapes containing settlements that enclose and adjoin lake and river areas of national significance for tourism and recreation. This landscape also contains many historic sites"*.

- 5.1.2. Chapter 2 of the County Development Plan under Section 2.6 sets out the strategic objectives which includes:

SO – 6: *"To support a sustainable, diverse and resilient rural economy, whilst integrating the sustainable management of land and natural resources"*.

- 5.1.3. Chapter 8 of the County Development Plan deals with Rural Development (and Enterprise).

- 5.1.4. Policy 10-04 of the County Development Plan states that the Council will seek to: *"ensure the sustainable management of waste and the application of the 'Circular Economy' concept in line with the provisions of the National Waste Management Plan for a Circular Economy and the Waste Management Infrastructure – Guidance for Siting Waste Management Facilities, (Government of Ireland, 2022) in the development and management of new development"*.

- 5.1.5. Section 11.8 of the County Development Plan deals with noise and light emissions.

- 5.1.6. Policy 11 – 1 of the County Development Plan states that: *"in assessing proposals for new development to balance the need for new development with the protection and enhancement of the natural environment and human health"*.

- 5.1.7. Policy 11 – 18 of the County Development Plan states that: *"ensure that new development does not result in significant noise disturbance and to ensure that all new developments are designed and constructed to minimise noise disturbance"*.

- 5.1.8. Policy 11 – 19 of the County Development Plan states that: *"ensure that new development does not result in significant disturbance as a result of light pollution and to ensure that all new developments are designed and constructed to minimise the impact of light pollution on the visual, environmental and residential amenities of surrounding areas"*.

- 5.1.9. Policy 12 – 6 (a) of the County Development Plan states that the Council will seek to: *"facilitate a limited level of new accesses, or the intensified use of existing accesses"*.

to the national road network” and (b) “such accesses will be considered where they facilitate orderly urban development and would not result in a proliferation of such entrances, leading to a diminution in the role of these transitional zones”.

5.1.10. Appendix 6 of the County Development Plan contains the Development Management Standards. It includes:

- Section 3.1 Sustainable Building Design: *“Council will encourage the energy efficient design of buildings and their layout and orientation on site, and will seek to ensure that all new residential, commercial, industrial and other developments are designed to obtain maximum energy performance ratings during their construction, operation and lifetime use”.*
- Section 3.2 Construction Environmental Management Plans.
- Section 3.5 Lighting: *“proposals for new development including or likely to require external lighting shall include details of lighting schemes to comply with minimum standards and best practice in energy efficient design”* through to: *“include measures to minimise light spillage and pollution through design, layout and specification”.*
- Section 3.12 Waste Management: *“all development shall include proposals for appropriately sited and designed, secure, sustainable waste management measures”.*
- Section 6.1 Road Design & Visibility at a Direct Access: This is defined as: *“a direct access is a vehicular access from any residential, commercial or agricultural property to and from a public road”.* Table 6.1 sets out the X-Distance Requirements and Table 6.2 sets out the Design Speeds and associated Y-Distances.

5.2. Natural Heritage Designations

5.2.1. None within the zone of influence. The nearest Natura 2000 sites are the Special Area of Conservation: Lower River Shannon (Site Code: 002165) which is located c0.8km to the west of the site and Special Protection Areas: Lough Derg (Shannon) (Site Code: 004058) which is located c2.23km to the north west of the site, respectively as the bird would fly.

6.0 EIA Screening

- 6.1. The development sought under this application 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 report.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. The Third Party's grounds of appeal can be summarised as follows:

Planning Authority's Decision

- As no new material evidence has been submitted the decision of the Board in relation to their previous refusal of the stables still stands and the Planning Authority's determination otherwise is not accepted.
- The Planning Authority's consideration that this development does not give rise to any adverse impact on their property is not accepted as being with any foundation given that it has given to an unacceptable impact on their property and their residential amenities including by way of noise, odours, overlooking, risk to property/risk to life from unstable structures and earthen banks.

Planning History

- The Council raised significant concerns under the past application in relation to the location of the new stables and sought further information as well as clarification of further information as part of their determination of P.A. Ref. No. 21/1231. These stables were refused on appeal to the Board (ABP-313783-22). The stables were not removed on foot of this decision and a subsequent retention application was made under P.A. Ref. No. 24/60420 which was withdrawn. This proposal is essentially the same development and therefore should be similarly refused.

Unauthorised Works & Development

- Works have been carried out on the First Party's property in the past without permission with this indicated as a kitchen extension, conversion of old stables near to the main house, construction of a large stables, raised access road, hard standing and sand area.
- The First Party is contended to have cut trees belonging to her without permission.
- It is contended that part of a gateway to her property was partially destroyed and then fenced off and an elevated roadway constructed along all of the northern boundary of her property without consent.
- This application is made on foot of enforcement action relating to unauthorised works.

Proposal

- Development to the First Party's dwelling and the conversion of the old stables is not an issue nor is the keeping of horse or the creation of a new stable block per se as these are quite reasonable developments in such an area. However, the stable block is excessively large and is placed in unnecessary proximity circa 3m from their property within the appellants site which covers nearly a hectare.
- This planning application is accompanied by no new documentation to justify the location of the stables.
- The placement of the stables at this point contradicts the First Party's contentions for their choice of location and they should be moved to a more site appropriate location with their property. Why is the building placed close to their dwelling and not their own.

Stable Structure Design

- The stables are excessively large for a single dwelling. It is contended that the First Party's dwelling is 292m² and the stables are 130m² which is unusual for private and not commercial namely horse breeding use.
- It is a fundamental principle of design and good planning practice that outbuildings should be subservient to the parent building. This is not the case in this development.

- According to the British Horse Society a typical stable block housing 6 large horses would be around 45m² for the stalls area, with a generous allowance of 30m² for the tack room and passageway. The old stables were exactly this at 75m².
- If it is the intention to accommodate only 6 horses what is the justification for the size of this stable building.
- The building at 4m in height is considered to be very tall and is on raised grounds therefore towering over their property. This building is visually incongruous when viewed from their property.

Residential Amenity

- The appellant's house is located in a rural area with there is separation distances between dwellings at this location which provides for peace, quiet through to sense of space in what is a relatively open rural landscape that helps to provide privacy between the neighbours.
- There is no justification to place the stables away from the applicants dwelling and instead so close to their dwelling.
- The proximity of the stables is such that it has negative impacts on their residential amenity.
- Under exempted development rights a minimum distance of 100m is required between neighbouring residential properties.
- There are no measures to combat noise and odours which diminish the enjoyment of their property with these nuisances being more significant in their negative impact during winter months.
- During the summer months the odour from this stable structure is a particular problem and it impacts on using their garden.
- At night time the flood lights cause nuisance and during foaling the floodlights can be on all night, with the lighting overspilling into their property and into their home. This issue is not addressed by modifications or conditions by the Planning Authority in their grant of permission. It is further noted that there are internal and external lights that cause significant light pollution on their property.

- The newly raised roadway gives rise to overlooking of their property. It also adds to noise intrusion to their property.
- The landscaping proposed does not address the loss of amenity and nuisances that has arisen from these works.
- Landscaping measures take a long time to establish and mature. The Planning Authority provided for retention permission with no condition, requiring failed landscaping to be replaced nor address the proposed belt of trees which are too thin to be effective.
- The fencing recently erected is unsightly and does not attenuate noise, odours or restore the privacy of their property.
- The stable cause significant odour, noise, light nuisances as a result of its close proximity to the boundary of their property.
- The only way to restore their lost residential amenity is to demolish and rebuild the stables at a greater distance from the appellants property.

Compliance with the Development Plan

- It is not accepted that this development accords with local planning policies. In particular Policy LH2; Policy TI12; Policy TI13; and DM1 of the County Development Plan. This is on the basis of the location of the stables so close to the boundary of their property does not minimise light pollution, environmental, visual and residential amenity impacts on properties in its vicinity.
- Though Chapter 10 of the Development Plan does not deal specifically with stables it is considered that the stables; however, it is contended that as a new development it is required to comply with the development management standards it sets out, with 10.15 dealing with noise and 10.16 dealing with lighting.

Physical Danger

- The development of the stables took place in conjunction with the raising of the height of the earth bank adjacent to their dwelling. These works also involved the demolishing of an old stone wall, but large boulders were left balanced on top.
- The roadway has been artificially elevated using uncompacted fill and is dangerously unstable.

- These works during a period of heavy rain could endanger their property and their personal safety.

7.2. Applicant Response

7.2.1. The First Party's response can be summarised as follows:

Planning History

- This application is not the same as that refused under ABP-313783-22, with the access road repositioned and the additional planting area between the stable and the appellants property. As such it has a different arrangement and merits fresh consideration.
- It is noted that the decision of the Board to refuse part of the development sought under ABP-313783-22 departed from the recommendation of their inspector. They refused permission on the basis of the totality of the information and not on visual or amenity assessment.

Development Sought

- This proposal is different from that previously refused.
- They are engaged in keeping and breeding of horses. The stable was provided for this, though the horses are not stabled the entire time and generally out in the field at other locations during the summer months.
- The use of the stable is ancillary to the residential amenity and enjoyment of their residential property at this location.

Land Use

- The site is not subject to any specific land use zoning or are there any archaeological, built, natural or visual amenity objectives applicable to it.

Compliance with Development Plan

- This development does not materially contravene the County Development Plan.

Siting of the Stable Structure

- The position of the stable was consciously selected to the fore of their dwelling in the interests of safety security and passive surveillance.

- At this location there is natural landscape screen cover along the boundary.
- Siting is limited due to the position of the septic tank and the more elevated nature of the grounds at that location.
- The siting benefits from proximity to a vehicle access path.
- The site is remote from any designated sites.

Setting

- The immediate and surrounding setting is rural in character, in use for agricultural and farming activities. As such this proposal is compatible with land uses that are to be expected in this type of setting.

Visual Amenities

- The scale and form of the stable building is subservient to the dwelling house.
- This development would give rise to no material change in character and visual amenity quality of its setting.
- The stable building is not excessive in its scale or a built form that's visually incongruous to its location.
- The additional landscaping would enhance the setting.

Residential Amenity

- They do not intend to interfere or diminish the amenities of the appellants property.
- This proposal relates to a rural setting and there needs to be a balance between agricultural activity and operations.
- This proposal provides visual screening and additional physical buffering to offset any potential adverse effect that might arise on the appellants property.
- Regard is had to measures taken to minimise impact of this development on the appellants property with this application accompanied by a waste disposal strategy and with access to sufficient land for spreading of animal waste generated from use of the stables.

- The overlooking impacts raised do not reflect the reality and a number of viewpoints are provided from the shared boundary to the appellants property. It is contended that this shows that there is no direct overlooking.
- The erection of a timber fence is an interim measure and would be removed when the wider landscaped buffer area buffers the access road.
- The stables and paddocks are largely accessed on foot from their property and not from the access road onto Boher Road.
- It is not accepted that this development would give rise to any physical danger.
- This development would not give rise to adverse visual, odour or noise effects on the appellant's property or in a manner that would be inconsistent with this rural location.

Proposed Amendments as Part of the Appeal

- It is proposed to relocate the existing access road further away from the appellants property and to provide additional planting. It is further noted that they have consent to use this private road, and it has sufficient visibility onto the public road.
- The appellants suggested repositioning of the stables would not give rise to any significant difference in terms of the likely impacts of agricultural practices in the lands surrounding their property. Particularly it would not reduce anticipated odour or noise.

Other Matters

- There was no intention to flout planning codes.
- Works were carried out that included cutting down tall evergreen trees along the boundary with the appellants property after consultation with them due to safety concerns. The appellant has also removed trees within her own property last year after storm damage to her property.
- The stone wall had no amenity value, and the works were undertaken to it within the First Party's property.
- A mature tree line still exists along the common boundary between their property and the Appellants, with this providing physical and visual screening.

7.3. Planning Authority Response

7.3.1. None received.

7.4. Observations

7.4.1. None received.

8.0 Assessment

8.1. Introduction

8.1.1. Having carried out an inspection of the site and its setting, alongside having had regard to the information presented by the Parties in this appeal case together with regard to relevant local through to national planning provisions as well as guidance, the planning history of the site and its setting, I consider that the key planning issues in this appeal case can be considered under the following broad headings:

- Procedural Matters
- Principle of the Development Sought
- Planning History
- Visual Amenity Impact
- Justification for the Siting of the Development
- Other Matters Arising

8.1.2. The matter of 'Appropriate Assessment' and 'Water Framework Directive' also require examination. This I propose to deal with separately under Section 9 and 10 of this report below.

8.1.3. Before I commence my assessment, I note to the Commission that whilst there are a number on none planning related matters referred to in the submissions received that are outside of the Commission's remit in their *de novo* consideration of this appeal case. However, the Appellants raises concerns that the First Party has carried out works that have interfered with her property without her consent. These are indicated to consist of various changes to boundary treatment between the appellant and the

First Party's property. The interference is indicated as including interference with boundary treatments, oversailing onto and encroachment which she has not consented to and also objects to.

- 8.1.4. I consider that these particular concerns of the Appellant are essentially civil matters for resolution between the parties concerned and, in this respect, I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended. It states that: *'[a] person shall not be entitled solely by reason of a permission under this section to carry out any development'* and, therefore, any grant of permission for the subject development sought under this application would not in itself confer any right over private property.
- 8.1.5. Should the Commission be minded to grant permission for the development sought under this application I recommend that they include a condition that seeks agreement of the proposed linear landscaping strip so that the planting does not interfere with the Appellants northern boundary. In relation to this proposed component of the development this relates to grounds that appear to have been raised on the First Party's side of the property and with there being significant change in ground levels at this point and the Appellants property.
- 8.1.6. Having examined the planning history of the site it is also unclear as to what measures have been taken to divert or culvert a drainage ditch that was indicated to run in an east west direction inside the First Party's property boundary with the Appellants property (Note: P.A Ref. No. 02510799). At this point there is now an existing access road, which in part is subject to the development sought under this planning application. In examining the planning history documentation, I also note the presence of a well to the south east of the subject stable building under the parent permission P.A Ref. No. 02510799. With this clarity in part to satisfy that the planting does not interfere with drainage and potable water supply within or adjoining the redline area or that this development would be prejudicial to public health of properties in its vicinity.

8.2. Procedural

- 8.2.1. I refer the Commission to Section 2 of this report above. This sets out the nature of the development sought and in summary it indicates that the development sought under this planning application pertains to the retention permission for a constructed

stable building and planning permission for the construction of an access lane with new entrance onto a private lane.

- 8.2.2. I also note that the works as indicated in the submitted documentation include the realignment of the roadside fencing on Third Party lands as part of achieving improved sightlines onto the Boher Road from a private cul-de-sac lane that would serve the proposed access lane.
- 8.2.3. I further note that the site area is limited to an irregular in shape parcel of land with a stated area of 0.085ha. With the stable building, access lane and entrance forming part of the First Party's landholding at this location. Whereas the redline area also extends to include an adjoining private cul-de-sac laneway that provides access to the western boundary of this landholding at two points, with the southernmost entrance though *in situ* indicated in the submitted plans as being modified. It also indicates that together with the private lane side boundary of the appeal site that it extends along this lane to where it meets Boher Road which at this point it is proposed to realign the western side of this lane's junction.
- 8.2.4. I note that this application is accompanied by the relevant Third-Party landowners' consent to carry out these works.
- 8.2.5. Of concern the development as set out in the public notices relate to retention permission and planning permission. However, on inspection of the site I raise the concerns that the lane serving the stable building to the entrance onto the Third-Party lands has already been constructed at the location indicated. What appears to be actually sought under this subject application is the proposed reduction of its width by way of the provision of a linear landscaped boundary on part of its southern side along part of its length. Alongside the provision of entrance in proximity to the north of the existing entrance serving the already constructed wide lane together with the blocking up of the existing entrance and with the new entrance in part also providing access to the immediate north east of it to a hard standing area which was in use for storage and potentially also used as a turning space/parking space by the First Party.
- 8.2.6. This adjoining hardstand together with other works which I observed included but was not limited to a new access onto Boher Road to serve a sand arena, the construction of another entrance onto the Third Party owner cul-de-sac lane in the northwesternmost corner of the blue line area, the construction of an access lane

along the northern boundary of the site, through to the provision of large sand arena, augmented ground levels and site boundaries.

- 8.2.7. I acknowledge that having examined the planning history of the site that not only do these works not correspond with those authorised development works permitted under by the Planning Authority under P.A. Ref. No. 02510799 and by the Commission under ABP-313783-22. I also note from the Commission's planning history file pertaining to ABP-313783-22 show that the subject laneway was *in situ* at the location and alignment to which is proposed to be constructed as part of the development sought under this application.
- 8.2.8. While I am cognisant that matters relating to unauthorised development is for the Planning Authority, as enforcement falls under its jurisdiction and/or that interested parties could also avail of Section 5 of the Planning & Development Act, 2000, as amended, which is the mechanism by which a declaration in respect of the existing development in question can be obtained. Consequently, the issues arising from potential unauthorised development outside of the red line area and falling within the blue line area arguably in this case in my view are two-fold.
- 8.2.9. Firstly, the nature of the development as described in the public notices do not reflect the actual situation given that as said the construction of the access lane at the location and in the alignment indicated in the submitted drawings is substantially in place as would it appear that blocking up of the existing entrance within the red line area and its replacement with the construction of what is described as a new entrance to the north of it is also largely as what is in place.
- 8.2.10. On this point I note that Section 3.4 of the Development Management Guidelines 2007 sets out guidance regarding the public notices. It states: "*[t]he purpose of the notices, that is, the newspaper notice (Article 18 of the Planning Regulations) and the site notice (Article 19), is to inform the public of the proposed development and alert them as to its nature and extent*" and that "*[t]he public notice should therefore be drafted so as to give a brief indication as to the nature and extent of the proposed development and is not required to go into excessive detail.*"
- 8.2.11. Having regard to this guidance and while I am cognisant that the Planning Authority raised no validity issue with the public notices in terms of whether it provided a brief indication of the nature and extent of the development works, I do not share that it

could be concluded from these notices that these works are largely *in-situ* on site by a lay person. With the new works largely as proposed largely consisting of the proposed linear strip of land and augmentation of the width of this laneway as well as its entrance onto the Third-Party private access lane.

- 8.2.12. I also note that in turn whether a planning application is for retention permission and planning permission has implication on its payable lodgement fee to the Planning Authority through to whether a lay person could reasonably assume that the nature and extent of the proposed works as opposed to the retention works has been accurately provided for in brief in a manner that accords with relevant legislation and planning guidance.
- 8.2.13. Should the Board be minded to grant permission for the development sought under this application as a precaution I advise that it seeks revised public notices with these providing an accurate brief indication of the nature and extent of development works for which retention permission and planning permission is sought.
- 8.2.14. In addition to the above, I also raise the concerns that limiting the nature and extent of development works within the red line area of the site to the stables, the access lane, the entrance and roadside boundary structure and works would not regularise other works carried out within this area including linkage to the hard stand, drainage and other ground augmentation works.
- 8.2.15. Taking this concern together with the variance of works on site to that permitted within the redline and with the subject works within this subject application contending to be ancillary to the First Party's dwelling whose curtilage overlaps with the red line area as well as the works carried out within the lands within the red line area either in their legal interest or with the consent of relevant Third Party landowner of the private cul-de-sac lane, I raise a concern to the Commission that any grant of permission could be seen to further consolidate, enhance and expand unauthorised development within the First Party's landholding at this location in a manner that would be inconsistent with the proper planning and sustainable development of the area.

8.3. Principle of the Development Sought

- 8.3.1. The appeal site forms part of a larger parcel of land that is located in proximity to the eastern fringes of Ballina in a rural setting that has been subject to significant ribbon

development along either side of the restricted in width local road that is known as Boher Road. The site and its setting are located within the unzoned rural area of County Tipperary and is subject to the local planning provisions set out under the Tipperary County Development Plan, 2022-2028, is applicable, under which the site and its setting form part of the Landscape Character Area, 'The Lakelands'.

- 8.3.2. Volume 3 of the County Development Plan describes this landscape character area as: *“working landscapes containing settlements that enclose and adjoin lake and river areas of national significance for tourism and recreation”*, with this landscape character area indicated in the County Development Plan to contain many historic sites. Additionally, the County Development Plan’s strategic objectives for rural settings as set out in its Core Strategy includes strategic objective SO – 6 which seeks to: *“support a sustainable, diverse and resilient rural economy, whilst integrating the sustainable management of land and natural resources”*.
- 8.3.3. The main element of the development sought relates to the retention of a 130m² stable building which the First Party indicates is an ancillary use to the residential use of their landholding at this location with the red line site area forming part of the curtilage of the residential plot associated with the grant of permission under P.A. Ref. No. 02510799.
- 8.3.4. Under this application permission was granted for a dwelling house, garage, septic tank, ancillary works including access onto Boher Road in circa 2003. The total site area for P.A. Ref. No. 02510799 is indicated in its accompanying documentation as 0.88ha in total.
- 8.3.5. I also note that the First Party contends that the proposed stable which has six independent horse stalls is contended for the keeping and breeding of horses for their own personal interest, with this structure provided for keeping of his own horses on site at this chosen location which is to the front of his property and visible from his home. They also indicate that this building is served by a separate existing single vehicle access path from which access to Boher Road via an entrance onto a private access lane.
- 8.3.6. In regard to the general principle of a stable building component of the development sought under this location I consider that in a rural context and having regards to local planning provisions they are generally supportive of equine activities subject to

safeguards. I am cognisant that stable buildings whether for commercial interests or personal pursuits is a type of development that is not out of character or unusual in a rural landscape setting. With I note the County Development Plan under Section 8.4.2 indicating that the Council will seek to continue to promote the county as a recognised centre of excellence for the bloodstock industry and equine based leisure.

- 8.3.7. Against this context I would consider that the general principle of a stable building in a rural location to be generally acceptable subject to safeguards that include but are not limited to appropriate siting, design, environmental through to amenity impacts.
- 8.3.8. In relation to the access lane and entrance serving the stable onto a Third-Party private access cul-de-sac lane from which access to Boher Road and the wider public road network I raise concerns in relation to the general principle of the providing an additional point of access to serve the stable building.
- 8.3.9. On this point I note that Section 12.5.2 of the County Development Plan states that the Council: *“will seek to restrict access onto national routes in order to protect critical investment in infrastructure, route carrying capacity and the safety of road users”* and that routes identified as being of strategic importance.
- 8.3.10. In general, whilst the access onto Boher Road for which sightline visibility improvements are proposed and the traffic movements associated with the stable building subject of this application is potentially of limited volume, there is no justification in my view for an ancillary to residential land use, i.e. one detached dwelling unit, on the First Party’s landholding at this location which as said is c0.88ha requires any additional primary or secondary access points to serve the quantum of development on this site.
- 8.3.11. I also note that Policy 12 – 4 of the County Development Plan. It seeks to maintain and protect the safety, capacity and efficiency of this County’s public road network and associated junctions in a manner that accords with the Spatial Planning and National Roads Guidelines for Planning Authorities, (DECLG, 2012).
- 8.3.12. In this context I also raise concerns given the nature of internal access pathways within the site that the modified access lane would provide connection to hard stand that provides linkage to other internal access lane on site. This has the potential to change the nature of access from the Third-Party cul-de-sac lane with this substandard in width, alignment and surface access route from its primary purposes which is access

to a few fields to one that serves ancillary and/or potentially the primary residential land use of the First Party's landholding at this location.

- 8.3.13. Additionally, I raise it as a concern to the Board that the general principle of the provision of a secondary access serving the curtilage of the residential rural plot in which the subject stable building would be ancillary to this authorised use would be inconsistent with the local planning provisions which seek to limit accesses serving developments onto substandard in width and alignment local roads. Further, it would give rise to a proliferation of accesses serving this rural residential plot when taken together with the internal accessways within the site that serve vehicle's access and egress to the local road network via the substandard Boher Road. I consider such entrances and accessways within a residential plot to this extent militates against safeguarding the rural character of this landscape as well as has potential implications on the efficiency of the local road network which I observed at this location at the time of my inspection accommodated a steady flow of traffic.
- 8.3.14. In relation to the principle of the provision of a landscape linear strip which in part would not only significantly reduce the area in hard stand accommodating the movement of vehicles as well as other associated equine and residential land uses at the First Party's landholding. I consider that this would be a partial positive reversal of what is a significantly out of scale as constructed internal access road that would provide connection to the subject stable building as well as other hard surfaced areas within this landholding.
- 8.3.15. This I consider is in the context where there has been a significant out of scale proliferation of hard stand within the curtilage of the First Party's rural residential plot comparatively with the size of the blue line site area itself. Alongside the extent of which has been carried out to occupy an excessive portion of a site like this if it is accepted that the keeping of horses is ancillary to its authorised residential function. I consider that the provision of a linear landscape strip would provide further visual buffering of the works to which this application relates when viewed from adjoining and neighbouring properties, subject to safeguards.
- 8.3.16. In relation to the modifications of the western boundary of the First Party's residential plot indicated in the submitted plans these lack clarity and with these works being out of character when viewed from the public domain of Boher Road. I note also that

Section 11.2 of the County Development Plan indicates that trees and hedgerows are important components of the local landscape and that the protection and support of existing trees and hedgerows will be a consideration in the assessment of development proposals by the Planning Authority.

- 8.3.17. I also note that Policy 11 – 4 of the County Development Plan seeks to protect these natural features. This policy includes under sub section (d) to seek that replacement of natural features will seek a proactive focus on new tree-planting as part of new development.
- 8.3.18. In this context I consider that the retention of timber fencing as part of the boundary treatments, particularly along the western boundary and the lack of clarity on the replacement and restoration works to this boundary, which is highly visible from the Boher Road, lacks sufficient clarity to determine with any confidence that these works would accord with this policy.
- 8.3.19. Should the Board be minded to grant permission for the works to the western boundary I consider that in order for it to accord with the County Development Plan that by way of condition it should be subject to written agreement for a revised western boundary treatment that provides a site appropriate reinstatement of the hedgerow/trees.
- 8.3.20. Having regards to the above while I consider that the general principle of a stable building as part of the First Party's landholding though contended to not be directly relating to any rural enterprise is notwithstanding a type of development is appropriate to locate within a rural landscape setting, this is however subject to safeguards with the site's planning history including a refusal of permission for the stable, laneway and other associated works at this location on the basis of potential adverse amenity impacts on the appellants property. As such the following sections of this assessment examine whether this development now sought overcomes the Commissions refusal of permission under ABP-313783-22.

8.4. Planning History

- 8.4.1. As previously noted, this appeal site forms part a larger rural plot in the First Party's ownership that as noted previously was granted permission for a dwelling house, garage, septic tank and ancillary works under P.A. Ref. No. 02510799 in 2003. It was

subject to a more recent planning application in 2023 that was determined by the Commission under ABP-313783-22.

- 8.4.2. In relation to this appeal case, it included a new stable area of 130m² and its associated works which I note were in place at the time the Commissions Inspector inspected the site. This component of the development sought under this previous planning application was refused on the basis of one single reason and consideration which reads that the Commission: *“was not happy that sufficient information had been provided to justify the siting of the new stables at this location, in light of the negative impact on the appellants residential amenity”*.
- 8.4.3. I note that the remainder of the development which included extensions to the First Party’s dwelling house, the change of use of a c75m² stable building to outbuilding and their associated works was granted subject to conditions. It is also of note that these works were in place at the time of the Commission’s Inspector carrying out their inspection of the site and its environs.
- 8.4.4. The development sought under this application relates to the same stable building at the same location to that sought under ABP-313783-22. It also includes the existing laneway and entrance which would be modified as part of the proposed works sought under this application. These modifications together with the provision of a linear strip of planting along the main run of the subject laneway which runs alongside the northern boundary of the appellants property as well as the cluster of tree planting inside the First Party’s property alongside the north eastern corner of the Appellants property in my view are the main changes between the development sought under this application to that determined by the Commission under ABP-313783-22.
- 8.4.5. Taking into consideration the planning history of the site, whilst I accept that a stable building is a type of development that is consistent with rural in nature developments, notwithstanding, I consider that the principle of this development is subject to addressing the concerns that gave rise to its refusal by the Commission in the first instance.
- 8.4.6. Having inspected the site, I first of all question the choice of location of this stable structure given its limited lateral separation distance between the appellants dwelling and their private amenity space.

- 8.4.7. In this regard I note that the appellant's dwelling house is positioned towards the north eastern corner of the site with limited private amenity space to the rear of their dwelling. This space appears to have been allowed to overgrow in terms of the mainly indigenous tree and hedge species it contains. The likely reason for this is to visually buffer the subject development to the north of it. With the Appellants site one that its position of buildings is such that it contains limited outdoor spaces that are not visible from the Boher Road which as noted I observed was steadily trafficked throughout my inspection of the site and its environs. This level of traffic in my opinion reflects the significant proliferation of rural dwellings on the rural fringes of the settlement of Ballina, which the appeal site is within c0.7km of the settlement of Ballina as well as the highly productive agricultural land in this rural location.
- 8.4.8. Concerningly at the time of my site inspection I observed that the functional and qualitative amenity value of this space as well as other outdoor spaces in vicinity to the north and eastern boundary of the site is compromised by odours that are emanating from the stable building, and the First Party's land uses within their landholding. The First Party's authorised use as noted above is a rural residential site and with the details on file indicating that the keeping of horses on their landholding is ancillary to this authorised use. It also indicates that their interest in keeping horses on this landholding is not related to any commercial agricultural activities.
- 8.4.9. There is limited lateral separation distance from the stable building, the associated works from the rear elevation of the appellant's dwelling and at this point the use of the windows in this and the eastern elevation of the property for natural ventilation would also be compromised by the odours that were present on the day of inspection.
- 8.4.10. In this regard I note that the appellants adjoining dwelling's rear elevation is between c7m and c14.7m lateral separation distance between the boundary of the appeal site.
- 8.4.11. It is of further concern that whilst the First Party indicates that they have access to land for land spreading of waste arising from keeping horses stabled at this building. A map is provided which appears to suggest that they have access to lands in the Townland of Ballylea at a distance of almost 3km from the appeal site. However, the documentation provided with this application in my view contains no clarity that the First Party is in ownership of these lands.

- 8.4.12. Further, if not in their ownership they have provided no clarity as to what arrangement is in place for land spreading with the Third-Party owner. Nor does this application provide any clarity as to what arrangements would be available to them if these lands become unavailable to them as part of the waste management associated with keeping horses on this rural residential plot and/or at any other locations. This is against the context where they indicate do not indicate that they are involved in agricultural related activities outside of the site or within any other lands in this rural locality.
- 8.4.13. Of additional concern is that there is no clarity provided on suitable on-site location for keeping horse dung between land spreading and that this is at a location where it is remote as well as maintained to not cause any undue nuisance to any Third-Party properties.
- 8.4.14. The subject stable building contains six horse stalls and with the First Party also indicated that they are involved in breeding of horses.
- 8.4.15. As such I consider the location of the stable building in close proximity to the rear of a dwelling house and in close proximity to their private amenity space there is an onus on the First Party to demonstrate compliance with Section 3.12 of the County Development Plan. This indicates in relation to waste management that: *“all development shall include proposals for appropriately sited and designed, secure, sustainable waste management measures”*. This is not in my view robustly demonstrated in the documentation provided with this application and the First Party’s response to this appeal.
- 8.4.16. Moreover, there is no clarity provided on what works were carried out in relation to the drainage ditch that ran along the southern boundary of the First Party’s site to the south of the stable, the laneway and the entrance. Nor is there any clarity as to what works were carried out in relation to well which is indicated in the planning history files as being located in close proximity though the application for the dwelling house indicated that it would not be dependent upon a private well. It is therefore unclear whether the surface water drainage that has been carried out on site is one that accords with best practices despite the keeping of horses being an activity that is not out of character with this working rural landscape character area. To this it is also

unclear whether the keeping of horse dung is carried out in a manner whereby it would not result in contamination of surface and ground water in its setting.

8.4.17. In addition to these concerns, I note the concerns that arise from the keeping of horses at this location with the appellant raising further diminishment arising to their established residential amenity from light overspill and noise.

8.4.18. In relation to lighting overspill, I consider that there are potential adverse impacts from this with the stable building containing flood lighting on its exterior elevations including its southern elevation through to the general nature of lighting of its interior spaces which is also likely to overspill when the stable building is left open for ventilation purposes throughout evening and night time. There is also likely light overspill particularly during the winter months from vehicles associated with the First Party's keeping of horses at this location.

8.4.19. In relation to noise nuisances, I consider that the lack of separation distance between the stable building and the laneway from the appellants property results in potential for noise to be generated from different sources. With this including the quantum of stabling with the First Party indicating that they also breed horses in proximity to the appellants property. It also includes the various vehicles and machinery generated from the keeping of horses at this location with the building located where not only it has limited lateral separation distance from the appellants property but also is accessed via a long laneway that also provides access to storage for feed, other associated equipment through to connectivity to other laneways and driveways that have been provided in the blue line area of the site that are not of limited width. As such they can accommodate a variety of vehicle and machinery movements along the appellants boundary.

8.4.20. I also observed along the perimeter of the appeal site that there are potentially vermin issues that appears to require management. This however is not uncommon in agricultural buildings, the keeping of horses through to the keeping of feed.

8.4.21. In relation to these additional nuisances, I note that Policy 11 – 1 of the County Development Plan states that: *“in assessing proposals for new development to balance the need for new development with the protection and enhancement of the natural environment and human health”*. Further, Policy 11 – 18 of the County Development Plan states that the Council will: *“ensure that new development does not*

result in significant noise disturbance and to ensure that all new developments are designed and constructed to minimise noise disturbance” and under Policy 11 – 19 of the County Development Plan it states that the Council will seek to: “ensure that new development does not result in significant disturbance as a result of light pollution and to ensure that all new developments are designed and constructed to minimise the impact of light pollution on the visual, environmental and residential amenities of surrounding areas”.

8.4.22. Given that the Commission in its determination of ABP-313783-22 was not satisfied that sufficient information had been provided to justify the siting of the new stables at this location, in light of the negative impact on the appellants residential amenity and having regard to the above concerns I am of the view that this development as now sought does not demonstrate that it has overcome these concerns.

8.4.23. Conclusion: On the basis of the information on file and having inspected the site, its environs as well as the planning history of the site I am not satisfied that the First Party has demonstrated that the development sought under this application is one that would not seriously injure the residential amenity of the appellants adjoining property. I am also not satisfied that this development is one that has satisfactorily demonstrated that it accords with proper planning and sustainable development of the area as provided for under the County Development Plan with no robust measures proposed to overcome the adverse residential amenity impacts of this development on the adjoining property. This is substantive reason in itself to warrant the refusal of the development sought under this planning application.

8.5. Amenity Impact - Visual

8.5.1. In terms of visual impact, I note that the appeal site is located in a rural area that is characterised by agricultural land with a proliferation of one-off housing along the local road network in particular Boher Road. It is of note that the topography of the wider area is a rolling and undulating in its character with visual glimpses towards more mountainous landscapes of County Clare visible to the west of the site. The site and its setting are located within an area designated as the ‘The Lakelands’ (landscape character area). Such designation relates to a working landscape that has a higher

capacity to absorb development including buildings that are characteristically found in rural predominantly rural based activities.

- 8.5.2. In this context a stable building which I note is 130m² in floor area, has a simple gable shape with a ridge height of 4m, a width of 12.35m and depth of 11.35m. Together with its main external finishes consist of render plaster finish and metal clad roof over, subject to it being appropriately sited, designed, positioned and so forth the site's rural in character landscape setting should at an appropriate site have the capacity to be absorbed within this landscape character area.
- 8.5.3. Though there are limited localised views from the public domain of Boher Road towards the stable, entrance, laneway and other associated works subject and in this context whilst the boundary treatments give rise to concerns in terms of their lack of appropriateness and harmony with boundary treatments that characterise this rural setting. Together with the stable building being visually more apparent due to other interventions made to the Boher Road roadside boundary which fall outside of the Boards remit. With qualitative landscaping and boundary treatments having the potential to allow this development to sit in a more visually sensitive manner as viewed from the public domain and as part of its rural landscape setting which has been in part eroded by a proliferation of one-off dwellings and loss of natural features. I recommend that these improvements be conditioned should the Board be minded to grant permission for the development sought under this location.
- 8.5.4. My main concern in relation to visual amenity impact relates to the impact of this development on the Appellants property which lies to the south of the main site area and to the east of the red line area that extends over the Third-Party cul-de-sac lane and its junction with Boher Road.
- 8.5.5. Of concern I consider that the stable building at this location in proximity to the appellants dwelling house and rear private amenity space gives rise to further diminishment of their residential amenities by way of the visual overbearance, reduced privacy through to the perception of being overlooked.
- 8.5.6. In this regard there is limited lateral separation distance from the stable building which is located on an elevated grounds relative to the Appellants dwelling house and private amenity space. With the main visual screening provided for inside of the northern and

north eastern boundary of the site with this consisting of mainly deciduous indigenous trees and hedgerow planting.

- 8.5.7. There is also timber fencing provided along the main stretch of the First Party's southern boundary adjoining the internal access lane and stable building.
- 8.5.8. As such I am cognisant that the visual overbearance is more pronounced at the times of the year when these natural features lose their leaves. During these times not only is there the potential for the appellants privacy to be diminished from the use of the stable building and the lane by the First Party but also the visual overbearance would be more apparent due to the elevated ground levels of the stable building and the laneway relative to that of the Appellants property not being visually buffered and screened by the Appellants adjoining perimeter planting.
- 8.5.9. On this point I note that the drawings provided with this application suggest that the stable building has a finished floor level of 92.27 OD and the Appellants dwelling a finished floor level of 89.08OD.
- 8.5.10. I also note that in relation to these given ground levels, they appear to suggest limited raising of the ground levels at this location in comparison to those set out in the more detailed topography map provided with planning application P.A. Ref No. 02510799. Through to they appear to suggest that the ground levels have in part also been lowered by over a meter along the laneway as opposed to raised which does not appear to correspond with topography of the site in its existing situation that appears to be raised and augmented as part of the works carried out in the red line area of this appeal site.
- 8.5.11. Should the Commission be minded to permit the development sought it could first seek clarity on the actual topography and changes made within the site area relative to that of the Appellants property, the Third-Party cul-de-sac lane and Boher Road from which the stable building and the modified entrance are a visible part of the more elevated ground levels to the north of its alignment. This provision is provided for under Section 131 of the Planning and Development Act 2000 (as amended) which enables the Board to seek further information or submissions from relevant parties.
- 8.5.12. However, given the conclusions of this assessment that I am not satisfied that the First Party has demonstrated that they have overcome the concerns of the Commission in the refusal of permission for the stable building under appeal case ABP-313783-22 I

do not consider this necessary. This however does not overcome the visual overbearance, privacy and overlooking concerns arising from the inappropriate siting of these works and the additional cumulative visual amenity impacts they give rise to on the appellants property. Nor do I consider that the landscaping strip between the appellants property boundary and the reduction in width access lane is sufficient amendments to overcome the serious residential amenities that would arise to the Appellants property from the development sought under this application.

8.6. Justification for the Siting of the Development

- 8.6.1. I note that it is contended that the First Party consciously selected this location with the stable building located where they have passive surveillance of it from their dwelling as they come and go throughout the day. They also indicate that it is chosen to avail of the natural landscape screen cover along the boundary and that there are limited other alternative positions given the position of the septic tank serving the main dwelling and the more elevated location of the ground at that location. They further contend that it is not visually incongruous with the pattern of development at this location.
- 8.6.2. Notwithstanding, I am not satisfied that this is the most suitable location having examined the planning history of the site and its setting alongside having carried out an inspection of the site setting together with having regard to relevant local planning provisions.
- 8.6.3. In this regard I consider that the stable building is located where it seeks to avail of *ad hoc* natural features that are outside of the First Party control for the short to medium term. It is located at a point where the development has the greatest potential for adverse impact to the adjoining residential property and is evident to have resulted in serious injury of its established amenity with no similar comparable adverse impact on the First Party's dwelling house or private amenity spaces.
- 8.6.4. It is of note the smaller stable building which was permitted under ABP-313783-22 for a change of use was at a location had similar lateral separation distance and benefitted from a more secure location as well as one that had greater passive surveillance than the now larger stable building, laneway and entrance sought under this application. Additionally, the stable building is located at a point where it is remote from the storage

of feed and the access constructed to serve it. With this in turn resulting in additional provision of hard stand for circulation within this rural residential plot of land where the keeping of horses is given as being ancillary. Overall, as a development it is one that seeks to ensure by way of design that it minimises impact on its site and its setting in a manner that accords with the proper planning and sustainable development of the area.

- 8.6.5. I note that the Development Management Guidelines for Planning Authorities, 2007, make it clear that, in dealing with applications for retention, they must be considered “as with any other application”. This is in accordance with planning law and with proper planning practice, in that all applications for retention should be assessed on the same basis as would apply if the development in question were proposed. Therefore, no account can, or should, be taken of the fact that the development has already taken place. Further, it should be assessed in terms of its compliance as well as consistency with relevant local through to national planning provisions and guidance.
- 8.6.6. Against this context I am of the view that the location of the stable building and the associated works outside of the linear strip of planting which in part appears to compensate for the removal of natural hedgerow features that once bounded the perimeters of the First Party’s landholding at this location, is a development that is inappropriately designed and sited, given its serious injury to properties in its vicinity in a manner that is consistent with the policy provisions of the County Development Plan.

8.7. Other Matters Arising

- 8.7.1. *Drainage (New Issue):* On the basis of the concerns raised in the main assessment above I am not satisfied that there is sufficient information to make a determination that the development for which permission is sought is one that accords with best practices for the management of equine effluent, surface water through to that it would not impact any ground water sources at this location in a manner that would not be prejudicial to public health when taken together with the proliferation of one-off dwellings at a location where there is no publicly provided foul drainage.

I am also not satisfied on the basis of information contained in this file that there is no property within the immediate vicinity dependent upon a proprietary potable water

source and in turn that the nature of these works is such that they do not give rise to any potential pollution issues alone or in combination with other developments in this setting.

- 8.7.2. *Structural Stability / Physical Danger.* The appellant raises concerns in relation to the works carried out along the boundary of her property and their structural stability. They raise concerns that these works have included the raising of ground levels and the use of boulders along the boundary of their property, with these works at a higher ground level and no assurance that they have been carried out in a manner that would not endanger her property through to give rise to physical danger.

I did observe that it would appear that the ground level inside the First Party's boundary appears to be raised and that they include boulders that do not appear to have been constructed as part of a retaining structure.

As such I do not consider the appellants concerns unreasonable given also the significant difference in ground levels between her property and the First Party's property where the laneway and fencing works have been carried out.

I also have noted the concerns in relation to the accuracy/lack of certainty in terms of the topography of the appeal site, the works carried out thereon and for which permission is sought through to comparatively with those of the Appellants property in the main assessment above.

Should the Commission be minded to grant permission for the development sought under this application I recommend that it first seek clarity on these matters where they relate to the nature of the development sought within the red line area of the site under the provisions of Section 131 of the Planning and Development Act, 2000, (as amended).

It is also my opinion that any instances of damage to, or interference with, the appellants' property attributable to the development would essentially be a civil matter for resolution between the parties concerned and in this respect I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which I have referred to in the main assessment above and again recommend that it is included with as an advisory note as part of any grant of permission.

8.7.3. *Size of the Stable Building:* The appellant raises concerns that the stable building is unduly large for an ancillary to residential equine building if it were to be accepted that the First Party are not engaged in any equine commercial activity. On this point they raise concerns that according to the British Horse Society a typical stable block housing 6 large horses would be around 45m² for the stalls area, with a tack room and passageway.

I note that it also indicates that horses as naturally active animals require sufficient space to move around and it is generally recognised that cramped or small stables can result in health through to behavioural problems.

It therefore recommends for large horse's stable sizes of 3.65m by 4.25m minimum; a general size of 3.65m by 3.65m for horses below 17hh; large pony size of 3.05m by 3.65m through to foaling box of 4.25m by 4.25m.

There are no comparative standards in Ireland for comparative purposes including in terms of planning standards or otherwise.

I also consider that based on the information before me that there is no evidence to support that the stable building sought under this application is for any other use other than ancillary to the First Party's residential enjoyment of their not small in size rural residential plot.

As such I consider that subject to appropriate siting, design and so forth the provision of a stable building within what is a rural working landscape that a stable building subject to safeguards including but not limited to location, design and environmental considerations is a type of development that there is capacity to absorb.

8.7.4. *Built Heritage and Archaeology:* The site forms part of a designated 'The Lakelands' landscape character area under the County Development Plan. This landscape character area is indicated under the County Development Plan as containing many historic sites. The site and its immediate environs contain no built heritage or archaeological features of interest. With the nearest built feature of interest being Recorded Monument & Place (RMP) TN025-017 (Ringfort – Rath), which is located c430m to the south west of the main site area. I am satisfied that there no substantive built heritage and/or archaeological concerns arising from the development sought under this location and no such concerns were raised by Parties to this appeal or by the Planning Authority in their determination of this application.

9.0 AA Screening

- 9.1. I have considered the nature and scale of the development sought in light of the requirements S177U of the Planning and Development Act, 2000, as amended.
- 9.2. The development sought under this location is as set out under Section 2 of this report and the site is located c0.7km from the eastern fringes of the settlement of Ballina, in the rural Townland of Ballycorrigan, in County Tipperary.
- 9.3. This appeal site is not located within or adjacent to a Natura 2000 site. The nearest Natura 2000 sites are as set out under Section 5.2 of this report above and they are the Special Area of Conservation: Lower River Shannon (Site Code: 002165) which is located c0.8km to the west and Special Protection Areas: Lough Derg (Shannon) (Site Code: 004058) which is located c2.23km to the north west of the site, respectively, as the bird would fly.
- 9.4. No nature conservation concerns were raised in the planning appeal or by the Planning Authority in their determination of this planning application.
- 9.5. Having considered the nature, scale and extent of the development sought together with the site's setting within a rural location with no hydrological or other direct links to any Natura 2000 site, I am satisfied that this project can be eliminated from further assessment because it could not have any effect on any Natura 2000 sites.
- 9.6. This conclusion is based on the following considerations:
- The relatively minor nature, scale and extent of the development sought.
 - The lack of impact mechanisms that could significantly affect a Natura 2000 Site/Sites.
 - Distance from the nearest Natura 2000 Site/Sites.
 - The weakness of connectivity between the development and any Natura 2000 site.
 - Taking into account screening determination by the Planning Authority.
- No mitigation measures aimed at avoiding or reducing impacts on Natura 2000 sites were required to be considered in reaching this conclusion.
- 9.7. Conclusion: I conclude that based on objective information, that the development sought under this application would not have a likely significant effect on any Natura

2000 site or sites either alone or in combination with other plans or projects. I am therefore satisfied that likely significant effects can be excluded and that appropriate assessment (Stage 2) (under Section 177V of the Planning and Development Act, 2000, as amended) is not required.

10.0 Water Framework Directive

- 10.1.1. This appeal site is located in the rural Townland, Ballycorrigan, Co. Tipperary. The development sought under this application is as set out under Section 2 of the report. Additionally, a site description/location is provided under Section 1 together with an overview of the planning history pertaining to the site and its setting under Section 4. I note that the site does not appear to be reliant upon a proprietary potable water supply however it is unclear whether or not the well indicated on this site under P.A. Ref. No. 02510799 has or has not been maintained as a water source to serve the stable building.
- 10.1.2. No water deterioration concerns were raised in the planning appeal.
- 10.1.3. The site is located c334m to the east from River Waterbodies Risk – Cycle 2 – IE_SH_25G100100–Grange (Tipperary)_010 and this flows into the Shannon[Lower]_SC_080 catchment (Code 25D_6) to the c0.7km to the south west as the bird would fly through rolling and undulating landscape.
- 10.1.4. Additionally, the main portion of the site is located c0.9km to the east of the Lower Shannon waterbody with site occupying higher ground levels in this rolling and undulating ‘The Lakelands’ designated character landscape area. With the Lough Derg on the River Shannon (Site Code: IE_SH_25_191) being designated under the WFD as being at risk.
- 10.1.5. The development sought under this application (the project) in summary its main components consist of the retention of a 130m² stable building, modifications to an existing laneway through to modifications to natural hedgerow as part of providing access onto a Third-Party cul-de-sac lane from which access onto the local road network via Boher Road would be obtained.
- 10.1.6. Under Section 9 of my assessment above where I have carried out an Appropriate Assessment. With this assessment concluding that based on objective information,

that the development sought under this application would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

10.1.7. To this I note in relation to water quality, the qualifying interests of the Special Area of Conservation (SAC): Lower River Shannon (Site Code: 002165) which is located c0.8km to the west of the site at its nearest point. The qualifying interests of this SAC are as follows:

- Sandbanks which are slightly covered by sea water all the time [1110]
- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]
- Coastal lagoons [1150]
- Large shallow inlets and bays [1160]
- Reefs [1170]
- Perennial vegetation of stony banks [1220]
- Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
- Salicornia and other annuals colonising mud and sand [1310]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260]
- *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) [6410]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]
- *Margaritifera margaritifera* (Freshwater Pearl Mussel) [1029]
- *Petromyzon marinus* (Sea Lamprey) [1095]
- *Lampetra planeri* (Brook Lamprey) [1096]

- *Lampetra fluviatilis* (River Lamprey) [1099]
- *Salmo salar* (Salmon) [1106]
- *Tursiops truncatus* (Common Bottlenose Dolphin) [1349]
- *Lutra lutra* (Otter) [1355]

10.1.8. Given the conclusions reached with respect to the lack of a need for Appropriate Assessment (under Section 177V of the Planning and Development Act 2000), with there being no meaningful hydrological connections between the subject project and/or to any other designated Natura 2000 site and having regard to the dilution factor between the site and the nearest such site should any adverse pollution event occur. I am therefore satisfied that water quality deterioration impacts will not result from the development.

10.1.9. Conclusion: I have assessed the project in light of the objectives set out in Article 4 of the Water Framework Directive. This I note seeks to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively. This conclusion is based on:

- The limited nature, scale and extent of the development proposed.
- The location-distance from nearest water bodies.
- The lack of any meaningful hydrological connections.

I conclude that on the basis of objective information, that the development sought under this application would not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

- 11.1. I recommend permission be refused for the reasons and considerations set out in Section 12 below. I note that the first and third recommended reasons and considerations relate to New Issues.

12.0 Reasons and Considerations

1. It is considered that part of the development for which planning permission is sought differs materially from the existing characteristics of the appeal site and the statutory notice, in that works have already been carried out on the site subject of the application. In this regard, it is considered inappropriate to grant permission in a circumstance where the statutory description of the overall development sought is not consistent with the existing status of the subject site. In addition, it is considered that the development the development sought under this application would comprise the extension and consolidation of unauthorised works carried out on the site. Accordingly, it is considered that it would be inappropriate for the Board to consider the grant of a permission for the development sought under this application in such circumstances.

2. Having regard to the nature, scale and proximity to site boundaries, it is considered that the development sought under this application would seriously injure the residential amenities and depreciate the value of adjoining property to the south by reason of visual obtrusion, diminished privacy and associated nuisances of odours, noise, through to light overspill. The Commission is not satisfied on the basis of the information that the siting of the stables, laneway through to the associated works are appropriate at this location given the negative impacts on this property or that this development is one that accords with Policy 11-18; Policy 11-19 and Section 3.12 of the Tipperary County Development Plan, 2022- 2028. The development sought under this application would, therefore, be contrary to the proper planning and sustainable development of the area.

3. On the basis of information provided with this application and on appeal, the Commission is not satisfied that it has been demonstrated that there is a site appropriate waste management, long term and sustainable waste management plan in place for the quantum of stabling proposed on the applicant's lands or lands within their legal interest. There is also inadequate information provided on the drainage measures provided in terms of the overall changes that have arisen within the site area and in terms of the nature of the development sought to conclude that this development accords with the proper and satisfactory management of the volume of groundwater and surface water generated. The Commission is therefore not satisfied on the basis of the information that it can be concluded that this development would, not be prejudicial to public health and that it would accord with the proper planning and sustainable development of the area.

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.

Patricia M. Young
Planning Inspector

23rd day of July, 2025.

13.0 Form 1 - EIA Pre-Screening - No EIAR Submitted

Case Reference	ABP-322321-25
Proposed Development Summary	RETENTION PERMISSION SOUGHT for the construction of stable building and associated site works; and PLANNING PERMISSION is sought for the construction of an access lane with new entrance onto a private lane, and realignment of neighbouring roadside fencing to improve sightlines with associated ancillary works.
Development Address	Ballycorrigan, Ballina, Co. Tipperary.
	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 Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.	May be considered as: <i>Part 2, Class 1 – Stables being an agricultural building.</i> <i>Class 1(a) of Part 2 (rural restructuring / hedgerow removal).</i> <i>Class 10 (b) of Part 2, Infrastructure projects, construction of more than 500 dwelling units.</i> <i>Class 10 (dd) of Part 2 relating to private roads in the form of driveways.</i>

	<i>However, is significant sub threshold for these Classes.</i>
<input 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.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	N/A
<input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	N/A

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"/>	

No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)
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Inspector: _____ Date: 23rd day of July, 2025.

14.0 Form 2 - EIA Preliminary Examination

Case Reference	ABP-322321-25
Proposed Development Summary	RETENTION PERMISSION SOUGHT for the construction of stable building and associated site works; and PLANNING PERMISSION is sought for the construction of an access lane with new entrance onto a private lane, and realignment of neighbouring roadside fencing to improve sightlines with associated ancillary works.
Development Address	Ballycorrigan, Ballina, Co. Tipperary.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	Briefly comment on the key characteristics of the development, having regard to the criteria listed. Development comprises a modest in built form stable building, ancillary laneway, entrance, landscape and other ancillary development works on a 0.88ha rural residential plot in a rural landscape setting. It is considered that there are no environmental implications with regard to the size, design, cumulation with existing/proposed development, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic,	Briefly comment on the location of the development, having regard to the criteria listed This development comprises of a stable building, ancillary laneway, entrance, landscape and other ancillary development works. There are no environmental sensitivities in terms of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, Natura 2000 sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance.

cultural or archaeological significance).	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects. There is no likelihood for this development to give rise to any significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation, having regards to its location, nature, scale and extent.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	No Schedule 7A Information is required.
There is a real likelihood of significant effects on the environment.	No EIAR required.

Inspector: _____ Date: 23rd day of July, 2025.

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)