



An
Coimisiún
Pleanála

Inspector's Report

PL-501054-WW-26

Development

Excavation works to rear of existing commercial property and construction of concrete wall and placement of a container on lands along with all associated site development works.

Location

Ballymorris Lower, Aughrim, Co. Wicklow

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

266

Applicant(s)

Stephen Kavanagh

Type of Application

Retention

Planning Authority Decision

Refuse Retention

Type of Appeal

First Party Normal Planning Appeal

Appellant(s)

Stephen Kavanagh

Observer(s)

None

Date of Site Inspection

01/06/26

Inspector

Donal Farrelly

Table of Contents

1.0	Site Location and Description	3
2.0	Proposed Development.....	3
3.0	Planning Authority Decision	3
4.0	Planning History.....	5
5.0	Policy Context.....	7
6.0	EIA Screening.....	9
7.0	The Appeal	9
8.0	Assessment	12
9.0	AA Screening.....	18
10.0	Water Framework Directive.....	19
11.0	Recommendation.....	19
12.0	Reasons and Considerations	20
13.0	Conditions.....	20
	Appendix 1: Form 1 EIA Pre-Screening	23
	Appendix 2: Form 2 - EIA Preliminary Examination	26

1.0 Site Location and Description

- 1.1. The appeal site is located at Ballymorris Lower, Aughrim, Co. Wicklow. The appeal site has a stated area of 0.45 ha and is located approximately 1.9km southeast of Aughrim. The River Aughrim is located c75m to the south of the appeal site boundary but is not hydrologically connected to the site.
- 1.2. The appeal site is bounded to the west by a residential property and to the east by a treed area. The north of the site contains an embankment which slopes down to the rear of the property. The R747 fronts the property, and a local road is located north of the property embankment to the rear.
- 1.3. The site contains an existing commercial building which is used predominantly for the processing of oysters, mussels and scallops and has the appearance of a residential unit which fronts the R747. The dwelling is positioned above the public road level and the site levels fall away from the rear of the site towards the public road. A concrete retaining wall is constructed to the rear of the property with the embankment located further to the rear.
- 1.4. A separate lean to timber structure is also erected to the rear of the building.
- 1.5. Entrance to the site is directly off the R747 which includes an area along the front of the property used for both parking and delivery vehicles.

2.0 Proposed Development

- 2.1. The appellant is seeking retention permission for excavation works to the rear of the property which includes the construction of the retaining wall, and the placement of a container to the rear of the property. The container at the rear of the property is used to support the operations of the business.

3.0 Planning Authority Decision

3.1. Decision

Retention Permission was refused by Decision Order dated 27/02/2026 for the following reasons.

1. *Having regard to*

- (a) The industrial nature of the existing use of the subject site*
- (b) The inappropriate location of the subject site within a rural area adjoining a residential site*
- (c) The constricted nature of the site*
- (d) The rapid expansion and intensification of the existing use*

It is considered that the proposed development is at variance with the objectives of the Wicklow County Development Plan 2022-2028 pertaining to economic development in rural areas as the proposed development is not considered to be appropriate to and compatible with the character of the rural environment and would be detrimental to the character, amenity, scenic value, heritage value and environmental quality of a rural area and therefore contrary to the proper planning and sustainable development.

- 2. The proposed development would represent consolidation of un-authorised development on this site having regard to the existing development on site for which no permission exists. The provision of such a form of development unduly impacts on the amenities of the area, public health, the amenities of adjoining properties, undermines the planning regulations and would be contrary to the proper planning and sustainable development.*
- 3. The proposed development would endanger public safety by reason of serious traffic hazard because the applicant has provided no details demonstrating:*
 - (a) safe road access for trucks serving the development*
 - (b) Adequate truck parking and circulation areas within the site.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

Report of the Executive Planner recommended refusal for the following reasons. The nature of the development in a rural area and the site configuration, consolidation of unauthorised development and impact on amenities, and a traffic hazard regarding vehicles serving the site.

3.2.2. Other Technical Reports

- District Engineer Environment Department outlines no changes to the existing site entrance.
- Chief Fire Officer recommends the submission of a fire safety certificate application and disability access certificate application.
- Transportation Department. No observations.

3.3. **Prescribed Bodies**

An Taisce. No response received.

Faite Ireland. No response received.

Arts Council. No response received.

Heritage Council. No response received.

Inland Fisheries Ireland. No response received.

3.4. **Third Party Observations**

Representation from Cllr Peter Leonard.

A submission and attached letter from the appellant were submitted with the details similar to those included in the appeal submission.

4.0 **Planning History**

Planning Reference 25/266. (1) excavation works to rear of existing commercial property and construction of concrete wall and (2) placement of a container on lands along with all associated site development works

Permission refused on grounds of the consolidation of unauthorised development, constitute a traffic hazard, and nature of use in a rural area.

Planning Reference 24/16. (1) excavation works to rear of existing commercial property and construction of concrete wall and (2) placement of a container on lands along with all associated site development works.

Permission refused on grounds of the consolidation of unauthorised development, constitute a traffic hazard, and nature of use in a rural area.

Planning reference ABP 321246-24/ EX842004. Whether the provision of a hard surface within the curtilage of the industrial building and the installation of plant and machinery to the rear of the industrial in connection with the industrial process in the building is or is not development or is or is not exempted development.

Decision-Is not exempted development The Board Order determined that the current use on site is unauthorised and therefore the installation of plant and machinery to the rear of the existing building and works within the curtilage of the building are not exempted development under Article 9 (1)(a) (viii) of the Planning and Development Regulations 2001, as amended.

The use was not exempt, and therefore couldn't benefit, as the use of the site was limited to a permission granted for fish farming under 78/2735 (PL27.5.69561) and a smokehouse, under 85/1187 (PL27.5.43952). The Board considered that there was a material change of use from this activity.

The container isn't exempt as it is not considered plant or machinery.

The Board Order states the following regarding unauthorised development.

(b) Having regard to Article 9 (1)(a) (viii) of the Planning and Development Regulations 2001, as amended, and as the current use of the existing structures on site is an unauthorised use, the works the subject of this referral, therefore, fall outside the scope of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, and therefore, the provision of a hard surface within the curtilage of the industrial building is development and is not exempted development.

(c) Having regard to Article 9 (1)(a) (viii) of the Planning and Development Regulations 2001, as amended, and as the current use of the existing structures on site is an unauthorised use, the structure housing plant and machinery (the subject of this referral), therefore, falls outside the scope of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, and therefore, the installation of plant and machinery to the rear of the industrial building in connection with the industrial process in the building is development and is not exempted development,

Planning Reference 85/1187 (PL27.5.43952). Permission granted for 'extension and change of use from a house to a smokehouse and provision of a treatment tank'.

Additional information has been submitted with the current appeal that was not provided in the referral case above. This information makes clear that the development permitted under 85/1187 (PL27.5.43952) included the following.

'The proposed Development

It is proposed that the premises be used for the gutting, smoking, filleting and packaging of trout. It is also proposed that the premises be used for the boning, smoking and packaging of chickens'

Planning Reference 78/2735 (PL27.5.69561). Permission granted for development of a fish farm, subject to five conditions. Condition no. 1 states:

No operation other than fish rearing and all activities essential thereto shall be carried out on site.

Reason: To protect the amenities of the area and to prevent traffic hazard.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Wicklow County Development Plan 2022-2028 (CDP) is the relevant Development Plan for the appeal site. In my opinion the most relevant policies and objectives are listed below.

5.1.2. Chapter 4 relates to 'Settlement Strategy'. The appeal site is located within Level 10 The rural area (open countryside).

Chapter 9 Economic Development

5.1.3. CPO 9.2. To support and encourage proposals that maximise economic opportunities and strengthen the economic structure of the south and west of the County by facilitating economic diversification and new enterprise development including remote working opportunities.

5.1.4. CPO 9.23. The Council acknowledges that the development of small scale projects with long term employment potential are important in sustaining both urban and rural settlements in County Wicklow and as such, the Council will adopt a proactive and flexible approach in dealing with applications on a case-by-case basis.

5.1.5. CPO 9.29. To support and facilitate the development and expansion of the food sector which has benefits for urban and rural areas.

5.1.6. CPO 9.32. To permit the development of employment generating developments in rural areas, where it is proven that the proposed development requires to be located in a rural area (e.g. dependent on an existing local resource) and will have a positive impact on the location.

5.1.7. CPO 9.33. Enhance the competitiveness of rural areas by supporting innovation in rural economic development and enterprise through the diversification of the rural economy into new sectors and services, including ICT-based industries and those addressing climate change and sustainability.

5.1.8. CPO 9.34 To support proposals to maximise economic opportunities and strengthen the economic structure of the south and west of the County by facilitating economic diversification and new enterprise development including remote working opportunities.

CPO 9.50. To support the sustainable development of the fisheries and aquaculture industry in co-operation with the Department of Agriculture, Food and the Marine and the Inland Fisheries Ireland. The Council will not permit development that has a detrimental impact on the environment; in particular, development that has a detrimental impact on the environmental/ ecological/ water quality of seas, rivers and streams, will not be permitted.

Chapter 17 Natural Heritage and Biodiversity

Prospects of Special Amenity Value or Special Interest

No 58. R747 from Woodenbridge to Coates Bridge, Aughrim. Prospect extending from Woodenbridge with tree lined valley and good river focus. The development for retention is located to the rear of the building and not visible from the public road.

Appendix 1

4.1.1 Building Form & Materials. *A high quality design, finish and layout will be required for all developments.*

5.2. Natural Heritage Designations

Vale of Clara (Rathdrum Wood) SAC (000733) is located c10.5km to the northeast of the site.

Proposed natural Heritage Areas

Avoca River Valley (001748) is located c1.2 km to the southeast.

Arklow Town Marsh (001931) is located c9.8 km to the southeast.

Arklow Town Marsh (001749) is located c8 km to the northwest.

Vale Of Clara (Rathdrum Wood) is located c10.5 km to the northeast.

6.0 EIA Screening

The development for retention has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. A first party appeal has been lodged by a consultant acting on behalf of the appellant. The appeal was accompanied by a letter from the appellant and the 1985 planning permission which describes the operations on site.

7.1.2. The grounds of appeal are summarised as follows;

Planning History

- The subject site has been in commercial use since 1978. A fish farm was granted permission under planning reference number 78/2735. Planning permission 85/1187 allowed for the premises to be used as a smokehouse. The operating process is set out in the appeal, as was submitted under the permission granted 85/1187 (PL27.5.43952), which allowed for the processing of both fish and chicken on site.

[Inspector's note – this information was not made available when the Board was assessing the referral previously]. The current use is not materially different than the original use and is much less intensive. The current use processes 12 tons of oyster meat per year, with the original permission processing 500 tons of trout meat. [I note that the attached letter from the owner states 20-25 tonnes of oyster meat per year]

- The proposal in principle has not been assessed correctly. The appellant has submitted the application on back of a warning letter to regularise the development. The Planning Authority have deviated from the unauthorised works to include the entire commercial development.
- The building is exactly the same as the 1985 permission, apart from the retention works. There has not been a change of use.
- The 1985 development description includes the 'boning smoking and packaging of chickens' so alternative raw materials other than trout are acceptable.

Nature of works

- CPO 9.36 is not applicable as the business is not a home-based economic activity.
- The retention permission is for minor works to an existing business and not a new commercial development.
- The works subject to the retention have been carried out to protect the building from landslides and flooding and to improve health and safety conditions. A small temporary container with specialised equipment is located to the rear which is required to comply with all relevant legislation. The works subject to retention are invisible from surrounding views.

Business operations

- The business was not operational for 3-4 weeks during the year and the business did not grow significantly since Covid 19 but in fact contracted and had to diversify to remain in business.
- The current use is an evolution of the original smokehouse business (operated by IDAS trout) but is still a fish processing business, however it is smaller and with less staff than the original business. The original business had 20 staff. It is

environmentally safer and cleaner than the original process and no noise or smells are produced.

- The appellant has been approved for a modern facility in Arklow but this was to cater for future expansion, with the current facility meeting current requirements. This grant of permission in Arklow should not be used to determine this application (26/6) as this is for a future expansion. Existing building costs and tariffs has caused the appellant to have a cautious approach to an expansion.
- The appellant's company 'Marine Health Foods', which was previously called 'Fish out of Water' has operated from the appeal site since 2001.
- The company diversified to remain in business as a result of the collapse of the luxury end of the restaurant trade from the 2008 financial crash. The company continued with fish smoking and fish drying using the same equipment for a further 12 years. As a result of Covid 19 and the resulting impact on the restaurant trade the appellant diversified into marine extracts for the dietary supplement industry, which are exported around the world. The existing business creates local jobs. The existing business can return to smoked fish if the demand supports this.
- The business premises has been there for 50 years and has diversified in the last 20 years but it is still a marine production process not materially different than the original smokehouse permission.
- A letter is also attached from the business owner detailing the business operations since downsizing in 2001, and how they have had to diversify operations. They emphasise that they are an agri-food business denoted by their registrations to SFPA and HSE, and an artisan producer of fine foods by the FSAI.
- The appellant provides a diagram showing how the whole operation works inside the building. A table is also included outlining the various steps and operations of the facility compared with the original smokehouse.
- The current business complies with all relevant legislation and has a full health and safety at work plan, and there has never been any incidents on site.

Access and traffic safety

- The PA roads engineer had no concerns with previous applications regarding traffic safety. The retention application has no impact on existing traffic safety.
- 4 car parking spaces are provided for the 135m² facility (3 per 100m² as per the CDP).
- A revised site layout plan shows that staff do not need to reverse onto the public road, and a 6x3m loading bay with circulation space is provided. The loading bay is not used for parking. Delivery periods are short and infrequent (2 deliveries per week and only 1 during the summer) and the truck is rear access only.
- A car, van, and truck autotrack analysis and sightlines were included with the planning application and appeal submission.
- The proposal does not interfere with access to the adjoining property. The appellant has provided the adjacent owner with a right of way from their entrance over the appellant's property to improve traffic safety. The business was operational prior to the adjacent owner purchasing their property.
- The third-party objector outlined growth of the business which is in contrast to the contracting of the business. [I note no submission from a third party regarding this appeal]

Other matters

- The lean-to timber structure to the rear is temporary in nature and provides shelter and can be dismantled promptly. This was identified as a concern within the 26/06 Planner's report.

7.2. Planning Authority Response

None

7.3. Observations

None

8.0 Assessment

8.1. Having examined the retention application details and all other documentation on file, including the submission received in relation to the appeal, the report of the local

authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance. I consider that the substantive issues in this appeal to be considered are as follows:

- Whether the development to be retained is acceptable in principle
- Nature of works and business operations
- Access and traffic safety
- Other matters

Whether the development to be retained is acceptable in principle

- 8.1.1. The development for retention comprises works for the purpose of improving the safety of an existing commercial premises in relation to the provision of the wall, and the expansion of that business. This includes a retaining wall and a rear container extension of the existing building. The PA have outlined in their reason for refusal that the proposed development represents the consolidation of unauthorised development in terms of intensification of operations and the general industrial use of the site.
- 8.1.2. I have reviewed the planning history on file and note the previous reasons for refusal regarding these retention works under planning reference no's. 25/266 and 24/16. The previous reasons for refusal and the current refusal reasons for 26/6 are similar.
- 8.1.3. I also note ACP 321246-24/EX842004 which was a section 5 submission regarding works on site for a hard surface and installation of plant and machinery. This was deemed not to be exempted development. The Board Order outlines that the development is unauthorised as per Article 9.1 (a) (viii) of the Planning and Development Regulations 2001 as amended as it constitutes the extension of a structure associated with an unauthorised use. I note that the Board nor the planning authority had access to the same information which has now been provided in this appeal.
- 8.1.4. It would appear from the information provided, that the processing of trout and oyster/mussels/scallops was happening under the 85/1187 (PL27.5.43952 permission. I draw the Commission's attention to the definition of 'industrial process' as set out in the Planning and Development Regulations 2001 as amended.

"industrial process" means any process which is carried on in the course of trade or business, other than agriculture, and which is-

*(a) for or incidental to the making of any article or part of an article, or for or incidental to the altering, repairing, ornamenting, finishing, cleaning, **washing, packing, canning, adapting for sale**, breaking up or demolition of any **article**, including the getting, dressing or treatment of minerals...*

- 8.1.5. The aquaculture business has been operating on site since 1978. The initial permission was for fish rearing activities, but the 1985 extant permission expanded the business operations to allow for the processing of both fish and chicken on site. This permits the importation of raw materials to the site for processing. The appeal application includes for the processing of oysters/mussels/scallops which also involves the importation of raw materials to the site.
- 8.1.6. I consider the harvesting and processing of trout an aquaculture business, and I also consider the current use an aquaculture business. I have considered the position of the PA with regard to the change of use being material. I have also considered the rationale provided by the appellant in that the change of use to oysters/mussels/scallops processing is not material and constitutes the evolution of the business to cater for market demand fish related products. The appellant also points out that the extant permission 85/1187 allows for both the processing of trout and also chicken on the premises and this clearly allows for a diversity in the range of raw material processing at the facility. The appellant also outlines that the premises enables the continued processing of trout if there is market demand for this product.
- 8.1.7. The PA in their reason for refusal considers that there has been an expansion and intensification of operations at the site as outlined in the Planners report. However, the appellant has outlined that the operations have downsized. The appellant outlines that the previous annual intake of trout to the facility was 500 tonnes, with the current facility processing 20-25 tonnes per annum. They have also stated that the number of employees has fallen from 20 to 10 and that deliveries to the site are approximately 2 per week.
- 8.1.8. I consider that the extant permission allows for diversity in the processing of raw materials and I am of the opinion that the processing of either trout or oysters/mussels/scallops does not constitute a material change in the use of the

premises, as essentially the same process is happening, save for updating the premises in relation to food safety. Further to this as per the definition above of 'industrial process' in the Planning and Development Regulations 2001 as amended, the site is therefore permitted for general fish processing whether that be for trout or oysters/mussels/scallops. I am also satisfied that the appellant has demonstrated that the operations at the facility have been downsized and are less intensive with fewer people employed at the site. I am therefore satisfied that there has been no intensification of use of the site.

8.1.9. Having regard to the new information submitted, I would be of the opinion that the use is not unauthorised. However, the Commission did not have this information in front of them previously. In the light of the new information submitted, I consider that the use is in fact, consistent with the 85/1187 (PL27.5.43952) permission and is authorised. I am therefore going to assess the retaining wall and container *de novo*.

8.1.10. In conclusion I have considered the details of the extant permission, CDP objectives, the Board Order ABP 321246-24/EX842004, the appeal submission, and the planners report. I consider that no material change of use has occurred on site and that the current use is not unauthorised for the following reasons.

- The existing use conforms to CDP Objective CPO 9.29 regarding the development of the existing food/fish business in a rural area, and CPO 9.50 regarding the sustainable development of the aquaculture industry.
- The existing use conforms with CDP Objectives CPO 9.2 and 9.23 regarding the diversification of the rural economic base and maintaining the rural population.
- The extant permission permits the importation of raw materials for processing at the premises. The development for retention involves the importation of oysters/scallops/mussels for processing.
- The permitted development is defined under 'industrial process' within the Planning and Development Act 2001 as amended. The existing use falls under the same definition of said regulations.
- The raw material processing per annum has fallen from 500 tonnes to 20-25 tonnes with deliveries being approximately 2 per week. The number of

employees has fallen from 20 to 10. I am satisfied that there is no intensification of the permitted use on site.

- During my site visit I heard no noise being generated from the rear container unit and I am satisfied that there is no impact on the amenity of the adjacent residential dwelling.

8.1.11. I therefore recommend to the Commission that the current use is authorised and that the previous reason for refusal regarding the business constituting an unauthorised use be overturned.

Nature of works and business operations

8.1.12. I note that the current retention application 26/6 which is subject to this appeal is an attempt to regularise development works which were undertaken at the appellant's site. This includes the construction of a retaining wall to the rear of the existing building and the installation of a container type structure also to the rear of the existing building.

Retaining wall

8.1.13. During my site visit I observed a steep embankment to the rear of the building and it is clear that the retaining wall was built having regard to the steep topography of the site. I consider that the construction of the retaining wall is necessary and required for the safety of the existing business.

8.1.14. I recommend to the Commission that this retaining wall be granted retention permission.

Rear container

8.1.15. I acknowledge that the design of the temporary structure to the rear of the building is not in accordance with s4.1.1 of Appendix 1 of the CDP with respect to the design of industrial buildings. The appellant has outlined that the building contains equipment which is used as part of the business operations and is required to conform with legislation regarding food production.

8.1.16. I am generally satisfied that the rear container is required as part of the processing operations and to facilitate current food standards. During my site visit I did not hear any noise being generated from the container, and I am satisfied that the structure is

not visible from the front of the property. I therefore do not consider this to result in an intensification of use in terms of noise or disturbance to the adjacent residential amenity.

8.1.17. I am of the view that planning permission should be granted for the rear container unit as it is not visible from the public road, does not result in any visual impact, does not impact on adjacent residential amenity considering the nature and scale of the development, and is essential for the existing processing operations on site. If the Commission however disagrees with this conclusion and considers the structure to be unauthorised then a temporary permission would enable the business owner sufficient time to organise their business operations in response to the decision issued by the Commission.

8.1.18. I therefore recommend to the Commission that the PA's reasons for refusal regarding the works subject to retention should be overturned.

Access and traffic safety

8.1.19. I note the PA's reason for refusal regarding traffic safety. I also note the report of the PA transportation department which had no comment to make on the retention application, and the district engineer outlined that there are no changes to the existing site entrance. The reason for refusal was based on the safe access for delivery vehicles, vehicular parking, and circulation on site.

8.1.20. I have reviewed the details provided by the appellant in their submission and the details of the planning submission which includes a car parking plan and a loading bay on site. An autotrack analysis which includes for cars, vans, and trucks was submitted. Sightline details were also included to demonstrate adequate visibility splays. I am satisfied that the details submitted demonstrate that appropriate sightlines are achieved and that car parking and access is acceptable.

8.1.21. Further to this the issue of traffic safety raised by the PA is based on an intensification of use of the existing site. As per the previous section of this report I do not consider there to be a change of use or intensification of operations on the site. I therefore recommend to the Commission that the PA's reason for refusal regarding traffic safety should be overturned.

Other Matters

- 8.1.22. I also note in the Planners report they reference the planning permission granted for a manufacturing unit at Ballynattin Business Park, Arklow (planning reference 23/485) for the same business associated with this appeal. The Planners report outlines concerns that the appellant does not have an exit strategy in terms of the relocation of the operations from the appeal site to the Arklow site.
- 8.1.23. I am of the view that the extant permission for the Arklow site is separate to the appeal site and I accept the rationale provided by the appellant in that the Arklow site is for the potential future expansion of the business. Having reviewed the details provided by the appellant regarding the scale of the existing business I do not consider that the Arklow site is relevant regarding this appeal.
- 8.1.24. The appellant acknowledges that the lean-to timber structure to the rear is temporary in nature and provides shelter for machinery and can be dismantled promptly. A suitable planning condition can address the removal of this structure in the event of a grant of permission.
- 8.1.25. The appellant also notes that Objective CPO 9.36 of the CDP is not applicable as the business is not a home-based economic activity. I agree that said policy is not relevant to the appeal site as the extant permission allows for a larger commercial operation within a rural area.

9.0 AA Screening

I have considered the project in light of the requirements of S177U of the Planning and Development Act 2000 as amended. The subject site is located at Ballymorris Lower, Aghrim, Co. Wicklow approximately 10.5km southwest of the Vale of Clara (Rathdrum Wood) SAC.

The retention permission is for a rear retaining wall, and container to support the operations of the business.

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows:

- The minor works and scale of the development
- Location and distance from nearest European site and lack of hydrological connections

I conclude, on the basis of objective information, that the development for retention 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.

10.0 Water Framework Directive

An assessment of the development for retention has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive, together with relevant guidance published by the Environmental Protection Agency (Ireland), including applicable codes of practice for the protection of water quality. Having considered the nature, scale, and location of the development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects.

The foul connection is to the existing septic tank system, and on site surface water is to a soakpit.

The development will not adversely affect the achievement of established environmental objectives, including the maintenance or attainment of Good Ecological Status/Potential and Good Chemical Status, as required under the Directive. Accordingly, the development is considered to be compliant with the requirements of Article 4

11.0 Recommendation

I recommend to the Commission that retention permission be granted for the reasons and considerations set out below.

12.0 Reasons and Considerations

Having regard to:

- the provisions of the Wicklow County Development Plan 2022-2028, including Objectives CPO 9.2, 9.23, and 9.29 which supports rural businesses and economic diversification; and CPO 9.50 which supports the fisheries industry.
- the nature, scale, and location of the development on an existing commercial site,
- the measures to ensure traffic safety regarding an existing entrance and front yard,

It is considered that the development subject to retention, subject to compliance with the conditions set out below, would not seriously injure the residential amenity of properties in the vicinity, would be acceptable in terms of road safety, and would be acceptable in terms of visual amenity. Therefore, the development for retention would be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

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

Reason: In the interest of clarity.

2. The lean-to timber structure to the rear of the building shall be removed within 3 months from the date of grant of permission.

Reason: In the interest of the proper planning and sustainable development of the area.

3. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

Reason: In the interest of traffic safety and to prevent flooding or pollution.

4. No signage, advertisement or advertisement structure (including that which is exempted development under the Planning and Development Regulations, 2001 (as amended), shall be erected or displayed on the buildings or within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and to protect the character of the area

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.”

Donal Farrelly

Planning Inspector

25/06/26

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL-501054-WW-26
Proposed Development Summary	Retention permission for excavation works to rear of existing commercial property and construction of concrete wall and placement of a container on lands
Development Address	Ballymorris Lower, Aughrim, Co. Wicklow
IN ALL CASES CHECK BOX / OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?	☒ Yes, it is a 'Project'. Proceed to Q.2.
	☐ No, No further action required.
(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)	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	

☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
☒ 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?	
☐ 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.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
☒ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR	<i>Class 7 Food Industry (current use)</i> <i>(b) Installations for packing and canning of animal and vegetable products, where the capacity for processing raw materials would exceed 100 tonnes per day.</i> The annual raw materials for processing is 20-25 tonnes.

If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	Class 13 (a) Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:- (i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and (ii) result in an increase in size greater than - 25 per cent, - or an amount equal to 50 per cent of the appropriate threshold, whichever is the greater. The extant permission is for a fish processing business, and the retention permission is for a retaining wall structure and container.
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 ☐	
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____

Date: _____

Appendix 2: Form 2 - EIA Preliminary Examination

Case Reference	PL-501054-WW-26
Proposed Development Summary	Retention permission for excavation works to rear of existing commercial property and construction of concrete wall and placement of a container on lands
Development Address	Ballymorris Lower, Aughrim, Co. Wicklow
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).	The development has a modest footprint, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. The retaining wall protects against risks to human health, and the container ensures operations are in accordance with the appropriate industry food standards.
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	The development is situated in a rural area on an existing commercial site. The development is removed from sensitive natural habitats, centres of population and designated sites and landscapes of identified significance in the County Development Plan.

resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, 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 modest nature of the development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
Conclusion	
There is no real likelihood of significant effects on the environment.	EIA is not required. The development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The development, therefore,

	does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.
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Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)