

An Bord Pleanála

Observations on a referral

Case reference: RL26.311366
Killugger Farm, Killugger, Killinick, Co. Wexford

Referrer Wexford County Council

Name: Marian & Thomas Boggan

**Ballykelly
Drinagh
Wexford
Y35 V6K8**

AN BORD PLEANÁLA

LDG- 044054-21

ABP- _____

01 OCT 2021

Fee: € 50 Type: PMO

Time: _____ By: Reg Post

Observation details:

A brief history

Agricultural shed at Killugger farm was used for cattle and never for intensive pig farming.

- 1) August 2017 someone; person, or company (Premier pigs) moved pigs into a farm building and started an intensive commercial pig fattening, finishing rearing on site without any application for change of use, no plans for vermin control, veterinary practices, etc. and all the paper work that normally accompanies such developments. No assessments of odour nuisance, air pollution or of public water source or private wells in the area.
- 2) In August 2017 we sent in a letter (as did other residents) objecting to this development and asking was planning permission not required for this new commercial enterprise as it was change of use from cattle / storage shed to a piggery (**letter appendix 1**)
- 3) I received a letter from WCC planning department dated 26th September 2017 stating "no change of use" (**letter appendix 2**)
- 4) October 2017 owner of Killugger Farm /Premier pigs wrote to Wexford County Council requesting a pre-planning meeting which was granted and took place on 21/12/2017. This information was released under an FOI request however the actual records of the meeting were not as no planning or retention application has been submitted to WCC. (**Appendix 3**)

Case reference: KIL231166
 Date: 10/10/2017

Referee: Wexford County Council

Name: Alan & Thomas Bogan

AN BORD PLEANÁLA
 LRG-
 ABP-
 11 OCT 2017
 Ref: 231166
 Title: Wexford

Ballykelly
 Dinagh
 Wexford
 Y35 V68

Observation 2 of a report

A brief history

Agricultural shed at Killbeggar farm was used for cattle and never for intensive pig farming.

1) August 2017 someone (person or company) moved pigs into a farm building and started an intensive commercial pig fattening finishing rearing on site without any application for change of use, no plans for certain control veterinary practices, etc. and all the paper work that normally accompanies such development. No assessment or consent was given, no pollution or of public water source or private wells in the area.

2) In August 2017 we sent in a letter (to all other residents) objecting to this development and asking was planning permission not required for this new commercial enterprise as it was change of use from cattle storage shed to a pigsty (letter appendix 1)

3) I received a letter from WCC planning department dated 26th September 2017 stating "no change of use" (letter appendix 2)

4) October 2017 owner of Killbeggar farm (Thomas Bogan) wrote to Wexford County Council requesting a pre-planning meeting which was granted and took place on 21st 2017. This information was released under a FOI request however the actual records of the meeting were not as no planning or retention application had been submitted to WCC (Appendix 3)

5) Between 2017 and 2020, I repeatedly sent in queries re various developments at the farm at Killugger, Killinick as did the other people and eventually planning enforcement got involved. Through an FOI request I discovered that many times it was stated that no unauthorised development had taken place and change of use was exempt! (Appendix 4)

6) August 2020 a third party sent in a section 5 form asking if change of use from class 6 to class 7 was an exempt development and after 4 weeks the following was the decision:

Ref: DECLARATION OF EXEMPTED DEVELOPMENT SCHEDULE

REG. NO EXD00824 04/09/2020

LOCATION; KILLUGGER FARM, KILLINICK, CO WEXFORD Y35P3K2

DECISION: NOT EXEMPT Copy of Declaration included (Appendix 5, 6, 7, 8 & 9)

7) Many alterations have been made to this agricultural shed the following are some we know of:

- 14 extractor / ventilation fans inserted into roof
- Raised floor with slatted tanks
- Access Ramp
- Solar panels have been placed on the roof of an adjacent shed
- Large feed silos

All above and perhaps other things have all been carried out without any application for planning permission to Wexford County Council.

8) In reports 9th September 2020 and 20th October 2020 the actual correct measurements of agricultural shed (planning no. 20081365) are recorded. (Appendix 10, 11, 12 & 13)

9) We have since 2017 been in constant communication with Wexford County Council planning / planning enforcement in regards to change of use at Killugger farm. When granted permission in 2008 the agricultural shed in question was used for ordinary agricultural purposes and not intensive agricultural such as pigs or poultry. It was never suitable for intensive pig farming and it has been altered significantly.

Also as the capacity of shed is greater than original plans it possibly requires an EIA and a licence from the EPA (its' capacity is greater than 2000 finishing pigs. I got in touch with the EPA in 2020 and they have contacted WCC.

The EPA state they cannot take any action re Premier Pigs at Killugger Farm as there is an ongoing planning issue (Appendix 14 & 15)

6) Between 2017 and 2020 I repeatedly went in question to various developments on the farm at Killinick. Killinick as did the other people and eventually planning enforcement got involved. Through an FOI request I discovered that many times it was stated that no unauthorised development had taken place and change of use was exempt (Appendix 4)

6) August 2020 a third party sent in a section 2 form asking if change of use from class 6 to class 7 was an exempt development and after 4 weeks the following was the decision:

REF: DECISION OF EXEMPTED DEVELOPMENT SECTION 2

REG: NO EXD00824 04/09/2020

LOCATION: KILLINICK FARM, KILLINICK, CO. WESTFORD, SP25T2

DECISION: NOT EXEMPT Copy of Decision included (Appendix 5, 6, 7, 8 & 9)

7) Many alterations have been made to this agricultural shed the following are some we know of:

- 14 extractor ventilation fans fitted into roof
- Raised floor with slatted tanks
- Access Ramp
- Solar panels have been placed on the roof of an adjacent shed
- Large lean to shed

All above and numerous other things have all been carried out without any application for planning permission to Westford County Council.

8) In response to my letter 2020 and 2020/2021 the ground survey measurements of agricultural shed (planning no 20081365) are recorded. (Appendix 10, 11, 12 & 13)

9) We have since 2017 been in constant communication with Westford County Council planning enforcement in regard to change of use at Killinick farm. When granted permission in 2008 the agricultural shed in question was used for ordinary agricultural purposes and not intensive agricultural such as pigs or poultry. It was never suitable for intensive pig farming and it has been altered significantly.

Also as the capacity of shed is greater than original plans it possibly requires an EIA and a licence from the EPA (its capacity is greater than 2000 finishing pigs). I got in touch with the EPA in 2020 and they have contacted WCC.

The EPA state they cannot take any action on Premier Pigs at Killinick Farm as there is no ongoing planning issue (Appendix 14 & 15)

10) Finally we live approx. 330 mtrs from this shed as the crow flies since 2017 we have been trying to live with vile odours, possible air pollution, extra flies etc. all which have been imposed on us our neighbours and other established businesses in the surrounding area .

There is a public water bore hole controlled / operated by Wexford County Council water services on behalf of Irish Water situated approx. 350mtrs from Killugger farm on the R379 road photographs of same included (**Appendix 16**)

Other maps included are taken from either Google maps or from Wexford Count Council planning webpage and aim to illustrate the changes over the years which have taken place at Killugger farm over the years and the surrounding area (**Appendix 17, 18 &19**)

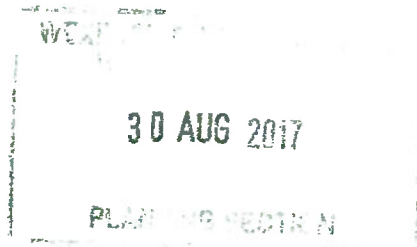
Appendix 20 & 21 photographs illustrating the pig shed before and after the internal alterations

Marian Boggan	Bally Kelly, Drinagh, Wexford.
Thomas Boggan	BALLYKELLY, DRINAGH Wexford. 435-V6K8

pendix 1

0090/2017

157



[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

29 /08 /2017

Phone: [REDACTED]

Email: [REDACTED]

Planning Department
Wexford Co Council
County Hall
Carricklawn
Wexford

SCANNED

Dear Sir / Madam,

We have recently been subjected to a very unpleasant odour in the air at our property here in Ballykelly Drinagh. We believe that this smell is coming from the College Farm which is in the neighbouring townland of Kilugger. We have been informed that approximately 1000 pigs are being housed in a large cattle shed on this property. [REDACTED] have lived at my current address all my life and to my knowledge that there has never been any pig farming small or large on this farm, only cattle and sheep.

We require to know as soon as possible if planning permission is required for intensive pig farming. Please note that pigs have only been located on these premises in the past couple of weeks and are as stated above housed in a cattle shed.

Our information is that the plan is to eventually have a much larger quantity of pigs housed on this site.

Yours Sincerely,

[REDACTED]

26 September 2017

Ref: PMcD/GC/PE

(Please quote this reference number in all correspondence)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: Farm at Killugger, Killinick.

Dear [REDACTED]

I wish to acknowledge receipt of your letter on the 30 August 2017 regarding the above farm.

Wexford County Council considers that no change of use occurs on a farm where cows are substituted by pigs, on the basis of the definition of "Agriculture" in the Planning & Development Act 2000 (as amended). However there are limits to the scale of this activity before planning permission is required.

Schedule 5 of the Planning & Development Regulations 2001 (as amended) outlines the thresholds where Environmental Impact Assessments and therefore planning permissions would be required.

The relevant thresholds in this instance are –

Part 1 Class 17 relating to Installations for the intensive rearing of poultry or pigs with more than

- (a) 85,000 places for broilers, 60,000 places for hens,
- (b) 3,000 places for production pigs (over 30 kilograms), or
- (c) 900 places for sows

Part 2 Class 1(e) (ii) relating to Installations for the intensive rearing of pigs not included in Part 1 of Schedule 5, which would have more than 2,000 places for production of pigs (over 30 kilograms) in a finishing unit, more than 400 places for sows in a breeding unit or more than 200 places for sows in an integrated unit.

arranged and appropriate Planning enforcement action will be taken if the above thresholds are being exceeded.

Please note that complaints relating to excessive odour or pollution incidents are investigated by the Council's Environment Department.

I trust this helps to clarify your queries and I regret the delay in responding to your letter.

Yours sincerely,

PMcD

Peadar McDonald
Senior Staff Officer
Planning Enforcement

**Wexford County Council
Planning Section**

**Phone: 053 919 6000 (Option 2)
Fax: 053 919 6095**

Ref: **P20170667**

4 October 2017

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: Kevin Riordan - P20170667 - Application for Planning Appointment

A Chara,

I hereby acknowledge receipt of your application seeking a Planning Appointment in relation to lands at Killugger, Killinick received in this office on 3 October 2017.

A Pre Planning meeting will be arranged as soon as possible. We will be in contact with you in due course with a meeting time and date.

Please notify the undersigned, in advance, of any special requirements you may need to facilitate this meeting.

Please quote Reference Number **P20170667** for all queries.

Please ensure that you include copies of these pre-planning documents with any subsequent planning application.

Is mise le meas,


Clerical Officer

Wexford County Council
Planning Enforcement Report

SCANNED

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Enforcement No:	0090/2017
Purpose of this report:	Close File
Alleged Offender:	[REDACTED], Bulgan, Glynn
Location:	Killugger, Killinick
Nature of Complaint:	Change of use of Killugger farm from cattle farm to pig farming
Pre-Planning:	n/a
Planning:	20032095 agricultural shed - Granted 19.09.2003 20081365 agricultural shed - Granted 22.08.2008 20100598 agricultural shed - Granted 3.09.2010
An Bord Pleanala Reference No:	n/a
Complaints Received :	21.8.17 & 30.8.17
Warning Letter Issued:	none
Number of Inspections:	1 - 25.10.2017
Brief Summary:	Following complaints about a new pig farm an assessment of the exempt development restrictions and the requirements for an EIA relating to the intensive rearing of pigs, was undertaken by L. Bowe, Executive Planner. The approximate number of pigs being kept at the pig farm was noted during a site inspection on 25.10.2017 by D Donegan, Senior Executive Technician, and it is concluded that the current pig farm activity is in keeping with the approved agricultural use of the shed as defined by the Planning & Development Act 2000 (as amended), and there are no breaches of conditions of Planning Register No. 20081365
Recommendation:	Close file as there is no unauthorised development as outlined above and no role currently for planning enforcement in relation to this pig farm.

Recommended by P. McDonald
Peadar McDonald, Senior Staff Officer

Date: 8.11.2017

Approved by: Tony Nolan
Tony Nolan, Administrative Officer

Date: 9/11/2017

Approved by: Diarmuid Houston
Diarmuid Houston, Senior Planner

Date: 9/11/17

Decided by: Tony Larkin
Tony Larkin, Director of Service

Date: 8/11/17

-Appendix 5

7/4

**PLANNING ENFORCEMENT
WEXFORD COUNTY COUNCIL
INTERNAL MEMO**

09 June 2020

Our Ref: 0023/2019

MEMO TO: Steve Gooden Planning Inspector

Re: Possible unauthorised development - pig farm at Killugger, Killinick, Co Wexford

Steve,

Please carryout a site inspection to clarify and development on site that requires planning permission.

Maybe liaise with David as he was on site previously.

Thanking you

Peadar McDonald
Senior Staff Officer
Planning Enforcement

Planning Ref. No.: EXD00824

Planning and Development Act 2000 (as amended)**Application for Declaration of Exempted Development
(Part 1, Section 5)**WEXFORD COUNTY COUNCIL
RECEIVED

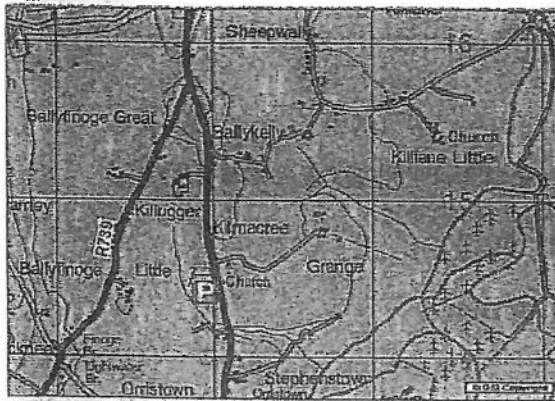
3 SEP 2020

PLANNING SECTION

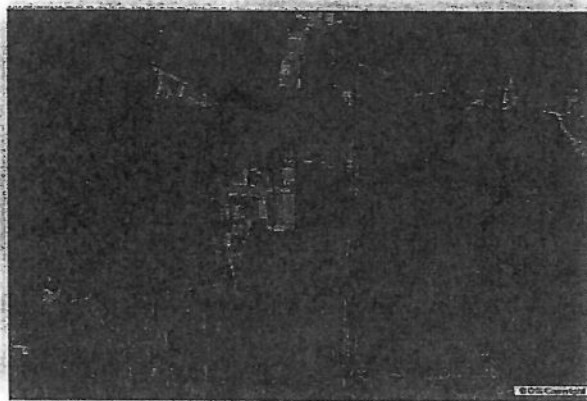
Register No.: EXD00824

Proposal: Agricultural shed - change of use from class 6 to class 7. ✓

Location: Killugger Farm, Killugger, Killinick, Co. Wexford, Y35 P3K2 ✓



Location of application site



Aerial View of farmyard complex

Site Location and Description:

Existing farmyard complex located off the N25 at Killugger, about 2.4km northwest of Killinick. The farmyard is surrounded by agricultural land, and is known to be in use as a pig-rearing facility in recent times. The eastern-most shed is set back about 90m from the N25, while the western-most shed is about 160m from the R739 Kilmore road. The nearest residential property (excluding the dwelling associated with the site) is located about 130m northeast of the application site. ✓

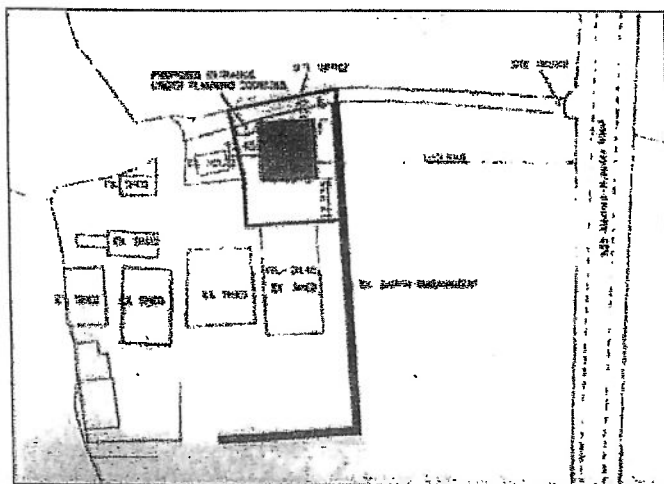
Site History:

20100598 - [REDACTED] - CONSTRUCT AN AGRICULTURAL SHED AND ASSOCIATED SITE WORKS

Decision (Grant / Refuse) – Granted subject to conditions

Commenced? – Yes

Contributions paid? - Yes ✓



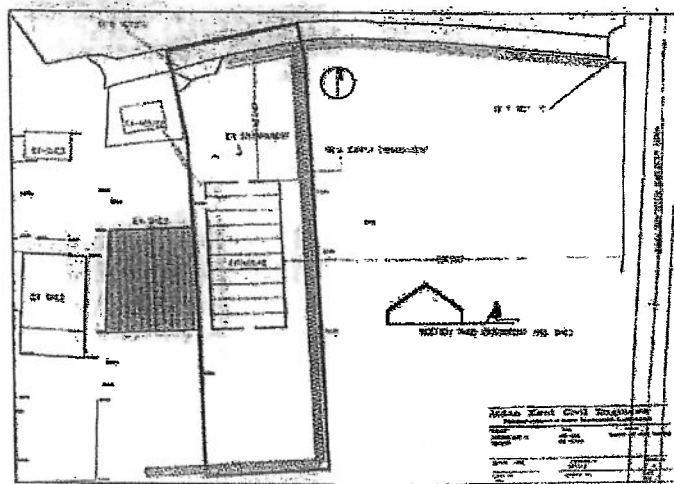
Site layout as per 20100598

20081365 – [REDACTED] – CONSTRUCTION OF A NEW AGRICULTURAL SHED AND ANCILLARY SITE WORKS.

Decision (Grant / Refuse) – Granted subject to conditions

Commenced? – Yes

Contributions paid? – Yes (refunded as nitrates compliant)



Site layout as per 20081365

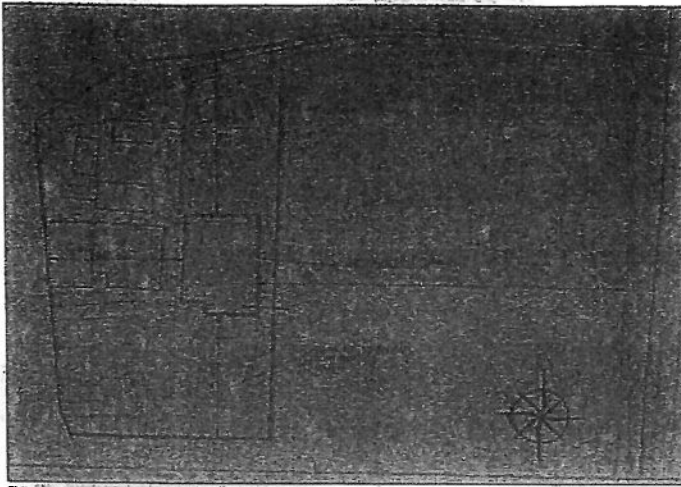
20032095 – [REDACTED] – ERECTION OF AN AGRICULTURAL SHED

Decision (Grant / Refuse) – Granted subject to conditions

Commenced? – Yes

Contributions paid? – n/a

Planning Ref. No.: EXD00824



Site layout as per 20032095

Development in Question:

This proposal is a request for a declaration under Section 5 of the Planning and Development Act, 2000 (as amended) to determine whether or not the change of use from Class 6 to Class 7 of the 'Exempted Development Regulations – Rural' constitutes exempted development.

Legislative Context

The proposal will be assessed within the provisions of:

- Sections 3 and 4 of the Planning and Development Act 2000 (as amended);
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended) and
- Schedule 2, Part 3 Class 6 and Class 7 of the Planning and Development Regulations 2001 (as amended).

'Section 3(1) of the Planning and Development Act, 2000 (as amended) defines 'development' as meaning, except where the context otherwise requires, *'the carrying out of any works on, in, over or under land or the making of any material change in the use of any structure or other land'*.

It is considered having regard to the above definition that the proposal constitutes 'works' and 'development' within the meaning of the Act.

Class 6 of Part 3 of Schedule 2 relates to the following development:

"Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage."

There are a number of conditions and limitations attached to this exemption;

1. No such structure shall be used for any purpose other than the purpose of agriculture.
2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.
3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.
4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.
5. No such structure within 100 metres of any public road shall exceed 8 metres in height.
6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and as may be appropriate, the occupier of person in charge thereof.
7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

Class 7 of Part 3 of Schedule 2 relates to the following development:

"Works consisting of the provision of a roofed structure for the housing of pigs, mink or poultry, having a gross floor space not exceeding 75 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage."

There are a number of conditions and limitations attached to this exemption;

1. No such structure shall be used for any purpose other than the purpose of agriculture.

Planning Ref. No.: EXD00824

2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed 100 square metres gross floor space in aggregate.
3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution.
4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.
5. No such structure within 100 metres of any public road shall exceed 8 metres in height.
6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.
8. Boundary fencing on any mink holding must be escape-proof for mink. ✓

Assessment

The existing farmyard complex contains a number of agricultural sheds, three of which were permitted for development within the last 20 years (2003, 2008 and 2010 – see 'Site History' above). The floor area alone of the three sheds most recently permitted exceeds 2,491 sq.m. and the ridge heights of these three sheds all exceed 10.6m (the highest being 12.4m). Based on the conditions and limitations of both Class 6 and Class 7, a change of use for any of the sheds on this site would require planning permission, as the floor area exceeds 100 sq.m. and the height exceeds 8.0m where the sheds are within 100m of a public road (N25 to the east).

Moreover, the sheds on site are known locally to be used for pig rearing / finishing, and where the sheds were previously used for the housing of cattle, as per Class 6, the change of use to housing of pigs, as per Class 7, is not exempted development, and such a change of use requires planning permission. ✓

This is especially so where pig farming is concerned, as such development is required to be screened for Environmental Impact Assessment (Part 1 of Schedule 5, article 17).

Overall having regard to the details concerning the referral it is considered that the development consisting of a change of use from Class 6 to Class 7 of the 'Exempted Development Regulations – Rural' is development and is not exempted development, as the aggregate floor area exceeds 100 sq.m. and ridge height exceeds 8.0m where the structures are within 100m of a public road.

Conclusion:

It is considered therefore that the change of use from Class 6 to Class 7 of the 'Exempted Development Regulations – Rural' constitutes development and is not exempted development having regard to the nature of agricultural practice on site, the gross floor space and heights of the existing structures on site.

Recommendation: Not Exempt

Having regard to the foregoing, it be decided that the change of use from Class 6 to Class 7 of the 'Exempted Development Regulations – Rural' is development and is not exempted development.

A draft order is set out below.

WHEREAS a question has arisen as to whether the change of use from Class 6 to Class 7 of the 'Exempted Development Regulations – Rural' constitutes development and is not exempt;

AND WHEREAS Wexford County Council, in considering this referral, had regard particularly to –

- Sections 3 and 4 of the Planning and Development Act 2000 (as amended);
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended); and
- Schedule 2, Part 3 Class 6 and Class 7 of the Planning and Development Regulations 2001 (as amended)

Wexford County Council has concluded that the change of use from Class 6 to Class 7 of the 'Exempted Development Regulations – Rural' constitutes development and is not exempted development.

Planning Ref. No.: EXD00824

NOW THEREFORE Wexford County Council, in exercise of the powers conferred on it by section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the change of use from Class 6 to Class 7 of the 'Exempted Development Regulations – Rural' is development and is not exempted development. ✓

Abigail Nuzum
Abigail Nuzum
A/Assistant Planner

Date: 02 September 2020

James Lavin
James Lavin
Senior Executive Planner

Date: 03/09/2020

DA

App 6

«Apn_Number»

53

WEXFORD COUNTY COUNCIL PLANNING AUTHORITY
PLANNING AND DEVELOPMENT ACT 2000 (as amended)

NOTIFICATION OF DECISION ON PLANNING APPLICATION

The Decision of Wexford County Council on the application described in the Schedule to this Notice is as shown therein.

Signed on behalf of Wexford County Council

L. Gordon

Date 4 September 2020

DECLARATION OF EXEMPTED DEVELOPMENT

SCHEDULE

PLANNING REG. NO.: EXD00824

DATE OF APPLICATION: 14 August 2020

APPLICANT:



TYPE OF APPLICATION: Exempted Development

PROPOSED DEVELOPMENT: Agricultural shed - change of use from class 6 to class 7

LOCATION: Killugger Farm, Killugger, Killinick, Co. Wexford, Y35 P3K2

DECISION: Not Exempt as listed hereinafter.

DATE OF DECISION: 4 September 2020

END OF SCHEDULE

EIA Pre-Screening -- No EIAR Submitted

Planning Number: EXD00824			
Development Description: Agricultural shed - change of use from class 6 to class 7			
Location: Killlugger, Killinick			
1. Does the proposed development constitute an EIA project? (that is involving construction work or interventions in the natural surroundings)			☒ Yes ☐ No
2. If YES, does the proposed development fall within a class of development set out in Part 1 or Part 2, Schedule 5 of the Planning & Development Regulations 2001 (as amended)			
Tick	Threshold	Comment	Result
No	N/A		No EIA or Screening for EIA required
Yes	Exceeds/ is equal to/ No Threshold		EIAR required
	Sub Threshold	Exceeds 100	EIA Screening required Proceed to Page 2
Conclusion			
Development is not within Part 1 or Part 2, Schedule 5. No EIA/Screening is required.			
Development is within Part 1 or 2 and is greater than, equal to, or there is no threshold. EIAR is required.			
Development is within Part 1 or 2 but is less than threshold. EIA Screening is required.			☒

Planner

Date: 17/8/20

EIA Screening – Stage 1 Preliminary Examination

Planning Number: EXD00824			
Development Description: Agricultural shed - change of use from class 6 to class 7			
Location: Killugger, Killinick			
Preliminary Examination Process Can likely significant effects on the environment be ruled out at a high level? Yes or No Yes - No real likelihood of significant environmental effects – EIAR not required or no notification required OR No - If such effects can not be immediately ruled out based on nature, scale and location – then continue to Screening Determination.			
Examination			
	Yes/No/Uncertain	Comment	
Is the size of development exceptional in the context of the existing development?	No		
Is the proposed development located on, in, adjoining or have the potential to impact on a sensitive site or location?	No		
Will the development result in the production of any significant waste, or result in emissions or pollutants?	No		
Conclusion			
Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment?			
There is no likelihood of significant effects on the environment	EIAR not required	✓	
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment	Stage 2 Screening Determination required.		
	Sch 7A Information required	Yes	No
There is a real likelihood of significant effects on the environment	EIAR is required		

S. L. L. L.
Planner

Date: 12/8/20

Note: A Stage 2 Screening Determination must be carried out if there is significant and realistic doubt in regard to the likelihood of significant effects on the environment arising from the proposed development, or Planning permission for the retention of development CANNOT be granted if a Screening Determination is required.

EIA Screening - Stage 1 Preliminary Examination

Planning Number: EXD00824	
Development Description: Agricultural shed - change of use from class 9 to class 1	
Location: Kilgobrye, Kilmuck	
Preliminary Examination Process: Can likely significant effects on the environment be ruled out at a high level? Yes or No?	
Yes - No real likelihood of significant environmental effects - EIA not required or no further action required OR No - If such effects can be immediately ruled out based on nature, scale and location - then a high level screening determination	
Examination	
Is the size of development proposed in the context of the existing development?	Yes
Is the proposed development located on an adjoining or have the potential to impact on a sensitive site or location?	Yes
Will the development result in the production of any significant waste, or result in emissions or pollutants?	Yes
Conclusion	
Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment?	
There is no likelihood of significant effects on the environment	Yes
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment	No
There is a real likelihood of significant effects on the environment	No
RIA is required	Yes
Stage 2 Screening determination required	No
RIA not required	Yes
Comment	

Planner

Note: A Stage 2 Screening determination must be carried out if there is significant and realistic doubt in regard to the likelihood of significant effects on the environment arising from the proposed development, or Planning permission for the retention of development CANNOT be granted if a Screening determination is required.

Peadar McDonald

App 8

From:

Sent:

To:

Subject:

18 September 2020 00:13

Peadar McDonald

PMcD/CCul/PE 0023/2019 and: EXD00824 Agricultural shed - change of use from class 6 to class 7 at Killugger Killinick

Hi Peadar

As you know from August 2017 I have queried the right of someone to open a piggery without applying for planning permission and

time after time I was told there was no planning issue as it was an exempted development,

For **Three years** we were told this by experienced planners employed by Wexford County Council and then in August 2020

when a third party sent in a section 5 form re change of use from class 6 to class 7 it was declared to be **NOT EXEMPT**.

This took four weeks!

In my opinion this should have been the answer to my first query back in August 2017 and I am baffled as to why it wasn't.

Also the very documents which I was sent by the planning department to prove it **EXEMPT** were used to prove it **NOT EXEMPT**.

I have emailed Mr Tom Banville in the hope of getting answers but am also sending this email to the planning department

hoping that someone can provide answers.

As all development since August 2017 at Killugger Killinick requires **planning** and it requires a change of use first

Wexford County Council planning and environment should surely issue a closure order for the piggery and tell the owners / operator to remove pigs and return the shed to what it was pre unauthorised change of use.

Regards

Geraldine Carty**SCANNED**

From: Tom Banville
Sent: 20 November 2020 10:40
To: [REDACTED]
Cc: [REDACTED] Jim
 Codd MCC; Jim Moore MCC; Ger Carthy MCC; [REDACTED]
Subject: RE: Unauthorised Development Killugger, Killinick - Planning Ref Number EXD00824
Attachments: Enf notice.pdf

Hello [REDACTED]

Let me try to respond as fully as I can to your email below. Firstly, I do sympathise with the situation you and your neighbours find yourself in with relation to the Piggery in Killugger. By all reports and accounts the odours from the piggery are obnoxious and must be very difficult to live with on a daily basis. However, with regard to my responsibility in Planning Enforcement I can only follow the planning laws and any actions I can take must comply with Planning Laws. Separately, my colleague in Environment – Gerry Forde - is also taking action on this matter through appropriate environmental legislation.

As you know, Wexford County Council issued a Planning Enforcement Notice on this site on the 6th November (copy attached). This notice was issued following several inspections by the Planning Enforcement team and after much consideration by the Planning Team here in Wexford County Council. In considering what enforcement action to take on this matter, we concluded to focus on the main issue of unauthorised development which are of major concern to the Planning Authority. As you point out in your email below there are other issues such development distance from road, shed heights and sizes, and other conditions from PP20081365 which we considered either of less significance or possibly statute barred.

Let me address the issue of the Section 5 – Exempt Development Application EXD00824 - Whilst technically a change of use from class 6 to 7 would require planning permission, the planning permissions granted on the subject site did not limit the agricultural use specifically to Class 6. Therefore in this instance planning permission for a change of use is not required and the use of the sheds for rearing pigs is in accordance with the permissions granted.

With regard to the solar panels we have checked the regulations again and its 50% of the total roof area within the overall agricultural holding so currently the site does not meet the limitations and are exempt in this case.

In relation to additional silo's these may require planning but it would be difficult to prove that they hadn't replaced existing silo's that were authorised based on the info we have on file. It is something we can certainly keep an eye on going forward as we can use the more recent inspections as reference points.

Regarding EIA we considered the various thresholds for pig farms and based on the information we have available to us, the piggery at Killugger is not meeting those thresholds at the moment (there were less than 2000 pigs on site at the most recent count). There have been two inspections on this site in the current year, and in both cases the count of pigs on site was less than 2,000 pigs.

The Enforcement Notice issued on the 6th November has a six week response period so we await a response from Premier Pigs Limited in this regard. All development within the relevant site would be considered in the event that a planning application is submitted to resolve the specific unauthorised development.

I understand you may not agree with our considerations nor our actions on this matter, but let me assure you we are doing all we can to take planning enforcement on this site within the confines of planning law.

Sincerely

Tom Banville

SCANNED

9th September 2020.

MEMO TO PEADAR McDONALD.
S. S. O. PLANNING ENFORCEMENT.

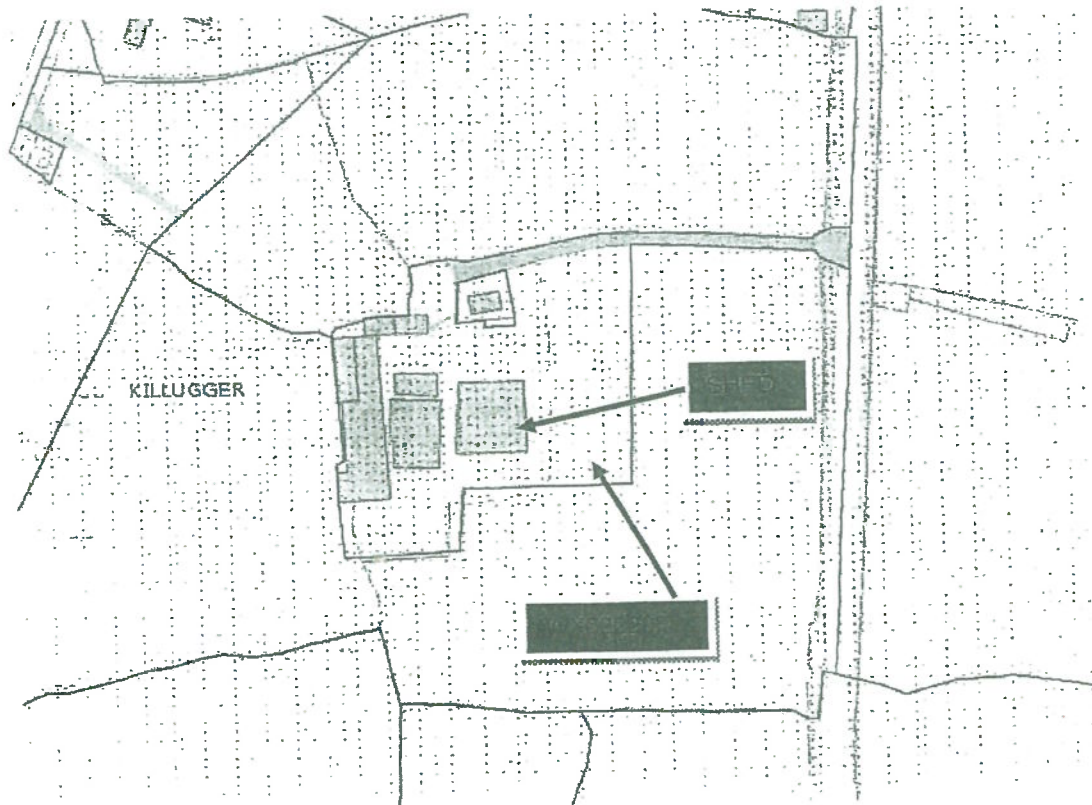
Re: Possible unauthorised development at Pig Farm, Killugger, Killinick,
Co. Wexford

ENF 0023/2019

The building in question is located in the south eastern corner of the pig farm
(see Site Layout Plan and aerial mapping).

Land Folio Map:

The shed is located in land folio WX62220F. Registered Owner
PREMIER PIGS LIMITED (Bulgan Glynn County Wexford)



Planning History:

Plan Reg 20081365 – Construction of a new Agricultural Shed and ancillary site works. Decision - Granted subject to conditions 16th July 2008.
Condition no. 1 of Plan Reg 20081365 states that the development be carried out strictly in accordance with the plans lodged with the planning application.
The floor plan / elevations submitted with Plan Reg 20081365 do not show slatted tanks incorporated into the shed.

Exempt Development Application relating to the building:

Plan Reg EXD00824 – Agricultural Shed – change of use from Class 6 to Class 7. Decision – Not Exempt

Site Visit:

I inspected the site on 10th August 2020 and noted the following:

I met the owner [REDACTED]. He stated that pigs had been kept in the shed since 2016 (cattle were kept previous to this).
In the large shed in the south east corner of the site, the floor level had been raised in order to incorporate slatted tanks directly beneath the floor where the pigs were kept (see layout plan and photos 1 and 2). The slatted tanks covered the entire floor area of the building (approx. 1770m²).

Conclusion:

The agricultural shed was initially used for the keeping of cattle (Class 6) but now is currently being used for pigs (Class 7). As per Plan Reg EXD00824 this change of use is **not** exempt and requires planning permission. Therefore the keeping of pigs in the shed is unauthorised change of use from Class 6 to Class 7 in Part 3, Article 6, Exempted Development – Rural.

The floor level of the agricultural shed has been raised so as to incorporate slatted tanks directly below where the pigs are being kept. Such development is not in compliance with condition no. 1 of Plan Reg 20081365 as slatted tanks are not shown on the drawings.

Recommendation:

Issue Enforcement Notice for the following:
Unauthorised change of use of the agricultural shed from Class 6 to Class 7.

Non-compliance with condition no. 1 of Plan Reg 20081365 (slatted tanks are not shown on the drawings) lodged with the planning application.

S. Gooden

Steve Gooden
Technician, Planning Department.

Site Layout Map (2019 Aerials)

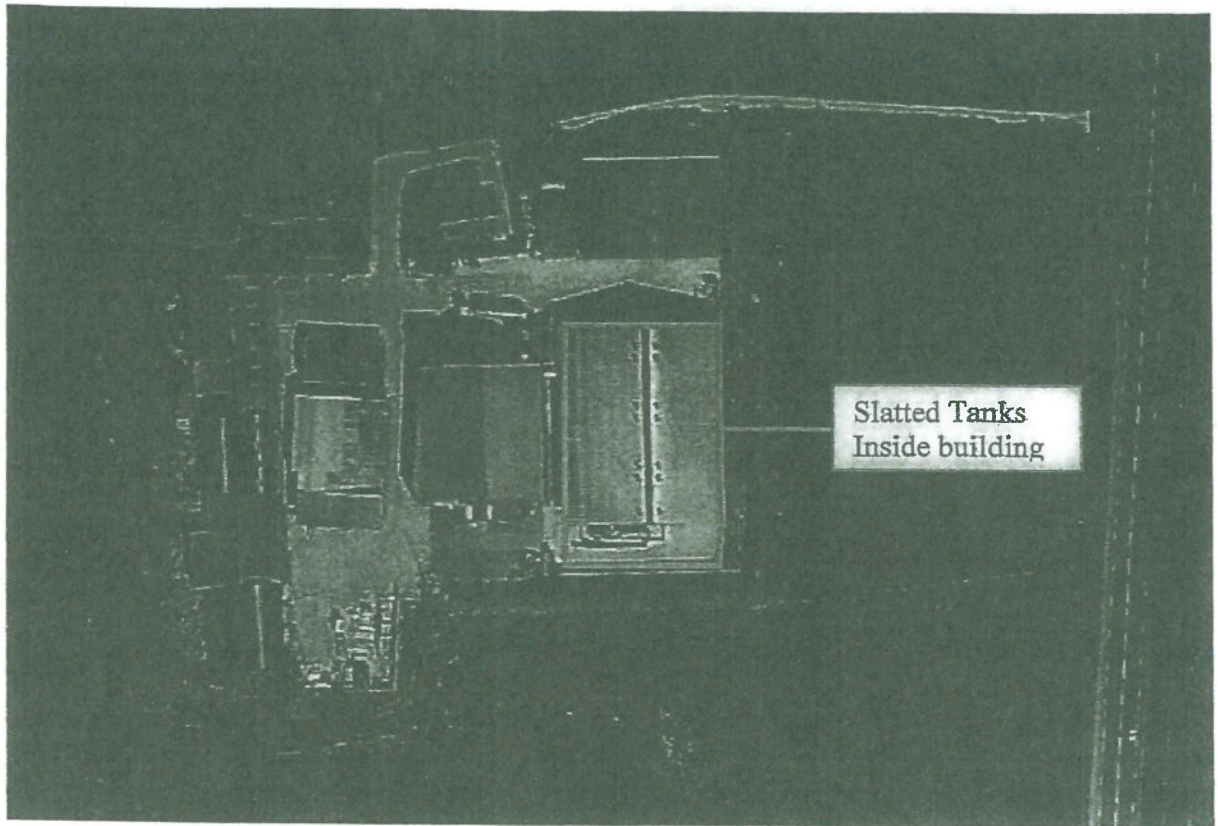
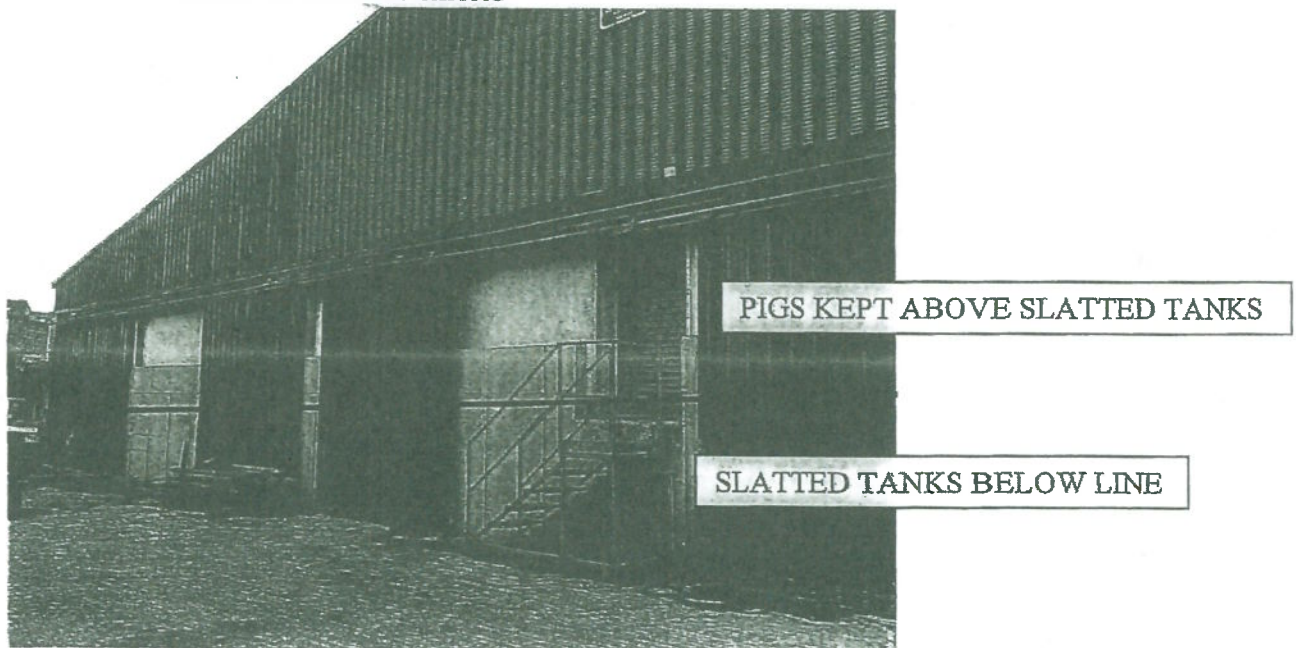


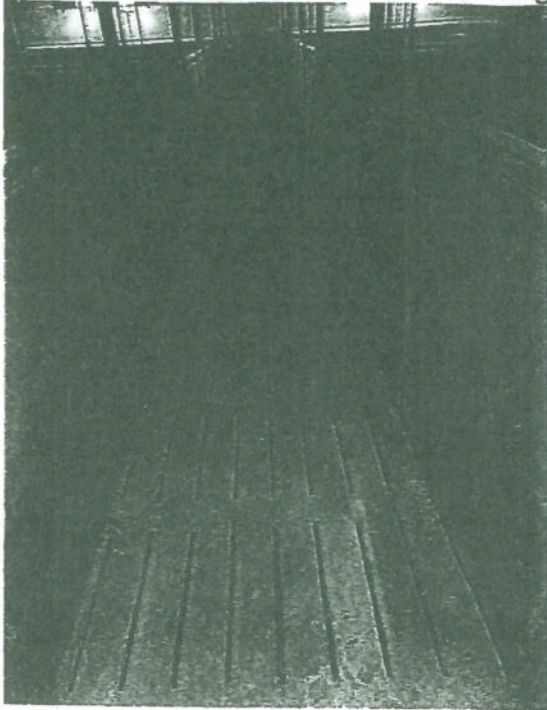
Photo 1: Location of Slatted tanks



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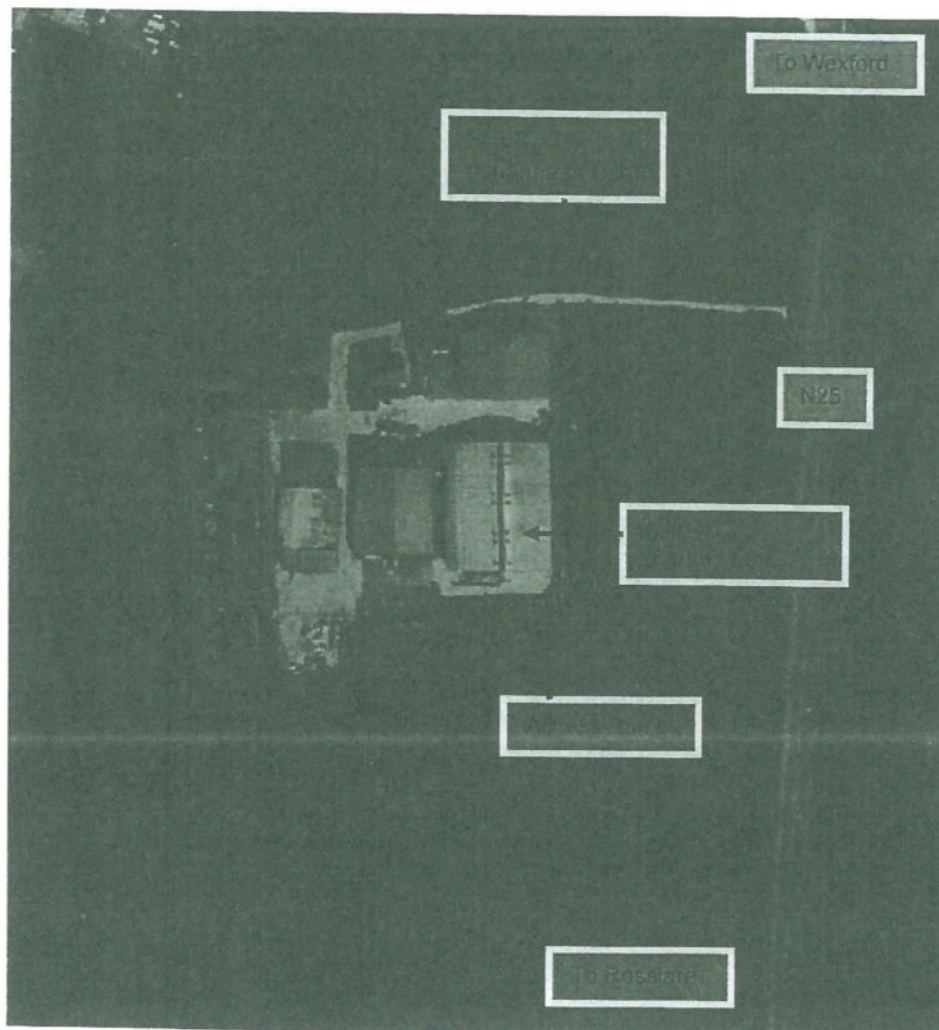
Photo 2: Slatted tanks inside building



MEMO TO PEADAR McDONALD.
S. S. O. PLANNING ENFORCEMENT.

Re: Possible unauthorised development and unauthorised change of use at Pig Farm, Killugger, Killinick, Co. Wexford

Location Map: (2019 aerial mapping background)



Site Visit:

I inspected the site on 30th September 2020 and 16th October 2020 and noted the following:

Shed A:

Building dimensions measured on site:

Height = 8.8m (12.4m shown on drawings submitted with Plan Reg 20081365)

Width = 35.2m (22.21m shown on drawings submitted with Plan Reg 20081365)

Length = 48.0m (45.6m shown on drawings submitted with Plan Reg 20081365)

Actual Floor Area = 1689.6m²

Permitted Floor Area (under Plan Reg 20081365) = 1012m²

The floor level had been raised in order to incorporate slatted tanks directly beneath the floor where the pigs were kept (see attached photos 1 to 7). The slatted tanks covered the entire floor area of the building. In the south western corner of the building, I measured the top of the slatted tank to be approx. 2m above ground level.

Also, an access ramp had been built at the southern end of the shed to access for pigs and plant to enter / exit the shed.

Shed B:

Building dimensions measured on site:

Height = 11m (10.76m shown on drawings submitted with Plan Reg 20100598)

Width = 30.9m (45.6m shown on drawings submitted with Plan Reg 20100598)

Length = 24.3m (22.21m shown on drawings submitted with Plan Reg 20100598)

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Wexford County Council

Planning Enforcement Internal Memo

SCANNED

Date: 9.9.2020

Enforcement Ref: 0023/2019

Memo To: TOM BANVILLE, S.E.O.

From: Peadar McDonald, S.S.O., Planning Enforcement

~~11/09/2020~~

RE: PIG FARM AT KILLUGGER, KILLINICK. - LETTER 9.9.2020

✓ 2nd RESPONSE TO WARNING LETTER, 3rd DECISION ON EXD 00824
(LETTER 7.8.2020) NOT EXEMPT 4.9.2020

Please advise how you would like to proceed with this case: 4 REPORT BY S. GOODEN

Informal Letter (to a/offender) ☐ Enforcement Notice ☐ 9.9.2020

Informal Letter (to complainant) ☐ Legal Proceedings ☐

Warning Letter (and C/L) ☐ Close Case ☐

Other: ACKNOWLEDGE LETTERS + ADVISE ON CURRENT ^{PLANNING} STATUS OF

Refer to: PIG FARM + ENF CASE

Reason: PREPARE E.O / REPORT / ENF NOTICE AS SOON AS
REPORT BY PLANNER IS AVAILABLE TO CONFIRM PLANNING
STATUS OF SLATED TANKS

+ Change of Use from P. McDonald
Class 6 to Class 7 TS 10.9.20

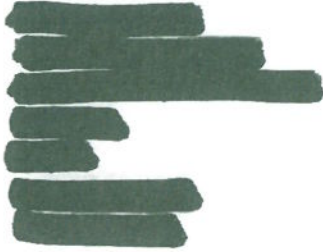
Signed: _____

Date: _____

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Comhairle Contae
Loch Garman



11th September 2020

Ref: PMcD/JC/PE 0023/2019

(Please quote this reference number in all correspondence)

Re: Warning Letter - Development at Killugger, Killinick, Co. Wexford

Dear [REDACTED]

I refer to your letter dated 7th August 2020 in response to the Warning Letter issued on 24th April 2020.

The council is currently considering the planning issues involved at the pig farm at Killugger, Killinick, including a change of use of an agricultural shed from class 6 to class 7.

A decision on the appropriate action in the enforcement case (0023/2019) will be made soon following the assessment of all relevant issues.

Yours sincerely,



Peadar McDonald
Senior Staff Officer
Planning Enforcement



Comhairle Contae
Loch Garman
Wexford County
Council

An Charraig Leathan, Loch Garman
Carricklawn, Wexford Y35 WY93
053 919 6000 | customerservice@wexfordcoco.ie
www.wexfordcoco.ie | www.twitter.com/wexfordcoco

APP 14

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Peadar McDonald

From: Peadar McDonald
Sent: 22 June 2020 17:42
To: Dermot Leahy
Cc: David Donegan
Subject: RE: Inspection of Piggery at Killugger, Killinick.
Attachments: pig farm report 30.1.2020.pdf

Hi Dermot,

The report on the inspection of the pig farm on 29.1.2020 was released to a party involved in the Planning enforcement case following an FOI request and it can also be provided to the EPA.
The Warning letter can be mentioned to indicate the current status of this enforcement case.
Regards

Peadar

From: Dermot Leahy
Sent: 22 June 2020 14:39
To: David Donegan; Peadar McDonald
Cc: Gerry Forde; Brendan Cooney
Subject: RE: Inspection of Piggery at Killugger, Killinick.

Hi Peadar/David,

The EPA have been in touch with me regarding Wexford County Council's interactions with Premier Pigs Ltd RE facility in Killugger, Killinick, Co. Wexford.

I am writing a brief report outlining the environment sections engagement to date and that we have begun the process of issuing an air pollution notice. They are also interested in the site visit we completed on 29/01/2020 and in particular the number of pigs present, could I use your report to give a summary of the findings on the day? Also I will mention that Planning issued of a Warning Letter on 24th April 2020 in relation to the installation of slatted tanks without planning permission has initiated the planning enforcement process.

Regards,
Dermot

0876745520

From: David Donegan
Sent: Wednesday 22 January 2020 11:55
To: Peadar McDonald; Dermot Leahy
Cc: Steve Gooden
Subject: Inspection of Piggery at Killugger, Killinick.

Hi All,

It is proposed that we carry out an inspection of the above piggery on Wednesday 29th at 11.30 am.
Please could you respond to confirm that the date and time are ok.

Regards,

David Donegan A.Eng, M.I.E.I,
Senior Executive Technician,
Planning Department,



Marian Boggan <marian.boggan@gmail.com>

Re: COM010372 Piggery at Killugger, Killinick, Co. Wexford

Licensing Staff <licensing@epa.ie>

10 September 2021 at 14:51

To: "marian.boggan@gmail.com" <marian.boggan@gmail.com>

Dear Ms Boggan

In response to your email of 2 September 2020 please be advised that the Agency cannot take enforcement action against this site for operating without a licence, at this time, as we cannot accept a licence application from the site until the requisite planning permission is in place for the installation. Therefore, at this time Wexford County Council is the responsible authority for the environmental and planning matters associated with the Premier Pigs Ltd facility at Killugger, Killinick, County Wexford.

Wexford County Council has advised the EPA that a planning enforcement case was initiated and that an Enforcement Notice was issued on 6 November 2020. Should you be unsatisfied with the progress and actions taken by the local authority on environmental matters in relation to the installation you may lodge a complaint with the Agency's Local Authority Enforcement team, information on which can be found at:

<https://www.epa.ie/our-services/compliance--enforcement/whats-happening/make-an-environmental-complaint/>

Please note that licence requirement, in relation to Classes 6.1 and 6.2 is based on capacity not animal numbers.

We trust this information is of assistance to you.

Regards

Environmental Licensing Programme

Office of Environmental Sustainability, Wexford

An Clár um Cheadúnú Comhshaoil

An Oifig um Inmharthanacht Comhshaoil, Loch Garman



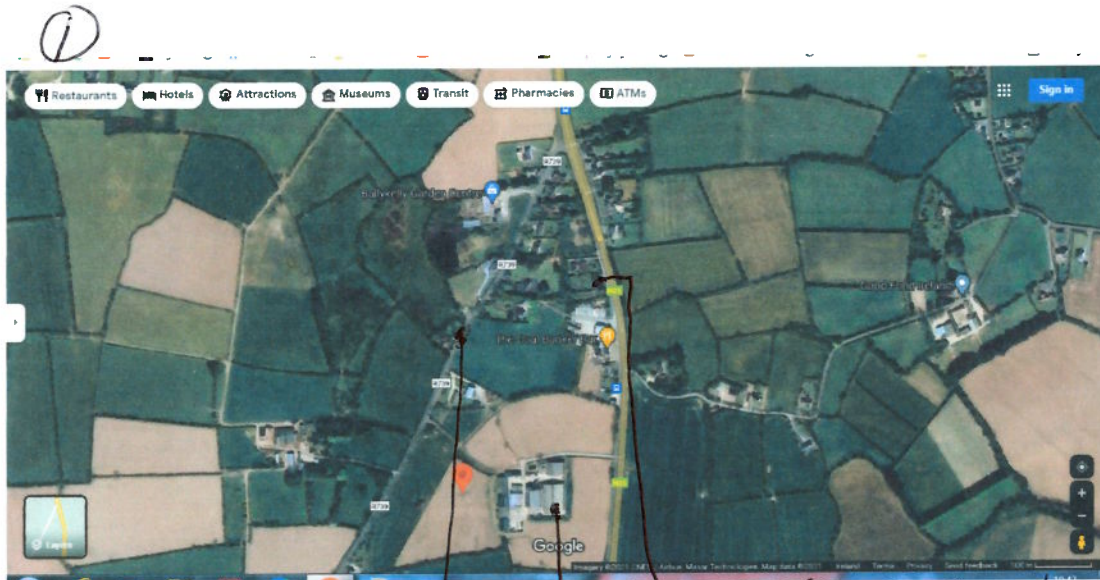
053-9160600

licensing@epa.iewww.epa.ie

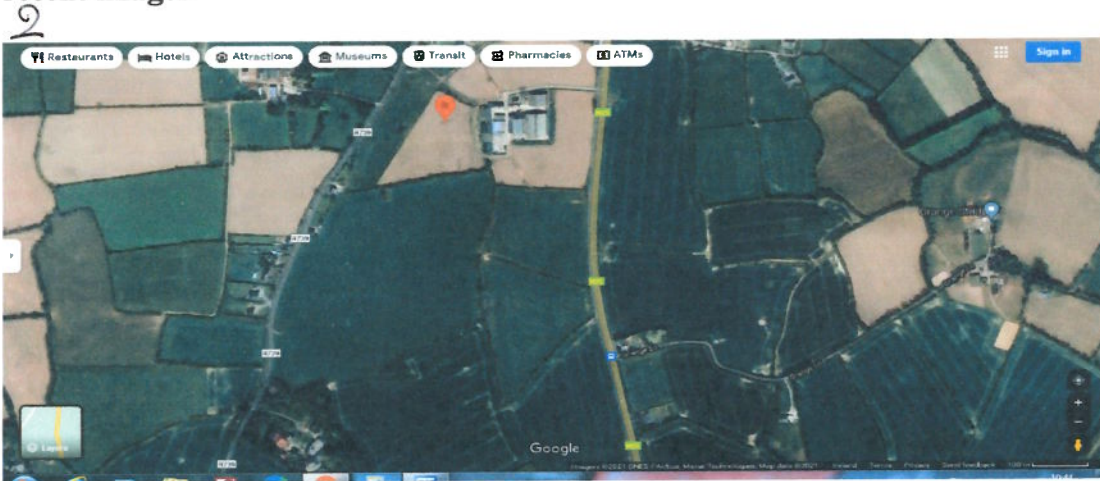
[Quoted text hidden]

Appendix
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Bone Hole for public water pig shed. OUR RESIDENCE
 Images 1 & 2 Killugger Farm and surrounding area taken from google maps
 recent images



3



Image 3 & 4 Killugger farm from the N25 google maps 2019



Image 5 View of Killugger from the R739 google maps 2019

APP 18

Image 1 OSI historic map taken from Wexford County Council Planning maps

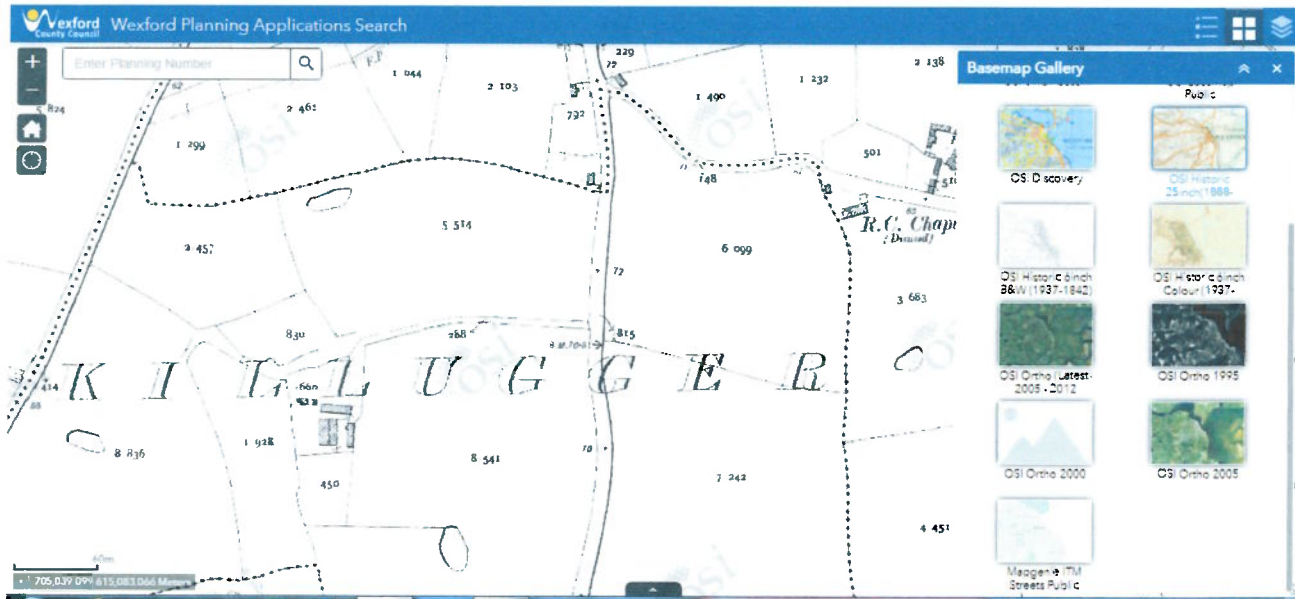
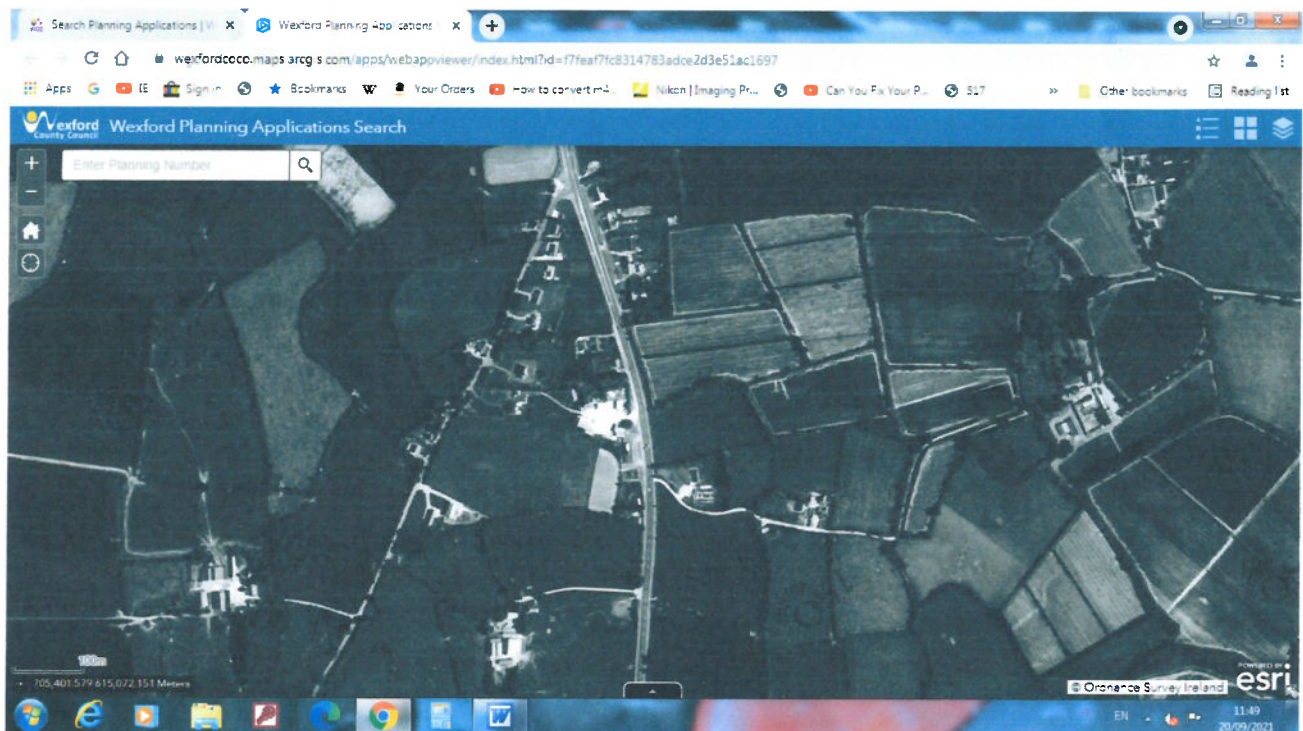


Image 2 Killugger Farm 1995 screen grab taken from Wexford County Council Planning maps



APP 18

Image 3 Killugger farm 2005 screen grab from Wexford County Council planning maps



Image 4 of Killugger Farm 2012 screen grab from Wexford County Council Planning maps



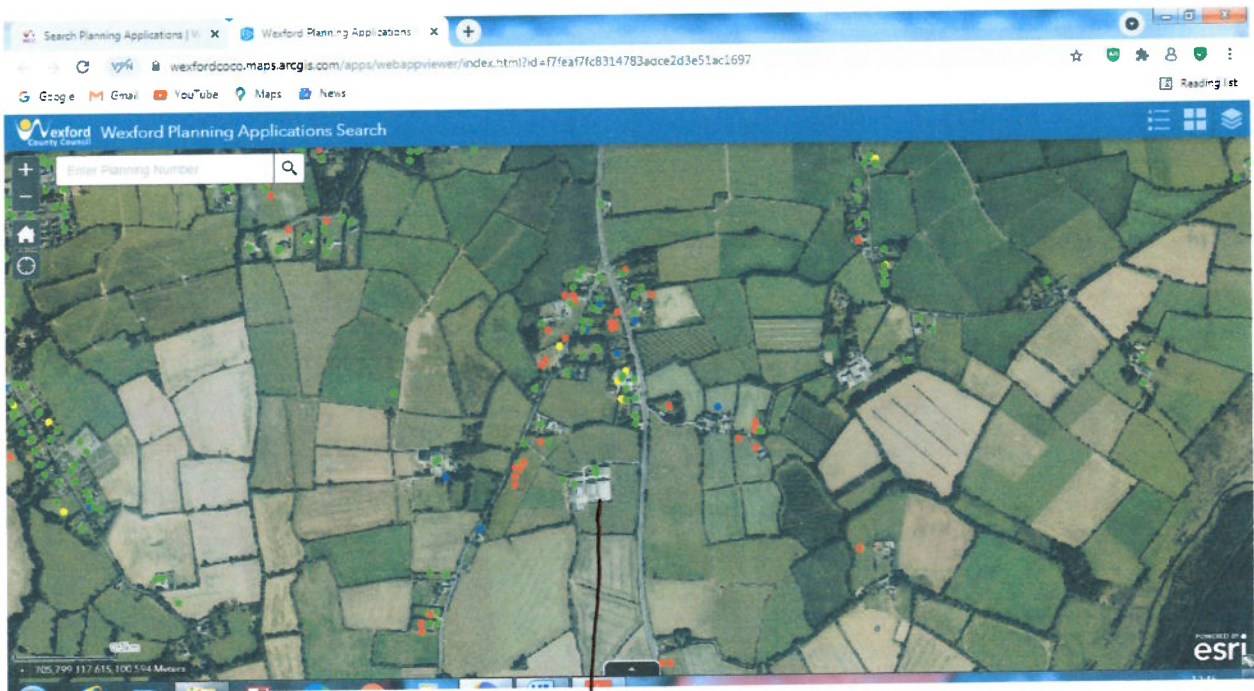
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Image 5 Killlugger Farm and surrounding are 2012 screen grab from Wexford County Council Planning maps



5

Image 6 Killlugger Farm 2019 and surrounding areas screen grab from Wexford County Council Planning maps



6

Pig
shed

App 18

Image 7 Killugger Farm 2019 screen grab from Wexford County Council Planning maps



App 19

Image 1 & 2 screen grab of Killugger farm 2016 and surrounding area taken from Wexford County Council Planning maps

No extractor fans, no solar panels, no large feed silos and no ramp



2

Pre-slatted Tanks

App 20

23



PP 21 after Raised Floor & Slatted Tanks ~~~~

